
Appeal Decision

Hearing held on 14 & 15 June 2022

Site visits made on 13 & 15 June 2022

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2022

Appeal Ref: APP/W1715/W/21/3269897

Land to the rear of Sovereign Drive and Precosa Road, Botley, Eastleigh, Hampshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Vivid Housing Limited against the decision of Eastleigh Borough Council.
 - The application Ref F/20/87625, dated 11 May 2020, was refused by notice dated 13 October 2020.
 - The development proposed is residential development comprising 106 no. dwellings, new access from Sovereign Drive, associated landscaping and drainage works following demolition of No. 47 Sovereign Drive and Hats Copse House (net 104 no. dwellings).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application was made by 'Vivid Homes'. On the appeal form, the appellant has been given as 'Vivid Housing Limited'. It has subsequently been confirmed that the full name of the appellant company is that stated on the appeal form, the application form being a shortened version. I have no particular reason to doubt this, or the right of Vivid Housing Limited to lodge this appeal. I have, therefore, proceeded to consider it and have referred to the full name in my above heading.
3. Amended plans were provided with the appeal documents that would retain additional trees on the site's boundary with adjoining dwellings in Precosa Road. They would also secure a route for a footpath from within the site to a Public Right of Way (PROW) connecting Hedge End and Botley. While this has not been subject to public consultation the amendment is relatively minor, and was provided with the original appeal documents. Discussion about the plan, including with some local residents, occurred during the Hearing. On this basis, I am satisfied that there has been adequate opportunity for comment and that no injustice would arise if I were to consider the appeal on the basis of the amended plan.
4. The Council refused planning permission for a variety of reasons that included effects on highway safety. However, that matter was resolved before the Hearing and there is no longer dispute that a safe means of access can be provided.

Main Issues

5. The main issues are:

- (a) The effect on the Hedge End, Botley and Boorley Green Settlement Gap (the Settlement Gap);
- (b) Whether the proposal would result in a well-designed place; and
- (c) The effect on the living conditions of the occupiers of 1 Precosa Road and 45 Sovereign Drive with regard to disturbance from traffic using the proposed access.

Reasons

Settlement Gap

- 6. The site is outside the defined urban edge and in the 'countryside' as defined in the Eastleigh Borough Local Plan 2022 (LP). In such locations, residential development is not permitted under LP Policy S5. It is also within the defined Settlement Gap where LP Policy S6 sets out that development will be permitted provided that it would not undermine the physical extent and/or visual separation of settlements; and would not have an urbanising effect detrimental to the character of the countryside; or the separate identity of the adjoining settlements.
- 7. The Settlement Gap defined in the LP is narrower than that in the preceding development plan when an appeal for development at the site, ref. APP/W1715/W/14/3001499 (the previous appeal), was allowed. LP Policy S6 also imposes a different policy test in respect of settlement gaps to its predecessor in the development plan at that time. That Decision does not, therefore, establish any high level principle for developing the site now. Although the previous Inspector also found a limited effect on the character, appearance and utility of the countryside in this location, that was in the context of the, then, larger gap and the site's role in the function of this part of the countryside as implied by the circumstances at that time. His detailed findings are, thus, material, but of limited weight in my decision.
- 8. Insofar as is relevant to the appeal site, the Settlement Gap is, in essence, a tract of land between the settlement edge of Hedge End and a ribbon of development along Brook Lane that originates in Botley. At this location, the gap is mainly experienced from a PROW that connects the two settlements, crossing Brook Lane part way.
- 9. The largely suburban Hedge End and more traditional village form of Botley have very different characters and identities. Walking in either direction, there is a clear sense of leaving one settlement, experiencing undeveloped countryside and arriving at the other. Even with development of the site, this experience would remain, so the separate identities of the settlements would not be harmed.
- 10. Close to Brook Lane, the route passes through woodland that prevents views between the settlements. Between the woodland and Hedge End, the landscape is more open, having a character of paddocks. A dwelling and other built form around Fir Tree farm sit apart from Hedge End, towards the centre of the more

open landscape area, appearing as a rural dwelling, separate from the main settlement.

