



Appeal Decision

Hearing held on 11 June 2014

Site visit made on

by Simon Hand MA

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

Decision date: 1 July 2014

Appeal Ref: APP/L3815/A/14/2216805

Wakefords Field, West of Broad Road, Hambrook, Chidham, West Sussex

- 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 Akehurst Epps Ltd against the decision of Chichester District Council.
 - The application Ref CH/13/03376/OUT, dated 16 October 2013, was refused by notice dated 5 March 2014.
 - The development proposed is residential development of 30 dwellings, community allotments and orchard, and informal open space.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of 30 dwellings, community allotments and orchard, and informal open space at Wakefords Field, West of Broad Road, Hambrook, Chidham, West Sussex in accordance with the terms of the application, Ref CH/13/03376/OUT, dated 16 October 2013, subject to the conditions in the "Conditions Schedule" attached to this decision.

Application for Costs

2. An application for costs was made at the hearing on behalf of the appellant and this is the subject of a separate decision letter.

Preliminary Matters

3. The application was in outline, but access, layout and scale were included. During the Hearing the appellant offered to withdraw access and layout if that would help overcome any issues due to the proximity of dwellings on the northern boundary. I shall deal with that below.
4. An issue regarding the exact boundary line on the northern edge of the site was resolved before the Hearing and a revised layout plan (Rev C) showing the correct boundary was submitted at the Hearing.

Main Issues

5. Is the proposed development sustainable? Whether the proposal would close the gap between Hambrook and Nutbourne so that the two settlements appeared to coalesce, whether the identity of Hambrook would be undermined

and whether there would be any harm to the amenities of neighbours on the northern boundary.

The Policy Background

6. Saved policies from the Chichester District Local Plan (1999) form the development plan for the purpose of this appeal. The most relevant one is RE6 which defines a strategic gap between Chichester and Emsworth, within which the appeal site falls. Only in "compelling circumstances which are of sufficient weight to override the importance of preventing the coalescence and retaining the identity and amenity of settlements...." should development be allowed. RE1 protects the countryside from housing development and BE11 protects neighbouring development and the landscape from new development.
7. The Council have been utilising various FAD criteria (Facilitating Appropriate Development) during the preparation of the new local plan. Now that plan has reached the stage where it has been submitted for examination (due hopefully in the late summer), the FAD criteria have been withdrawn and the Council rely on the new local plan policies. Policy 2 seeks to respect the setting of settlements and to avoid actual or perceived coalescence. Policy 5 sets "indicative housing numbers" over the life of the plan (that is to 2029) for various parishes, and for Chidham and Hambrook the indicative number is 25. Policy 48 seeks to protect the individual identity of settlements.
8. It is accepted the Council do not have a 5 year housing land supply identified. Their latest figures suggest they have 4.3 years. However this is based on the old South East Plan target of 2400 houses. The Council seem to have gone forward to the new local plan with the same target, notwithstanding that it falls short of the Objectively Assessed Need (OAN). They are going to argue that due to the restrictions affecting land in the District the OAN cannot be met. This suggests to me the outcome of the local plan process is far from certain. If the council have to find more housing sites that is likely to impact on the indicative housing numbers in policy 5. This process can already be seen as 48 new dwellings have been allowed in the Parish in the last few months alone.
9. The result of all this is that the Council do not have a 5 year housing land supply and paragraph 49 of the Framework comes into play. Relevant housing policies should not be considered up to date. The appellant argues this includes future policies in the new local plan. I cannot agree with this. These future policies are predicated on the Council having a 5 year supply at the time the local plan is adopted. The weight given to them depends on their position in the local plan process, but also, how likely the local plan is to be adopted. In this case the Council's 5 year supply arguments seem to me to be controversial and it is far from certain the plans adoption will go forward smoothly. It is that uncertainty that diminishes the weight to be given to them, not paragraph 49. Consequently, while I am aware of policies 2, 5 and 48 of the new local plan I can only give them little weight, and thanks to paragraph 49 policies RE6, RE1 and BE11, which all directly affect the location of housing, are out of date.

