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## Appeal Decision

Site visit made on 11 December 2018

**by AJ Steen BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 January 2019**

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**Appeal Ref: APP/L3625/W/18/3204696**

**175 Smallfield Road and land to the rear of 171 Smallfield Road, Horley RH6 9LR**

- 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 Rayford Property Enterprises LLP against the decision of Reigate & Banstead Borough Council.
  - The application Ref 17/02190/OUT, dated 21 September 2017, was refused by notice dated 1 March 2018.
  - The development proposed is the erection of 27 no. 2, 3 and 4 bed houses with associated parking and access road. Alteration to 175 Smallfield Road to facilitate new access road.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The proposal is for outline planning permission, and the application form makes clear that approval is also sought at this stage for access and layout of the development, but not for its scale, appearance and landscaping. Drawings have been submitted showing the proposed access and layout along with floor plans and elevations. I have treated the floor plans and elevations as illustrative.
3. The National Planning Policy Framework (the Framework) was published during the course of the appeal. The Council and appellant had the opportunity to comment and I have taken its contents into account in coming to my decision.
4. My attention has been drawn to additional plans that seek to address the reason for refusal relating to visibility at the access from the highway. It has been suggested that these could be considered alongside the reserved matters, but access is to be considered at this stage. I note that concerns regarding access have been raised by a number of parties. Advice contained within the Procedural Guide – Planning Appeals – England at M.2.1 states that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the local planning authority. Given that the amendments to the proposed access are substantial I have not taken the additional plans into account in coming to my decision.

## **Main Issues**

5. The main issues are:

- the effect of the proposed dwellings on the intrinsic character and appearance of the rural area;
- the effect of the proposed development on flood risk;
- the effect of traffic and parking relating to the access to the proposed development on the safe and efficient operation of the highway network in the vicinity of the appeal site; and
- whether or not the proposed development would make adequate provision for affordable housing.

## **Reasons**

### *Character and appearance*

6. 171 and 175 Smallfield Road are located in a row of houses on the road between Horley and Smallfield. To the opposite side of the road are open fields, with woodland to the rear. The houses along this stretch of road are a mix of predominantly bungalows and chalet bungalows with long rear gardens. Neighbouring no. 175 is a yard of mainly low buildings that extend the depth of the property. To the rear of no. 171 and the intervening house, no. 173, is a paddock alongside the rear part of the garden of no. 175. Beyond that is woodland with a public footpath running to the rear of the properties.
7. The proposal would result in the removal of part of no. 175 and construction of an access road to enable development on the rear garden and adjacent paddock. The illustrative plans suggest that the development would be a suburban form and design, with landscaping to be retained and new landscaping proposed. There would be limited gaps between dwellings, such that the proposals would be significantly denser than other development along this part of Smallfield Road. Other than the yard of buildings adjacent there is no similar development to the rear of houses in the road. Those neighbouring buildings are low in height whereas the illustrative drawings indicate the proposed houses would be two storey. Consequently, the proposal would result in prominent development that would be of a domestic and suburban character, out of keeping with the surrounding, predominantly open, rural area.
8. For these reasons, I conclude that the proposed development would harm the character and appearance of the rural area. As such, it would be contrary to Policies CS4, CS6 and CS13 of the Reigate and Banstead Core Strategy (CS) and Hr36, Ho9 and Re6 of the Reigate and Banstead Borough Local Plan (LP) that seek high quality design that respects, maintains and protects the character of the area, including providing open space and that the scale of development should not be detrimental to the character of the surrounding area.

### *Flood risk*

9. The proposed development is located within Flood Zone 2, where there is a medium probability of flooding. The Framework states that inappropriate development in areas at risk of flooding should be avoided by directing

development away from areas at highest risk. Development should only be permitted where this assessment and the sequential and exception tests demonstrate that the flood risk is appropriately dealt with and would not increase flood risk elsewhere. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding.