11. The site is mainly formed of small fields either side of Hats Copse House that is broadly central within the site. Although not entirely of native species, the site boundary to the existing urban area contains mature tree and hedge planting. The field parcel closest to the PROW also contains mature trees and hedging on its boundary to the remaining Settlement Gap. Travelling along the PROW, towards Hedge End, there are glimpses of roof tops around Tickner Close, but, together with a further belt of trees broadly across the centre of the site, the above landscape features screen much of the existing urban edge and Hats Copse House from view.
12. The notable exception is the clearly visible rear elevation and rather stark rear boundary fencing to dwellings on Sovereign Drive, that terminate views along the PROW from around Fir Tree Farm. This provides a clear indication of the edge of Hedge End, and is a clear detractor from any countryside experience that users may have. Nevertheless, while this clearly marks the start of urban form, a general appreciation of the break between settlements over the more rural character of the site and surrounding fields still predominates.
13. At the northern end of the site, between Fir Tree Farm and the site, gaps in the hedgerow boundary to the public right of way would allow views through to the new development. The site, and therefore any development would be off-set from this boundary, but the views of it would be of the new road, lightly fenestrated side elevations of plots 3, 6 and 7 and their hard side boundaries. While additional planting could be provided to the PROW, there would not be adequate space within the site for substantive planting alongside plots 3, 6 and 7. This would exacerbate the hard edge of Hedge End as seen at the rear of Sovereign Drive approaching the end of the PROW.
14. Towards the southern end of the site, the boundary to the remaining Settlement Gap is largely open, with lower height boundary planting. While an undeveloped landscape buffer, including some open space and surface water drainage features, would exist along this edge of the site, gas pipelines in this location appear to prevent significant additional planting along this boundary. In views from the PROW, between the woodland section and Fir Tree Farm, dwellings would be clearly visible here in contrast to the limited glimpsed views of dwellings around Tickner Close that are currently visible.
15. There is currently inadequate information to demonstrate that the proposed surface water drainage scheme would be effective. There is no particular dispute that a technical solution could be found that could be secured by planning condition. However, while there is agreement in principle to the drainage proposal, it may be that additional storage capacity is required that could result in a greater land-take or a solution with a more starkly engineered appearance. The gas pipelines are a constraint on the available land and so larger storage requirements could result in less soft landscaping and tree planting, exacerbating the harmful effects I have identified.
16. The Eastleigh Borough Settlement Gap Study 2020 (SGS) suggests that future development should be designed with positive frontages to the settlement edge with provision for generous landscape buffer planting. Whether or not this indicates that dwellings should front the Settlement Gap, this statement is made in the context of addressing existing hard urban edges. With the

exception of the views to the rear of Sovereign Drive, terminating the PROW and unaffected by this proposal, the generally obscured views of other houses means that the existing boundary at the appeal site cannot be described as a hard urban edge.

17. Moreover, my findings on the visibility and nature of the proposed boundary to the Settlement Gap means that there would be a significant urbanising effect that would harm the existing character of the countryside in this location. As the harm would be experienced in close proximity from the PROW, it would be significant.
18. Furthermore, while the distance of new houses from Fir Tree Farm would be greater than in the previous appeal scheme, the houses would be sufficiently close that Fir Tree Farm would cease to read as a separate entity within the settlement gap and there would be near continuous development between there and Sovereign Drive. Although this is no different to the time of the previous appeal, the more narrowly defined gap is now more vulnerable to incursion. Whether or not Brook Lane should be considered to be the edge of Botley, it is the edge of the Settlement Gap. The SGS sought to identify the minimum extent of settlement gap required to prevent the coalescence of settlements in support of the LP. As a reasoned study, considered through the LP examination, and in the absence of substantive evidence contradicting its conclusions, I give its boundaries transposed into the LP, substantial weight.
19. As experienced from the PROW, leaving Hedge End, the effect would be a delay to the sense of entering the countryside by only a minute or so, as the bulk of development would be behind and out of sight. When travelling towards Hedge End, though, there would be near continuous development visible on emergence from the woodland and this would significantly undermine the visual separation of settlements.
20. While the remaining Settlement Gap at the appeal site would still not be the narrowest part, and this part of the gap is generally more enclosed by landscape features than in other locations, for the above reasons, the development would cause harm to its function in this location. I, therefore, find that the development would cause a significant and harmful conflict with LP Policy S6.