Reasons

Sustainable location

10. It was argued at the Hearing that Hambrook was not a sustainable location. In that context opponents of the scheme meant it was not well located to services

and facilities. There is a small shop and post office in the village, only a few yards from the appeal site, but it was accepted this was of limited value. Southbourne is the main local centre, with schools also in Chidham. The former is within 15 minutes cycle ride of the site, the latter within 10 minutes and also within walking distance (20 minutes). There is a railway station within 10 minutes walk to the south and bus stops a few minutes further from there as well. Both bus and rail have regular services to Chichester and Portsmouth.

11. In terms of a rural village Hambrook seems to me to be very well connected. I accept that cycling to Tesco is not a sensible way to shop, and that some journeys involving walking, waiting for buses etc are not particularly convenient, but as the Framework makes clear the object of policy is to ensure that people have a real choice how they travel and to encourage journey lengths to be minimised. I consider therefore the site is sustainable in transport terms.
12. The Council argued that while the village might be sustainable for a low level of development, too many houses would be unsustainable. I am not entirely convinced by that argument, but in any event I do not think that position has been reached yet.

Coalescence

13. Hambrook is a settlement that lies in the strip of land between the A27 to the north and the A259 to the south, both running east-west. Broad Road is a long straight road that runs due south from Hambrook, past Nutbourne Station and through Nutbourne East to the A259. Nutbourne East lies between the A259 and the station and there is a compact area of housing development north of the railway line and west of Broad Road at Lion Park, which is currently nearing completion. Between this development is a gap of about 500m which separates the two villages of Nutbourne and Hambrook.
14. There was considerable discussion as to where Hambrook actually begins. The road sign suggests it starts just beyond the station, so the gap is actually in Hambrook itself. Locals also felt the village started at this point. This suited the appellant who argued there was thus no gap between the villages as they already met at the railway line. It is also true that the gap is not actually a gap at all. There is a continuous ribbon of development along the east side of Broad Road between the railway line and Hambrook. On the west side is a line of open fields, one of which is the appeal site, but with scattered development further to the west, including a travelling showpersons camp virtually hidden by a thick hedgerow and tree screen on the western side of the line of fields.
15. Nevertheless, I consider there is still a clear gap in development between the two villages. The ribbon of development is mostly one house deep, and many of those houses are bungalows, or are set back from the road, or have thick hedge and tree screens. On the opposite side of the road the fields are open and provide views across towards distant hedges and trees. There is a small cluster of dwellings about halfway along the western side which I shall call the Beaufort cluster, but the general sense when driving along the road is that one has left Nutbourne at the railway line and entered Hambrook beyond the site to the north. This is further reinforced on foot. The ribbon development is clearly perceived as a narrow and widely spaced ribbon with fields beyond, adding to the sense in which there is a gap between the built up sections of the two villages regardless of where the village names may be located.

16. It is possible that sometime on the future pressure of housing demand will force the Council to consider merging settlements like these but at the present their policy is to prevent their coalescence and protect their individual identity. Regardless of how little weight I can give to the formal policies, these are quite uncontroversial aims that should be supported. It is quite clear to me that the merging of two settlements would do irreparable harm to the identity of both of them and such decisions quite rightly lie within the ambit of the local planning process, and should not be the result of random development proposals allowed on appeal. The question therefore is whether there would be coalescence?
17. A very recent housing development on land to the north of Lion Park (the Wimpey site) at the southern end of the gap was allowed, on appeal, for 28 houses in April this year and this has a considerable impact on this question. That site extended from Lion Park to the Beaufort cluster, where it meets the southern edge of the appeal site. However, roughly the northern third of the site is earmarked for open space. Roughly the southern half of the appeal site is also proposed as either allotments, an orchard or open space. The result of this is that all the land in the gap on the western side of the road would be within the two development sites, but a significant portion of land in the centre would remain open. The Council calculate the 500m gap (which includes the Beaufort cluster) would be reduced to 206m, and because the Beaufort cluster would lie in the middle of the gap, in terms of roadside there would be just 41m to the south and 97m to the north of open country. They further argue that the open space would be managed with several paths and benches (at least on the appeal site), further eroding the sense of open countryside separating the villages.
18. The appellant countered that the measurements were wrong, but I agree that a few metres here and there do not undermine the credibility of the argument. However, the object is not to protect the countryside, but to prevent the villages coalescing. It was agreed the landscape is not particularly vulnerable and can accommodate further development so the question is whether the remaining gap would actually separate the two villages and I consider that it would. The open space would be transferred to the Parish Council via the s106 agreement and the creeping development along the west side of Broad Road would be stopped. The gap would be reduced but not closed and it would be wide enough so that to the casual observer it would still seem as if there was clear differentiation between Hambrook and Nutbourne.

