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## Appeal Decision

Site visit made on 31 March 2014

by **V F Ammoun BSc DipTP MRTPI FRGS**

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

Decision date: 09/06/2014

**Appeal Ref: APP/L3815/A/13/2203195**

**Land South of Stoney Lodge, School Lane, North Mundham, PO20 1LA**

- 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 Hamlet Homes Ltd against the decision of Chichester District Council.
- The application Ref NM/13/01036/OUT, dated 27/03/2013, was refused by notice dated 18 July 2013.
- The development proposed is *Mixed housing development comprising 11 terraced cottages, four flats, six semi detached dwellings and four detached dwellings, associated access road, gardens and parking areas.*

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### Decision

1. The appeal is allowed and outline planning permission is granted for *Mixed housing development comprising 11 terraced cottages, four flats, six semi detached dwellings and four detached dwellings, associated access road, gardens and parking areas* at land South of Stoney Lodge, School Lane, North Mundham, PO20 1LA in accordance with the terms of the application, Ref NM/13/01036/OUT, dated 27/03/2013, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

### Preliminary and background matters

2. The application is made in outline, but means of access, site layout, and scale are to be as set out in the description of development and shown on the application plans. The design and external appearance of the buildings and the landscaping of the site remain as reserved matters for later consideration.
3. The application is accompanied by a signed unilateral undertaking under S106 of the Act binding a developer to make provision within the site for 10 units of affordable housing, and to make various payments to deal with the costs/needs generated by the development in other spheres, including but not confined to education and transportation. I shall refer to some of these in greater detail when considering the effects of the development. The NPPF at paragraph 204 requires that a S106 undertaking or agreement meet the three tests of being 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. In this case there is no dispute as to the appropriateness of a S106 and having regard to the County Council's detailed justification for the provisions and contributions sought as set out in its representation<sup>1</sup>, I have concluded that the S106 undertaking meets the tests referred to.

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<sup>1</sup> Written submission by West Sussex County Council accompanying email dated 16 October 2013 11:54.

## Planning policy and Main Issue

4. The appeal site is a field situated near to but not within the North Mundham Settlement Policy Area (SPA) as designated in the Chichester District Local Plan 1999. Saved policies of that plan reflect well established planning objectives for the protection of the countryside and rural character by restricting residential development outside SPAs. The operation of these and other Local Plan policies has not, however, provided all the housing needed and in particular there is now an acknowledged and substantial shortfall in the provision of housing land in Chichester District. The Council has sought to address this by adopting supplementary planning guidance Facilitating Appropriate Development (FAD) which indicates that housing development outside SPA can be acceptable provided it complies with stated criteria.
5. The National Planning Policy Framework (NPPF) 2012 at paragraph 49 states that *Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites*. Where a development plan is absent, silent or as in this case relevant policies and guidance are out of date, the NPPF states at paragraph 14 that planning permission should be granted unless any adverse impacts of doing so would *significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole*. It follows that though the planning objectives of the Local Plan and the FAD criteria are material considerations insofar as they are consistent with the NPPF, the main issue in this case is not whether the proposal complies with them but whether the adverse impacts of granting planning permission would *significantly and demonstrably outweigh* the benefits of the proposal.
6. In reaching a conclusion on this issue I shall consider in turn the objections to the proposal raised by the Council and others, and the advantages claimed for it. Where the views of the Parish Council and interested persons reflect those of the Council, I do not refer to them separately.

## Reasons

7. It is claimed that the site is **poorly related to the settlement** of North Mundham. The North Mundham SPA defines the settlement as being south of the B2166 Lagness Road, thus excluding the appeal site to the west of School Lane and the North Mundham Primary School and an adjacent village/ community hall and playing field to the east. The north-south line of School Lane is continued south of Lagness Road as Church Road, bisecting North Mundham. As reflected in the road names, the settlement has two historic and/or current foci – the Church to the South and the School and village hall to the North. I conclude that though the appeal site is outside the SPA boundary, its position and proximity to the school/village hall foci is such that it is not poorly related to the settlement or outside it in functional terms.
8. The FAD criteria include that housing sites be contiguous to existing settlements. The Council considers that the appeal site is not contiguous, in particular having regard to the width of Lagness Road, a disused canal on its northern side, and an associated *substantial belt of mature vegetation*. In this context I consider the purposes of seeking contiguity are to secure the advantages of functional interaction and to avoid the harm to landscape and the appearance of the countryside that can result from a dispersed pattern of development. As to the former, as set out above I have concluded that the

appeal site is well related to the settlement. As to **visual effect on the countryside**, the appeal site is currently an open gap in a ribbon of development along the west side of School Lane. The site does not, however, form part of a significant visual break between North Mundham and the ribbon of development because of the primary school on the opposite side of School Lane. The appeal site itself is a field of normal rural appearance whose development would necessarily end that natural character. This loss must count against the appeal proposal, but I do not consider that such loss is made greater by what the Council considers to be a lack of contiguity – rather the degree of separation and screening afforded by the canal and associated trees will reduce the extent to which the loss of rural character is evident from parts of Lagness Road. The present absence of a visually robust western boundary to the site can be addressed by a proposed hedge and bank, which would line up with the western boundary of the industrial yard land to the north.