Design considerations

21. It is clear that the Council deem the proposed design significantly inferior to that allowed under the previous appeal. However, while it might establish a benchmark as to what may be acceptable, albeit in terms of design policies and guidance as they were 7 years ago, it is not a particularly useful indication as to whether this scheme would be well designed or follow current best practice and policy.
22. The National Design Guide (NDG) sets out, amongst other things, that well-designed places are based on a sound understanding of the features of the site and surrounding context. The National Planning Policy Framework (the Framework) indicates that developments should be sympathetic to local character, including their landscape setting.
23. At the Hearing, the appellant's design team explained the approach to site design. The site adjoins an area with a suburban character and the general

approach to layout and detailed design would largely reflect that. It would also follow the approach of the previous appeal scheme in removing most existing site features, away from the boundaries.

24. However, from what I heard, it was clear that a major influence over the design proposals was to create a less costly scheme than that subject to the previous appeal. Given that the previous scheme was not built, I can appreciate that there may well have been pressures on development viability. However, that has not been clearly substantiated by evidence, nor does it necessarily follow that development costs, or the previous scheme layout, should be the starting point for scheme design.
25. It is clear from the diverse authorship of documents and plans that a wide design team, including tree specialists and landscape architects was involved in the evolution of the scheme. I also appreciate that, of the design team, only the project architect gave evidence to the Hearing, which would have focussed on her contribution. Nevertheless, the evidence does not clarify the scope of others' involvement, remit or, importantly, that any rigorous analysis of context beyond the style and layout of the adjoining residential areas, took place prior to the commencement of design work.
26. For example, the Tree Constraints Plan only recommended one tree for removal. Despite an indication during the application process from the Council's tree consultant that loss of the central belt of trees could potentially be mitigated through additional planting, there was no dispute at the Hearing that these trees currently provide a positive contribution to the character of the area. Although they have, in the main, been identified as being of low quality and value, there has been no clear explanation of why they need to be lost to accommodate development.
27. I note that conditions could be used to secure some additional trees, but even if the long-term health of any specimens planted in private gardens could be secured, this is still indication of landscape design in response to criticism rather than an integral part of the design process. This reactive approach to tree protection appears to have continued up to and through the appeal process with the submission of the amended layout plan allowing retention of a group of moderate quality trees, and suggestion, during the Hearing, that the footpath link to Hats Copse Recreation Ground could be realigned.
28. Good urban design is more than simply retaining existing site features. It might well be necessary to make judgements during the design process about whether a better design can be achieved through, for example, tree removal and replacement, but the evidence does not clearly demonstrate that that sort of process occurred. The Hearing provided little further clarification of a coordinated, context-led approach, beyond an indication that there were meetings and exchanges of email. In the round, these matters serve to demonstrate a lack of consideration of context when conceiving the proposal.
29. The layout itself would deploy some good practice urban design measures, such as being based upon perimeter blocks, and using 'corner turning' designs with windows in front and side elevations. Despite some technical conflicts with guidance in the Council's Quality Places Supplementary Planning Document 2011 (QPSPD) the relationship of dwellings would provide adequate privacy for future residents.