Impact on the identity of the village

19. I was informed that Hambrook used to be a small village. There were 273 dwellings north of the railway line in 2009 and since then 109 new houses have been built in the middle of the village at Hazel Copse and at Lion Park. A further 48 have been allowed at the Wimpey site and Flat Farm, which is to the east side of Broad Road, just to the south of the Beaufort Cluster. With the 30 proposed by this appeal there would have been a 68% increase in houses in the village in 5 years. These figures are illuminating and reveal the pressure that the housing crisis is putting on rural villages that are close to larger urban areas, but they do not tell the whole story. A lot of the development at Lion Park, Flat Farm and the Wimpey site are to the south of the gap at the Nutbourne end of Hambrook. So the village itself has not been quite so swamped as it might seem.

20. I was also informed that the local facilities are full up, the classes in the schools are full and there is no room at the doctors for more patients. There is considerable merit in the argument that unplanned growth makes it hard for local services to respond adequately. However, as the appellant pointed out payments have been reserved in the s106 to help offset the impact of the appeal proposal and presumably were so in the other new housing developments. It is up to the County and District councils to spend that money wisely. Consequently, while I sympathise with the local residents feeling of being overwhelmed, it does not seem to me that the identity of Hambrook would be changed in any significantly negative way by this proposal, even when considered cumulatively with the other housing in the area.

Residential amenity

21. The northern edge of the site is marked by a line of trees and bushes with houses beyond. Those closest to the site are 1 Kings Meadow, Chestnuts, and No 9 Oak Tree Farm. The development is planned so that the backs of the houses face towards the existing houses to the north and with reasonable length back gardens there is good separation between the two. Even though No 9 and Chestnuts would appear to predominantly face south, there is a generous distance between them and the proposed houses so there should be no significant loss of privacy.
22. 1 Kings Meadow however, would lie much closer to the proposed No 1. The former also faces south, with views over the field and this would change with the side wall of the new No 1 some 16.5m away. Although windows in this flank wall could be controlled by condition, the rear upstairs windows facing down the garden of No 1 would allow views into the garden of 1 Kings Meadow. There would also be clear views from 1 Kings Meadow, all of whose principle rooms face south towards the new No 1. However, the existing tree screen is within the control of 1 Kings Meadow and provides good screening when the trees are in leaf and would break up views to a certain extent even in the winter. At this latter time of year the gardens are used much less and privacy is less of an issue. The 16.5m separation distance is adequate for a side to front separation so there would be no over-dominance and given that the overlooking is not serious I do not think any harm would be caused by the proximity of No 1 to 1 Kings Meadow.
23. Overall it is undeniable the occupiers of all the houses bordering the edge of the field would experience a significant change in their outlook and I can fully appreciate why they would not welcome a housing estate at the bottom of their gardens, but that is not the same as the proposal causing harm in planning terms, which I do not think it does.

Other matters

24. There was concern about the adequacy of the local sewerage system to cope without discharging more raw sewage into the Ham Brook, but this can be dealt with by conditions.
25. The detailed design of the houses is still to be agreed, but I agree they are unlikely to mirror the eclectic nature of the ribbon development. That said there is no reason why a well designed if more homogeneous housing estate should not fit in here especially as it has a relatively low density and there is plenty of room for landscaping.

Conclusions

26. The starting point for the appeal is the fourth bulletpoint of paragraph 14 of the Framework; that planning permission should be granted except where any adverse impacts of doing so demonstrably outweigh the benefits. While I do have concerns about the cumulative impact of development on the identity of Hambrook and on the services and facilities in the area none of this outweighs the presumption in favour of sustainable development and the clear benefits of providing extra housing in an area with no 5 year housing land supply.