9. The Council has referred to an **overly dense urban form of development**, caused by the number of dwellings proposed and the form of the parking provision in a parking court and grouped in communal areas. This is considered not to preserve or enhance the semi-rural character of the village. Local Plan policies BE11 and BE13 relate. My inspection of North Mundham suggested that it has developed in stages, with the first in the modern period represented by houses built along a framework of rural lanes now School Lane, Church Road<sup>2</sup>, and Post Office Lane. These have an informality of layout, footway and boundary treatment, and design which is associated with semi-rural settlements. However a second stage of settlement growth has included substantial developed areas constructed as cul-de-sacs off the original lanes, with Fletcher Place/Aylwin Place and Palmer Place being two of the larger examples. In such cul-de-sacs I found the character to be that of a normal suburban street. I have concluded that the character of the village is a mixed one, and that a further residential cul-de-sac such as that proposed is not necessarily out of keeping, nor is it appropriate to assess its merits against a requirement to be "semi-rural". As to appearance I consider that the mixture of dwelling types, the curved alignment of the cul-de-sac, and the intention to retain or reform a frontage hedge suggests a normally pleasant residential street scene. The parking court and grouped parking areas would be of modest scale, in part screened by buildings and in the case of the parking court potentially also by frontage planting, and would in any event not be out of keeping with the nearby parking associated with the school, village hall, and sports ground. Similarly the short terraces that would adjoin the School Lane frontage reflect the bulk and close relationship to the Lane of the school buildings on the opposite side of the road. I have concluded that the appeal proposals would not be in breach of the policies referred to, or an overly dense urban form of development.
10. Turning to **residential amenity**, Stoney Lodge is situated a similar distance beyond the northern boundary of the site as would be the end elevation of a terrace of three houses and a 12 space resident's parking court proposed on the appeal site. Possible overlooking towards the Lodge could, as suggested for the Appellant, be addressed by suitable internal design of the upper floor of the adjacent house when reserved matters are dealt with. Though there would be some noise from use of the car park adjoining the garden area to the rear or west of Stoney Lodge, there is no evidence that it need be greater than is

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<sup>2</sup> Or Church Lane, nomenclature appears to differ.

normal within residential developments. I conclude that while there would be some effect upon residential amenity at Stoney Lodge this would not involve a breach of the relevant policies. My conclusion in this regard is consistent with, but does not depend upon, the absence of any known objection from occupiers of the Lodge.

11. Council concern at **net loss of habitat** relates in particular to the known presence of slow worms on the site and the possibility of other reptiles<sup>3</sup> thereon. In considering this matter I noted that cutting grass is a means of discouraging the presence of reptiles, put forward as part of a process for safely displacing individuals. At my site inspection I saw that the grass over most of the site was cut fairly low as part of its normal agricultural use. As agricultural land it remains available for similar cutting at regular intervals, or could indeed be cropped by grazing stock. I consider that this calls into question the extent to which the development of the site as a whole involves a significant loss of relevant habitat. I noted that the original ecological study only found slow worms on the third, fifth and sixth visits, and on site margins, with a total of four records of three individuals, and referred to *the presence of Slow-worm at very low density*. Given this low density I consider that the properly managed displacing these reptiles onto adjacent land will not have a significant effect on other populations or justify a specially managed receptor site, and conclude that this matter can be dealt with by an appropriate condition. Though there is a suggestion that the development would potentially destroy habitat links, it is not apparent what links might be affected as the appeal site is not obviously part of any chain of open spaces/natural habitats, unlike the line of the disused canal which would remain in its present condition outside the appeal site boundary. Additionally it is proposed to provide a 95m section of new hedgerow along the currently open western site boundary, replacing loss of a smaller section of existing hedgerow on the eastern boundary.
12. In all these circumstances I consider that on the evidence available there would not be a significant net loss of habitat or other significant harm to biodiversity, or that the proposal would otherwise be in breach of the NPPF at paragraph 118 in particular, or to Local Plan policy RE8 concerned with nature conservation in non-designated areas.
13. Interested persons and the Parish Council were concerned at the effect of the development on **highway safety**. Those objecting particularly refer to the double bend in the B2166 Lagness Road at this point of junction with School Lane and Church Road, the inadequate carriageway and width of School Lane, and high traffic speeds. Particular attention is drawn to the congestion associated with use of the primary school immediately opposite the appeal site. These objections are not made or supported by the Council or by the Highway Authority. This may reflect the general experience that vehicle usage from a residential development tends to be spread throughout the day, so that the approximately 40 cars potentially parked on the site would not in practice all use the access at the same time. There is no evidence that there would be a significant adverse effect upon the operation of the junction. In the absence of such evidence or objection from the Highway Authority I conclude that the effect on its operation would not be significant.

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<sup>3</sup> Section 9 of the Wildlife and Countryside Act 1981 relates.

14. My inspection was timed to coincide with the end of the school day, and I watched the operation of the junction and movement of children and parents on foot and in vehicles. I concluded that while the present operation of the school has a significant effect on highway users at such times, the sharp bend in the Lagness Road combined with the operation of the light controlled pedestrian crossing has the effect of causing delay and associated inconvenience to highway users rather than any particular hazard. This is reflected in the absence of any accident records from the Highway Authority, evidence that would normally come forward from them where hazard was extant or anticipated. In addition the appeal proposal involves providing a footway on the west or appeal site side of School Lane, and a smaller section of footpath on its eastern side, with carriageway width maintained at 5.5m for that part of School Lane between the proposed site access and Lagness Road. I have concluded that highway safety does not add significantly to the case against the proposal. As to more general concerns at the effect of additional traffic on the convenience of highway users, I note that the County as Highway Authority requires and will obtain by way of the S106 undertaking a contribution to infrastructure expenditure and sustainable transport, and has a list of schemes in the local area to which such funds could contribute.
15. The appeal development would add to the existing pressure upon **school places** in this area, but I have no reason to doubt the conclusion of the County Council as Education Authority that this matter is sufficiently addressed by a Primary Education financial contribution stipulated in the S106 undertaking. Similarly concerns at the capacity of the **drainage** system are supported by the consultation response from Southern Water, who are however evidently satisfied that appropriate infrastructure can be provided.
16. In summary I have concluded that the only significant adverse effect of the proposal would be the loss of open countryside character due to the development of the field. In considering what weight should be given to this I note that the FAD envisages that it will be necessary to use some open rural land to meet housing needs. There is certainly no evidence that all such needs can be met by using previously developed/"brownfield" land. I conclude that in this context the loss of this field can have no more than considerable weight. On the other hand the main benefit of the proposal would be an increase in **housing land supply** by sites for 25 new dwellings. As there is a shortfall in provision of the order of 1.3 years supply, I attach substantial weight to this benefit. The development would also include ten **affordable homes**, as provided for in the S106 undertaking. I saw the site on which 15 such homes are currently being constructed abutting the eastern edge of the SPA, but I noted evidence for the Appellant not challenged by the Council that there was an identified need for 67 such units in the Parish. I conclude that this further provision of affordable homes should have significant weight. The proposal includes a **new footway** on the west side of School Lane that together with a footway crossing would link the appeal site with the existing footway on the north side of Lagness Road and thereby by way of a pedestrian controlled crossing provide safe pedestrian access to the rest of North Mundham. These changes add some weight to the case for the proposal. In all the foregoing circumstances I have concluded on the main issue in this case that the adverse impacts of granting planning permission do not *significantly and demonstrably outweigh* the benefits of the proposal in the terms set out in the NPPF. My conclusions on the arguments made in the representations indicate that the

appeal development is acceptable under existing policy and standards, and I conclude that it is sustainable in terms of the NPPF and that the appeal should succeed.

17. **Conditions**<sup>4</sup> put forward including a requirement to submit details of reserved matters within two years, reflecting the immediacy of the current housing need, are not objected to for the Appellant and in the absence of argument or evidence to the contrary I shall impose them largely in the terms set out. I shall however rephrase the condition requiring adherence to application plans to reflect the fact that the application is in outline and the design and external appearance of the buildings and landscaping of the site shown on many of the plans are not part of this outline application, and I shall exclude as necessarily uncertain the requirement to adhere to as yet unpublished future replacements of the Council's Interim Statement on Planning and Climate Change and exclude as unnecessary reference to the Council's consultation with other bodies in reaching its decisions on matters submitted to it. I shall rephrase a condition relating to slow worms to include the other reptiles which survey has suggested might be present on the site.
18. I have taken into account all the other matters raised in the representations, including objections to the proposal not falling under the main matters considered in this decision and evidence from the Appellant relating to previous discussions and assessments of the appeal site, but do not find that they alter or are necessary to my decision on this appeal.

*V F Ammoun*

INSPECTOR

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<sup>4</sup> For completeness I record that there was some duplication of condition numbers so the number proposed by the Council is in fact greater than the 17 suggested at 8.1 of the Council's statement.

