



Appeal Decision

Site visit made on 11 December 2018

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 28 December 2018

Appeal Ref: APP/M1710/W/18/3204714

The Old Farm, 76 Wellhouse Road, Beech, Alton GU34 4AG

- 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 Mr Julian Beavan against the decision of East Hampshire District Council.
 - The application Ref 56613, dated 24 April 2017, was refused by the Council by notice dated 12 December 2017.
 - The development proposed is two single storey dwellings with associated garaging, access and landscaping following removal of hard surface/tarmac tennis court.
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Decision

1. I dismiss the appeal.

Procedural Matter

2. An 'access required site visit' had been arranged, but there was no presence on the site at the start of the time period, 1100hrs, nor 30 minutes later, after another site inspection not far away had been concluded. In the event a Right of Way runs along the entire western boundary and it was possible to view the site from this and without the need to enter private land. Having mind to the nature of the Council's reason for refusal, and the appellant's representations, that view gave sufficient information to be able to proceed to a Decision.

Main Issue

3. This is the effect of the development on the aims of countryside protection policies.

Reasons

4. Core Strategy Policy CP2 states that new development will be directed to the most sustainable and accessible locations, and among other matters, is to make the best use of previously developed land and buildings within existing built-up areas. Housing is to be within defined settlement boundaries under Policy CP10 with site identified through the Local Plan: Allocations, or Neighbourhood Plans with settlement boundaries adjusted accordingly. Housing and other small scale development outside settlement boundaries will only be permitted subject to stated criteria. Policy CP19 concerns development in the countryside which is subject to a policy of general restraint in order to protect the countryside for its own sake. The only development allowed will be that with a genuine and proven need.

5. The Council advise that the Beech Neighbourhood Plan area was designated in April 2017 but no further progress has been made since then. The appellant has provided a copy of a document entitled '*Beech Neighbourhood Plan – 2nd Draft*' with a Foreword dated May 2017. Policy BPC001 on development outside the Settlement Boundary reiterates the aims and process of Policy CP19, making clear the limited uses that would be supported in that location. Whilst only very limited weight can be attached to this draft, the proposed alignment with District-wide policy is of note. There is also an emerging Local Plan which would consider any changes to settlement boundaries, but this can be afforded no weight due to the early stage reached.
6. There is a Village Design Statement bearing a copyright date of 2012 and containing design guidelines on giving protection to the landscape, setting and built environment, with backland development restricted to where the rural nature of the area can be protected.
7. The site is open land, said to be once part of a residential curtilage, but the present visible curtilages of both nearby dwellings appear to follow the settlement boundary. There is a hard tennis court on the southern part of the site which it is claimed would class at least that area as previously developed land, in line with the Dartford case, which determined that the exclusion in the definition in the Annex 2 Glossary of the National Planning Policy Framework regarding residential gardens applies to land in built-up areas only.
8. However, the term 'built-up area' need not be synonymous with the term 'settlement boundary' as determined by policy, and it appears that the settlement boundary cuts across what was at one time the garden of an adjacent dwelling; a not unusual occurrence. In the event little turns on the matter of previously developed land as although paragraph 117 of the Framework seeks to make as much use as possible of such land, the Glossary makes clear that it should not be assumed that the whole of the curtilage should be developed.
9. Policy CP19, adopted in 2014, refers to protecting the countryside for its own sake while the 2018 revision to the Framework refers to contributing to and enhancing the natural and local environment by recognising the intrinsic character and beauty of the countryside.
10. The settlement boundary is a clearly identifiable line in reality, as the former garden area outside that line is becoming more akin to open land, albeit unused. The site is not seen as an extension of the settlement and there is no sense of the need to 'round-off' a boundary as to the north and west there is truly open countryside land. Neither is there a need for development to enhance the site or to make-good any harm that is occurring through its present lack of use or its condition.
11. As referred to in the Procedural Matter, there is a Right of Way running along the western boundary of the site, stated to be Bridleway 704, while Footpath 703 diverges part way along that boundary to head west. Both the Parish Council and the County Council's Countryside Access Development Officer object to the use of the Right of Way, part of the concern of the County being over ownership. Drawing 1612-PL03 notes that ownership is with the County Council and Certificate B on the Application Form confirms this.

12. The track also serves a dwelling shown as number 78 on the location plan, which appears to be associated with agricultural buildings, but this is some way to the north and west of the site and does not provide a visual justification for the proposed development. The track is however seen as a rural byway, and it and the western boundary of number 76 visually signal the extent of truly built-up area and in policy terms, the settlement boundary on this side of the road. The development proposes 'existing un-metalled flint surfaced right of way.....providing vehicular access to the site' implying that there would be no upgrading of the surface. In practice, and without further works, the increased traffic and servicing requirements of 2 additional dwellings could be at odds with the largely recreational use presently in place.
13. Number 76 is a listed building at Grade II and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In this case the view of the Conservation Officer is concurred with, that the proposal would not harm the significance of the building or its setting.
14. Turning then to the requirement in Policy CP19 to prove a genuine need and the Policy CP10 list of criteria for permitting housing and other small scale development outside settlement boundaries, these are that it;
Meets a community need or realises local community aspirations; that has not been shown to be the case.
Reinforces a settlement's role and function; the settlement is stated in the Village Design Statement and the draft Neighbourhood Plan to have limited facilities, and the addition of 2 dwellings would be unlikely to add significantly to either its role or function.
Cannot be accommodated within the built up area; that has not been shown to be the case, and new development was taking place not far towards Alton.
and;
Has been identified in an adopted Neighbourhood Plan or has clear community support as demonstrated through a process which has been agreed by the Local Planning Authority in consultation with the Parish or Town Council. That is not yet the case.
15. Paragraph 11 of the 2018 Framework together with footnote 7, provide for policies to be found out of date where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, thereby triggering the provisions of section d) of granting permission unless there are particular adverse effects. The Council do have a five year supply, and that has not been disputed. The appellant points to alleged shortcomings in the list of sites granted permission at Beech, but the five year supply is not set at that settlement level, but at a District-wide level.
16. It appears that there has been permission granted for the conversion of a building to a dwelling outside the same settlement boundary, but that is not the same as a new development of dwellings. That case does not set a precedent for the appeal proposal.

17. With regard to the matter of whether this application is premature, Policy CP10 refers to a process by which sites can be put forward for consideration, but unlike an application for a wind-fall site such as this, any decision on whether or not to allocate a site would be taken in the light of alternatives and how they score against particular criteria. The appellant casts doubt over this mechanism for small sites, but those doubts do not outweigh the aims of the Plan-led approach to decisions on where development should occur.
18. The conclusion is that the proposal does not satisfy the criteria in Policy CP10 and no undertaking or similar has been offered to ensure any other exception would be catered for. The proposal is therefore for open-market housing and no genuine need for a countryside location outside the settlement boundary has been proven, so that the proposal fails to accord with Policy CP19. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR