



Appeal Decision

Inquiry Held on 14 and 15 December 2017

Site visit made on 15 December 2017

by Mark Dakeyne BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 January 2018

Appeal Ref: APP/M1710/W/17/3181414

Land to rear of 191-211 Lovedean Lane, Horndean, Hampshire PO8 9RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Southcott Homes Limited against the decision of East Hampshire District Council.
 - The application Ref 55406/002, dated 28 December 2016, was refused by notice dated 13 April 2017.
 - The development proposed is erection of 33 no dwellings, vehicular and pedestrian access, parking, secure cycle storage and servicing, creation of new public open space, landscape and ecology management.
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The application was submitted in outline with all matters reserved apart from the means of access. I have determined the appeal on this basis treating the site layout, section and street scene plans as an indication as to how the site could be developed.
3. The appellants provided a revised red line location plan before the inquiry to ensure consistency between the location and title plans. The change involves the exclusion from the site of a narrow 0.7m wide strip to the north of 209 Lovedean Lane. The amendment is not material and would not prejudice any party. At the start of the inquiry it was confirmed that the access plan considered by the Council was Drawing No S492/20 dated March 2017 showing a 5.5m wide road with 2m wide pavements entering the site from New Road.
4. A completed Unilateral Undertaking under Section 106 of the Planning Act 1990 (S106) dated 13 December 2017 is before me. The S106 includes obligations relating to affordable housing; the maintenance and management of on-site open space and other communal areas within the site; and the provision and management of a sustainable drainage system (SUDs). I will return to these obligations later in this decision.
5. The application was refused for two reasons. However, the second reason relating to protected species has been resolved by the production of additional surveys which are agreed as satisfactory by the County Ecologist. The Statement of Common Ground (SOCG) dated 16 November 2017 confirms the position.

Main Issues

6. Taking into account the above background and the evidence before me, the main issues are:
- (1) the effect on the character and appearance of the area; and,
 - (2) whether any harm to the character and appearance of the area and conflict with the development plan are outweighed by other material considerations.

Reasons

Character and appearance

7. The site is an irregularly shaped area of rough grassland, scrub and trees on the western slopes of a valley. The valley extends out from the built-up area of Horndean into the South Downs. Linear development on Lovedean Lane to the east and New Road to the north provides some containment to the site. On the valley side to the south of the appeal site a new housing estate is under construction. This new development is a departure from the linear settlement pattern on the west side of Lovedean Lane and will enclose the site on another side.
8. The proposal would lead to the loss of an area of countryside on the settlement edge. This change from open land to a housing estate would be most readily perceived when looking out from the gardens and rear facing windows of properties backing onto the site.
9. In terms of public viewpoints, parts of the site can be seen between properties on Lovedean Lane, from the New Road frontage and from a bridleway to the north-east. I also noted glimpsed views above properties from the residential cul-de-sac, The Curve, to the east, and between vegetation from the public footpath beyond the southern boundary.
10. Almost all the housing is shown as two-storey so, taking into account the topography, would be seen from these viewpoints including above the existing properties on the Lovedean Lane frontage. In this respect the development would represent 'backland development up the valley sides' which is discouraged by the Horndean Parish Village Design Statement. However, the development would not extend much further up the slope than that to the south. Moreover, from most directions the development would be visually contained by existing housing.
11. With regard to impact on the wider landscape there is no evidence that the site would be visible from longer distance viewpoints, including from footpaths within the South Downs National Park to the north. The site has no particular intrinsic qualities. Nor does it form a component of an important landscape type. The site does not lie within part of a designated or valued landscape. Indeed the Council has not pursued a landscape objection¹.
12. The development would retain the groups of trees in the south-west corner of the site and in the sunken area towards New Road and most individual perimeter trees on the western and southern boundaries which frame the site. Therefore, the scheme would retain the site's more valuable natural features.

¹ Paragraph 3.8 of the SOCG

13. I conclude that there would be some localised harm to the character and appearance of the area. However, I agree with the Inspector who considered the previous appeal relating to the site that, taking into account the wider landscape context, the effects would not be significant².

The development plan

14. The site lies adjacent to but outside the defined settlement boundary and, therefore, in policy terms falls within the countryside. Policy CP19 of the East Hampshire District Local Plan Joint Core Strategy (CS)³ only allows development with a genuine and proven need for a countryside location and protects the countryside for its own sake. Policy CP10 of the CS makes provision for housing within the period 2011 to 2028 through various means including allocations and windfalls within settlements. The appeal proposal does not fall within any of the categories of development permitted by Policy CP10. Nor does the scheme provide affordable housing in accordance with exceptions Policy CP14 of the CS or dwellings for rural workers in accordance with Policy H14 of the East Hampshire District Local Plan Second Review.
15. The Council's Housing and Employment Allocations Plan (HEAP) document of April 2016 allocates sites to meet the CS housing requirement. The allocations include two sites in Horndean, a 62 ha site to the east of the settlement and the 2.5 ha site to the south of the appeal site which would respectively provide 700 and 40 new dwellings. The settlement boundaries shown on the Local Plan Policies Map have been updated to reflect the allocations.
16. Taking into account commitments, allocations and a windfall allowance, the Council can demonstrate a supply of specific deliverable sites sufficient to provide five years of housing against the CS requirement in accordance with paragraph 47 of the National Planning Policy Framework (the Framework). Therefore, relevant policies for the supply of housing, including Policy CP10, and the settlement boundaries are up-to-date. Moreover, there is no dispute that the development plan is otherwise up-to-date and consistent with the Framework. The development plan carries full weight.

Other material planning considerations

17. The Framework sets out the Government's view of what constitutes sustainable development. The purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development – economic, social and environmental.
18. In terms of the economic role, jobs would be provided in the construction period. New residents would spend money locally on goods and services. The appellants are a relatively small local housebuilder so would be a good fit with the Government's objective of seeking growth in the SME⁴ sector. The development would give rise to New Homes Bonus and Council tax payments.
19. The provision of new market and affordable housing would be social benefits, particularly in the context of the Government's objective of significantly boosting the supply of housing to meet the need for new homes. The objective

² Paragraph 28 of the appeal decision ref: APP/M1710/A/14/2229095 dated 7 May 2015

³ Adopted May 2014

⁴ Small and medium-sized enterprises

has been emphasised in recent pronouncements by the Secretary of State⁵. The development by a small housebuilder would diversify housing provision locally. The affordability ratio of market housing has worsened in the last four years so additional supply would make a small contribution to closing the gap between earnings and house prices. In relation to affordable housing, the policy compliant provision of 40% (13 homes) would be a particular benefit taking into account the evidence of an acute need for affordable homes in the District and the outstanding need for both affordable and intermediate housing in the two nearest settlements of Horndean and Clanfield.

20. The appeal site is just over ½ mile from local shops, including a convenience store, with the nearest primary school and bus routes a little further away. These facilities could be accessed on foot or by cycle. Other shops and services in the wider urban area of Horndean, such as a supermarket, medical facilities and secondary schools, are a greater distance from the site. As a result many residents would rely on a private car. That said most journeys would be short. Community Infrastructure Levy payments would offset the impact of additional demands on local services.
21. The approach to the development of the site as set out in the Design and Access Statement (DAS) and indicative plans shows a high quality built environment would be capable of being created including publicly accessible open space. The plans illustrate that dwellings could be sited and aligned so that they would not be overbearing from, or lead to significant overlooking of, the properties in Lovedean Lane. Therefore, whilst the development would lead to a change in the living environment for neighbouring occupiers, the impact would be within acceptable bounds. Disruption during construction would be temporary. Traffic movements and effects from car headlights would not be out of the ordinary.
22. With regard to the environmental role, I have found some harm in terms of character and appearance. The proposals for ecological mitigation and enhancement and the retention of the preserved trees would compensate for the loss of habitat provided by the grassland, scrub and undergrowth.
23. No 203 Lovedean Lane and a pair of cottages opposite New Road are Grade II listed buildings. No 203 is within a row of dwellings of varying age and type. The listing description focuses on the architectural merit of the building. The development would not harm the significance of the heritage asset, No 203, including its setting. With regard to the cottages they are separated from the site by the road and other dwellings so that their setting would not be affected.
24. The vast majority of the site lies within Flood Zone 1 where all built development would be located. A sustainable drainage system would be used such that surface water run-off would be at greenfield rates and would not exacerbate local surface water flooding occurrences.
25. Having regard to the above, economic and social gains would be achieved by the development. The environmental harm would be limited such that overall the scheme would achieve sustainable development as set out in the Framework. This is not surprising in that the site is comparable in terms of sustainability with the adjacent allocated site.

⁵ See for example ID4

26. Furthermore, Horndean is identified as a Level 2 settlement (Large Local Service Centre) by the CS Key Diagram and the explanation to Policy CP2. I note that Lovedean is referred to as a Level 4 which is a settlement appropriate for small scale local development. However, I take the Level 4 designation to relate to the small settlement boundary drawn around New Road and not that which encompasses the allocated site and the existing development on both sides of Lovedean Lane which are contiguous with the large built-up area of Horndean. To my mind this is confirmed by the decision to allocate the adjacent site as part of Horndean's provision. That the DAS describes the appeal site as in Lovedean and Ordnance Survey Maps delineate the area as Lovedean do not alter my findings that for planning purposes the development would be related to a Level 2 rather than Level 4 settlement and therefore not at odds with Policy CP2.
27. Turning to other matters raised, the design of the access onto New Road would be acceptable for a development of this scale. Although New Road is on a slope and accommodates some on-street parking, it is of reasonable width for a no-through road. The difficulties caused by the lack of a turning head on New Road would not be exacerbated by the development which would provide ample space for vehicles to manoeuvre, and enter and leave the site in a forward gear.
28. The junction of New Road with Lovedean Lane has adequate visibility in both directions. The additional traffic movements would be satisfactorily accommodated on New Road, at the junction and on the wider highway network.