## **SCHEDULE OF CONDITIONS – Appeal Ref: APP/L3815/A/13/2203195**

### **Land South of Stoney Lodge, School Lane, North Mundham, PO20 1LA**

- 1) Details of the design and appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission, and shall be carried out as approved.
- 3) The details of access, site layout, and scale shown on the approved plans shall not be departed from without the prior written consent of the Local Planning Authority.
- 4) No development shall be carried out unless and until a schedule of materials and finishes and, where so required by the Local Planning Authority, samples of such materials and finishes to be used for external walls and roofs of the proposed buildings and other hard surfaces hereby permitted have been submitted to and approved by the Local Planning Authority. The development shall then be constructed using the approved materials unless otherwise agreed by the Local Planning Authority in writing.
- 5) Details of the proposed external materials and finishes of the windows and doors shall be submitted to and approved by the Local Planning Authority before construction commences on site, and shall be carried out as approved and not altered or replaced without the prior written approval of the Local Planning Authority.
- 6) Notwithstanding the provisions of Class A, Part 2 of the Town and Country Planning General Permitted Development Order 1995 (or any Order revoking and re-enacting or amending that Order) no additions to, or extensions or enlargements of the buildings hereby approved shall be made or erected without a grant of planning permission from the Local Planning Authority.
- 7) No part of the development shall be first occupied until such time as the vehicular access has been constructed in accordance with the plans and details submitted to and approved in writing by the Local Planning Authority.
- 8) No part of the development shall be first occupied until visibility splays of 4.5 metres by 40 metres to the north and 4.5 metres by 47 metres to the south have been provided at the proposed site vehicular access onto School Lane in accordance with the approved drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above adjoining carriageway level unless otherwise agreed by the Local Planning Authority in writing.
- 9) No part of the development shall be first occupied until the road, footways and casual parking areas and vehicle turning spaces serving the development have been constructed, surfaced and drained in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority and these shall thereafter be retained at all times for their designated use.

- 10) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority, and the approved Plan shall be adhered to throughout the construction period. Without prejudice to the generality of the foregoing it shall include where required:
  - a) the anticipated number, frequency and types of vehicles used during construction.
  - b) the method of access and routing of vehicles during construction.
  - c) the parking of vehicles of site operatives and visitors;
  - d) the loading and unloading of plant, materials and waste;
  - e) the storage of plant and materials used in construction;
  - f) the erection and maintenance of security hoarding;
  - g) wheel washing facilities;
  - h) measures to control the emission of dust and dirt during construction;
  - i) lighting for construction and security;
  - j) details of public engagement both prior to and during construction works.
- 11) No part of the development shall be first occupied until such time as a Travel Plan Statement has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan Statement shall be completed in accordance with the latest guidance and good practice documentation as published by the Department of Transport or as advised by the Highway Authority.
- 12) Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority.
- 13) Before development commences detailed plans and proposals shall be submitted to the Local Planning Authority for approval showing (i) refuse bin storage sufficient for 2 no. 240 litre wheeled bins (ii) secure cycle storage. The cycle storage required shall take the form of a covered building or other structure available on a 1 to 1 basis for each dwellinghouse hereby permitted. Once approved, the storage shall be provided for each dwellinghouse and shall thereafter be kept permanently available for the stated purpose.
- 14) The construction of the development and associated works shall not take place on Sundays or Public Holidays or at any time otherwise than between the hours of 0700 hours and 1800 hours Mondays to Fridays and 0800 hours and 1300 hours on Saturdays.
- 15) Prior to the commencement of development a mitigation strategy for the capture and relocation of slow worms and any other reptiles on the site shall be submitted to and agreed in writing by the Local Planning Authority, and its terms shall thereafter be adhered to including any timescales set out therein.
- 16) Before work begins on the development hereby permitted details of site levels and longitudinal and latitudinal sections through the site of the dwellings to show the relationship of the buildings to the existing ground



levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

- 17) The development hereby permitted shall in all respects meet the requirements of the Council's Interim Statement on Planning and Climate Change. The Reserved Matters required to be submitted shall include details, specifications, proposals and any necessary evidence to demonstrate how the proposals comply with these requirements. The approved details shall be fully implemented in the development as built.
- 18) An archaeological investigation of the site shall be carried out in accordance with a specification to be submitted to and agreed by the Local Planning Authority in writing before the commencement of any building works. The investigation shall be undertaken according to this specification by an appropriately qualified archaeologist and shall include the recording of findings and subsequent publication of results.
- 19) Prior to the first occupation of any of the dwellings on site a residents educational pack that has been approved in writing by the Local Planning Authority explaining the importance and sensitivity of the SPA and suggesting ways in which residents can reduce their impact on it shall be provided to all new residents.

Richborough Estates