30. The development would also accommodate a mix of parking typologies in locations that broadly appear to accord with the principles of the QPSPD. However, the parking has been provided in a mix of ways across the various streets creating no obvious sense of place to the development as a whole or its constituent parts.
31. Connected with this, there is no clear attempt to create a sense of place through building positioning and layout design. While ensuring legibility through the development may not be essential for a scheme of this size, it has not been demonstrated that design principles to create a high quality environment, such as defining streets and spaces with buildings, using views and focused vistas of buildings, the countryside or key landscape features as advocated in the NDG or QPSPD has been deployed. Some buildings would be seen at the ends of streets, including on entrance to the site but they would generally be off-set from the key vistas, such that they would not appear to perform any convincing terminating or framing function.
32. Thus, while consideration may have been given to prioritising pedestrian movement with surface material changes and the like, and there may be less hard surface than in the previous appeal scheme, the roads and parking would likely visually dominate views through development. There would be views toward the countryside, that would give a sense of being at the urban edge, but these appear to be more accidental, having been described at the Hearing by the appellant's recently appointed landscape consultant, rather than said to be a key influence on layout design by the project architect.
33. The extent to which this urban form would be harmful is tempered by the adjoining suburban site context, which follows a similar pattern. Nevertheless, even if the simple, unfussy approach to individual building design were acceptable, its combination with the proposed layout cannot be said to be good design in the context of the NDG or QPSPD. In particular, the cul-de-sac to plots 1-6 would be flanked by the estate road and side boundaries to plots 3, 6 and 7. There would be some side windows, but the buildings would relate poorly to the road and would present a hard edge to the countryside with no space for additional landscaping within the defined appeal site. This element would harm the character and appearance of the settlement edge.
34. I, therefore, find that the proposal would not result in a well-designed place. Such would conflict with those aims of LP Policy DM1 that seek to ensure that development takes full account of the context of the site. It would fail to deliver a high quality place as expected by the Framework.

Living conditions

35. The main vehicular site access would be formed by demolishing 47 Sovereign Drive, one half of a pair of semi-detached dwellings, attached to 1 Precosa Road. A conventional width of carriageway would be provided with a footpath alongside 45 Sovereign Drive, but there would be insufficient space for a footpath on the side of No.1 or any significant landscaping alongside either remaining dwelling. Their side walls would be very close to the new highway. No.45 has windows facing the proposed access and the final elevation treatment of No.1 is not known.
36. As the only vehicular access to the site, a significant amount of traffic would pass in close proximity to these existing dwellings. However, while the housing

around Sovereign Drive and Precosa Road is generally spacious, many dwellings across the country exist in very close proximity to busy roads and there is no substantive evidence that the increased noise and disturbance here would result in harmful living conditions for the occupiers of these dwellings.

37. I, therefore, find no conflict with those aims of LP Policies DM1 or DM13 that seek to ensure that developments are provided with safe and convenient accesses, and do not harm the living conditions of existing residents.

Other Matters

38. Much of the biodiversity survey information is of some age. It is important that sound baseline ecological information is available to ensure that all material considerations are taken into account. However, it was clarified at the Hearing that site conditions appear to have been relatively stable, and there is no substantive evidence that anything is likely to have changed since the surveys were carried out. On that basis, there is sufficient information to attach planning conditions to ensure that the favourable conservation status of any species could be maintained.
39. Planning obligations and contributions would be secured in respect of various matters including community infrastructure, healthcare, children's play and public open space, highways and travel matters, and education. These would be in mitigation for development impacts and, therefore, neutral in the planning balance. There would also be obligations securing affordable housing, which would be a benefit of the scheme.
40. The development plan has aspirations about delivering housing, infrastructure and boosting the economy. In spite of that, I understand that it was adopted with a known shortfall in housing land supply. I was told that an early review of the plan will be required to address this and, given the length of time taken to prepare the LP, the appellant questions the Council's ability to do so within the required timescales. Nevertheless, the appellant contends that the Council is unable to demonstrate a 5 year supply of housing now, the deliverability of various sites having been challenged.
41. If, for the purposes of this appeal, I were to accept the appellant's position, that the Council can only demonstrate around 4 years supply of housing, then the benefits associated with the provision of additional market and affordable housing, investment in the area, and creation of jobs during a time of some economic uncertainty and increases in the cost of living, should be attributed substantial weight.

Planning Balance

42. Although the development plan has policies seeking to promote development in accessible locations and boost housing supply, it also seeks to avoid unacceptable impacts on the character of the countryside and take full and proper account of the site's context. There are significant shortcomings in the detailed design proposals and there would be harm to the Settlement Gap. LP Policy S6 and its role in maintaining gaps between settlements is an important part of the Eastleigh Borough Spatial Strategy, set out in the LP, and the Settlement Gap was reduced during preparation of the LP to the minimum deemed to be required to maintain adequate separation between Botley and Hedge End. I, therefore, attribute very substantial weight to the conflict with

Policy S6, which would bring the proposal into conflict with the development plan, read as a whole.

43. For reasons associated with housing land supply, the appellant believes that Framework paragraph 11(d) should fall to be considered. Such would indicate that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. I have indicated that in that scenario, the benefits would be substantial.
44. However, while the Framework seeks to boost housing supply, it advocates this within the context that creating high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The built environment will exist for many years and must continue to provide high quality living environments for future generations.
45. Furthermore, the Framework indicates that the intrinsic character of the countryside should be recognised and that developments should be sympathetic to local character, including the surrounding landscape setting. It sets out the importance of trees within developments, including the retention of existing trees, wherever possible. The development would fail to do this, without adequate justification and overall, I have found that this proposal would result in an urbanising impact that would harm the character of the countryside.
46. I, therefore, find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the policies of the Framework, read as a whole. Accordingly, whether or not there was a shortfall in housing land supply, the presumption in favour of sustainable development outlined at Framework paragraph 11 would not apply.
47. If the considerations I have outlined were not pointing to the refusal of planning permission, I would have to consider whether adverse effects would arise to the integrity of various European Sites in the Solent and New Forest. The planning obligation document sets out contributions and obligations that seek to provide mitigation and their efficacy would require consideration within the framework of an appropriate assessment under the Conservation of Habitats and Species Regulations 2017. However, in light of my above findings, my decision will not create any pathways to adverse effects, so I have considered this no further.

Conclusion

48. The proposal conflicts with the development plan. Material considerations, including the Framework and benefits associated with the delivery of housing, do not indicate that a decision should be made otherwise than in accordance with it.
49. Therefore, the appeal is dismissed.

M Bale

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Daniel Wiseman BSc Hons MRTPI AILM (Planning Agent)
Paul Gray CMLI (Chartered Landscape Architect)
Valentia Prudence BSc MArch ARB RIBA (Architect)
Lyndsey McBean (Ecologist)
Adam Jessop (Principal Ecologist)

FOR THE LOCAL PLANNING AUTHORITY:

Dawn Errington BA (Hons) DipTP MRTPI (Principal Planning Officer)
Summer Sharpe MA (Senior Planning Officer)
Emily Howbrook (Strategic Development Manager)
James Ansell (Hampshire County Council)

INTERESTED PARTIES:

Sandra Aveyard
Tony Charles
Maria Fraser
Joseph George
Cllr Rupert Kyrle (Member for Botley and Hedge End North)
Dr Colin Mercer BSc(Eng) CITP FBCG CEng (for Botley Parish Council)
Ray Neale

DOCUMENTS SUBMITTED AT THE HEARING

1. Eastleigh Borough Council Cabinet Report and Minutes (24.03.2022): Strategy for Suitable Alternative Natural Green Space
2. Eastleigh Borough Council Interim Mitigation Strategy to address recreation impacts on New Forest protected sites (appended to document 1)
3. Map of New Forest Special Area of Conservation (appended to document 1)
4. Map showing proposed SANG land at Allington Lane and Itchen Valley Country Park (appended to document 1)
5. SANG contribution calculations and Business Case (appended to document 1)
6. Ecosupport (14.06.2022): Shadow HRA & Shadow Appropriate Assessment
7. Agreement to the imposition of pre-commencement conditions
8. S106 Agreement
9. Map of Public Rights of Way
10. Council's photographs of 47 Sovereign Drive and 1 Precosa Road, Hats Copse House and trees/hedgerow to be removed, and Fir Tree Farm