Planning Obligations

29. The S106 secures the affordable housing provision required by Policy CP13 of the CS through provision on site together with a small commuted sum. The obligations within the S106 relating to maintenance and management of communal areas and SUDS are required to ensure that a high quality development would be secured and flood risk would be mitigated throughout the life of the development.
30. The obligations are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. Therefore, the obligations meet the legal and policy tests and I have taken them into account in my decision.

Conclusions

31. The proposal conflicts with the development plan. Development that conflicts with the development plan should be refused unless material considerations indicate otherwise. I have also identified some localised harm to the character and appearance of the area from the encroachment of built development into the countryside, albeit that the harm is modest. No other material harm would arise from the development.
32. The proposal would achieve sustainable development as defined by the Framework. However, the weight that I attach to the economic and social benefits is affected by the fact that the Council is meeting the housing needs identified through the CS process in that a five year supply of housing land exists. The assessed need may increase in the future, having regard to the

proposed formula for the District within the housing consultation paper⁶. But as things stand the Objectively Assessed Need has been arrived at based on current policy and guidance. Moreover, locally commitments and allocations exceed the minimum allocations for Horndean set by Policy CP10. Although there is some slippage in anticipated delivery at the larger Horndean site, the smaller allocation is likely to be completed in 2018. Affordable housing will be delivered through the allocations. The benefits that would arise from the development are not out of the ordinary and most could be claimed by any scheme of this scale which complies with affordable housing Policy CP13 and other site specific policy requirements. Therefore, I ascribe these benefits moderate weight.

33. This is not a case where the tilted balance and the presumption in favour of sustainable development contained within paragraph 14 of the Framework apply as relevant development plan policies, including those related to the supply of housing, are up-to-date.
34. With regard to the appeal decision of 2015, my findings in relation to the specific impacts of the development are consistent with the previous Inspector. However, as explained at paragraph 15 of this decision, the Council adopted the HEAP in 2016. The settlement boundaries are now up-to-date, expanding to meet the housing requirements of the CS and not weakened by uncertainty about whether there is a five year supply of housing land. Therefore, whilst CS policies have not changed, there has been a material shift in the development plan position in the intervening period and therefore the considerations at play then and now are distinguishable.
35. The other appeal decisions referred to indicate that the Secretary of State (SoS) and Inspectors have undertaken a planning balance weighing any conflict with the development plan against other material considerations. As set out in case law, these are matters of planning judgement⁷.
36. Planning should be plan-led. The development plan should not be set aside lightly. The other material considerations that I have identified that comprise benefits, encapsulated by my findings that the development would be sustainable considered against the policies of the Framework, do not outweigh the conflict with the development plan and in particular Policies CP10 and CP19 of the CS and the modest harm to the character and appearance of the area.
37. For the above reasons the appeal should be dismissed.

Mark Dakeyne

INSPECTOR

⁶ ID6

⁷ See for example Court of Appeal Judgment Barwood Strategic Land v East Staffordshire and SSCLG [2017] EWCA Civ 893 and Michael Mansell v Tonbridge and Malling BC et al [2017] EWCA Civ 1314

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Timothy Leader of Counsel

Instructed by Nick Leach, Solicitor for East Hampshire District Council

He called

Jon Holmes
BA (Hons) PG Cert UD MRTPI

Principal Planning Officer

FOR THE APPELLANT:

Paul Cairnes of Queens Counsel

Instructed by Neame Sutton Ltd

He called

David Neame
BSc (Hons) MSc MRTPI

Neame Sutton Ltd

INTERESTED PERSONS:

Elaine Tickell
Sarah Schillemore
Steve Anderson
Kelly Goodwin

Horndean Parish Council
Ward Councillor
Lovedean Village Residents' Association
Local Resident

Richborough Estates

LIST OF PLANS AND DOCUMENTS SUBMITTED AT INQUIRY

- ID1 A3 version of Site Location Plan Drawing No 1019-PD-301 Rev D submitted by the appellants
- ID2 Access Arrangements Plan Drawing No S492/20 submitted by the appellants
- ID3 Unilateral Undertaking dated 13 December 2017 submitted by the appellants
- ID4 SoS Sajid Javid's speech to the LGA conference 2017 submitted by the appellants
- ID5 Non-Technical Summary of East Hampshire SHMA and Local Housing Requirements August 2013 submitted by the appellants
- ID6 Formula for assessing housing need for East Hampshire from Government Consultation Document of September 2017 submitted by the appellants
- ID7 Opening statement on behalf of the appellants
- ID8 Photographs of New Road submitted by Kelly Goodwin
- ID9 Statement from the Lovedean Village Residents' Association submitted by Steve Anderson
- ID10 Extract from the East Hampshire Local Plan Second Review submitted by the Council
- ID11 Closing submissions on behalf of the Council
- ID12 City of Edinburgh Council v SoS for Scotland, Revival Properties Ltd v City of Edinburgh Council & SoS for Scotland v Revival Properties Ltd – Conjoined appeals to the House of Lords – [1997] 1 W.L.R. 1447 submitted by the Council
- ID13 Borough Council of Kings Lynn and West Norfolk v SoS for Communities and Local Government, ELM Park Holdings Ltd – High Court Judgement [2015] EWHC 2464 (Admin) submitted by the Council
- ID14 Closing statement on behalf of the appellants