10. The Council state that there are other sequentially preferable sites available for housing development within the borough. I note that this may involve development of smaller sites in order to provide an equivalent number of houses, whereas the appeal site is available for development as a whole. Nevertheless, there are sites available within areas at a lower risk of flooding such that the proposed development would not meet the sequential test.
11. I understand that the submitted flood risk assessment was based on the Burstow Stream model of 2012, but a review in 2014 highlighted issues with that. Consequently, the Environment Agency suggest a precautionary approach. There is a flood alleviation scheme at an early stage of planning, but it is unclear what effect that would have on flooding of this site. On that basis, it is not clear whether the proposed development would be safe for its lifetime or increase the flood risk elsewhere. As a result, the proposal would not meet the exceptions test.
12. For these reasons, I conclude that the proposed development would be at risk of flooding and would increase the risk of flooding elsewhere. As a result, it would be contrary to Policy CS10 of the CS, Policy Ut4 of the LP and the Framework that resist development in areas at risk of flooding and seek development to minimise flood risk through the application of the sequential and exceptions tests.

#### *Highways*

13. Smallfield Road is a busy main road leading between Smallfield and Horley with a 40mph speed limit. The access proposed would not provide visibility along the road to the standard required, which could lead to conflict between vehicles accessing and egressing the development and other road users on Smallfield Road. I note reference to the provision of traffic calming measures in the road, although it is unclear what these would comprise, how they would be provided or how they would affect traffic speeds. As a result, vehicles seeking to leave the site may lead to conditions prejudicial to highway safety.
14. For these reasons, I conclude that the access to the proposed development would harm the safe and efficient operation of the highway network in the vicinity of the appeal site. As such, the proposal would be contrary to Policy Mo5 of the LP and the Framework that seek to ensure safe and suitable access appropriate for the development proposed and that development does not aggravate accident potential.

#### *Affordable housing*

15. Policy CS15 of the CS requires new residential developments of 15 or more net dwellings to provide 30 per cent of housing as affordable. The appellant suggests that they accept such a contribution would be necessary. However, no means to provide this has been provided, such as by a legal agreement under Section 106 of the Town and Country Planning Act 1990. I note that the appellant suggests this could be resolved at reserved matters stage or via

condition, but this is a fundamental consideration so it would be appropriate to provide any legal agreement at outline stage. I have considered whether a condition would be possible, but Planning Practice Guidance<sup>1</sup> states that such a condition would only be appropriate in exceptional circumstances. I see nothing to suggest that such exceptional circumstances would apply in this case.

16. On the evidence before me, I conclude that the need for the contribution toward affordable housing provision sought by the Council arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010. The proposal would fail to secure appropriate provision of affordable housing and so would be in conflict with Policy CS15 of the CS.

#### *Other matters*

17. Policy CS6 of the CS refers to the broad areas of search for the allocation of land for development, including countryside beyond the Green Belt adjoining the urban area of Horley. I understand that this area may have been excluded from the Green Belt to ensure that it could be considered for future housing development. However, the appeal site is not allocated for development and does not adjoin the urban area of Horley.
18. The Framework seeks to significantly boost the supply of homes and the proposal would contribute 27 dwellings to the supply of housing within the district. These would contribute significantly to the Council's windfall allowance and toward the housing land supply of the district. This can carry moderate weight in the planning balance.
19. The proposed dwellings would be located a short distance from surrounding houses such that the dwellings would not harm the living conditions of surrounding occupiers by reason of outlook and privacy. The dwellings would be provided with gardens and there would be outdoor play space to meet the needs of future occupiers. The layout would result in adequate privacy and outlook for future occupiers. As such, future occupants would be provided with adequate living conditions.
20. I have been referred to other recent development at 121 Smallfield Road and at Cooper Close, Smallfield, but these sites are in different locations such that their context differs from that in this case. That in Smallfield is in a different local authority area so is also subject of different planning policies. In any event, I need to consider the proposed development on its individual merits.

#### **Conclusion**

21. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's CS and LP, such that it would conflict with the development plan as a whole. The proposal would contribute toward the need for housing in the area, but this is not a material consideration of such weight as to warrant a decision other than in accordance with the aforementioned Local Plan. Consequently, the appeal should be dismissed.

*AJ Steen*

INSPECTOR

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<sup>1</sup> Reference ID: 21a-010-20140306