Conditions and s106 Agreement

27. Attached to the statement of common ground is an agreed list of conditions. All of these seem sensible and necessary. It was also agreed at the hearing that there needed to be conditions to ensure no windows were put in the flank wall of the house on plot 1 and to prevent the extension of that house towards 1 Kings Meadow.
28. I do not think the development needs to be moved 5m to the south as was discussed at the hearing, or that access and layout need to be withdrawn. The s106 is necessary to provide for affordable housing and payments for community facilities, recreation disturbance, public art, primary and secondary school contributions, libraries and total access demand. It also ensures fire hydrants are provided, estate roads maintained, the open space and landscape buffer is laid out and retained and the informal recreation area is transferred to the parish council. These are all reasonable and necessary and fairly relate to the development proposed.

Simon Hand

Inspector

APPEARANCES

FOR THE APPELLANT:

Stephen Jupp	Planning Solutions
David Hares	Landscaping
Barrie Shepherd	Transport

FOR THE LOCAL PLANNING AUTHORITY:

Jane Parker	Representing Chichester DC
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INTERESTED PERSONS:

Peter Cole	
Cliff Archer	Chairman of the Parish Council
Neil Burns	
Nigel Else	Residents Association
Mark Elliott	1 Kings Meadow
Steven Jones	Chestnuts, Kings Meadow

DOCUMENTS

1. Proposed site layout plan – Revision C.
2. Latest 5 year housing land supply position.
3. Costs application and rebuttal.
4. Plan of the Flat Farm proposal.
5. Minutes of Council meeting regarding the objectively assessed need for housing.
6. Appellant's measurements of the remaining gap.
7. Written comments from the Parish Council
8. Diagram of the sewerage situation provided by Mr Burns
9. Copy of the s106 agreement

Conditions Schedule

- 1) (i) Approval of the details of the appearance of the buildings, and the landscaping of the site (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority before any development is commenced.

(ii) Plans and particulars of the reserved matters referred to in subparagraph (i) above, relating to the layout of the site, the scale and the appearance of the buildings to be erected and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

(iii) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 2 years from the date of this permission and the development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: 13/0164-01 Rev A, 13/0164-03 Rev A, 13/0164-05 Rev A, 13/0164-06 Rev A, 13/0164-07 Rev A, 13/0164-10 Rev A and 13/0164-11 Rev C.
- 3) No development shall be carried out 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 where appropriate surfacing materials have been submitted to and approved by the Local Planning Authority. The development shall be implemented using the approved materials and finishes only.
- 4) No development shall commence until the vehicular accesses serving the development has been constructed in accordance with the approved planning drawing.
- 5) No part of the development shall be first occupied until provision has been made within the site in accordance with plans and details to be submitted to and approved by the Local Planning Authority to prevent surface water draining onto the public highway.
- 6) No part of the development shall be first occupied until visibility splays of 2.4 metres by 90 metres have been provided at the proposed vehicular accesses onto Broad Road. Once provided the splays shall thereafter be retained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.
- 7) No part of the development shall be first occupied until the vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.
- 8) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

- 9) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of phasing of the development, if necessary. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,
- the anticipated number, frequency and types of vehicles used during construction,
 - the method of access and routing of vehicles during construction,
 - the parking of vehicles by site operatives and visitors,
 - the loading and unloading of plant, materials and waste,
 - the storage of plant and materials used in construction of the development,
 - the erection and maintenance of security hoarding,
 - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
 - details of public engagement both prior to and during construction works.
- 10) The public right of way along the western boundary of the site shall not be obstructed by vehicles, plant, scaffolding or the temporary storage of materials.
- 11) Construction of the development hereby permitted shall not take place other than between the hours of: 07.30 hours - 18.00 hours Mondays to Fridays inclusive; 07.30 hours - 13.00 hours on Saturdays; and not at all on Sundays or Public Holidays.
- 12) Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design shall follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations and the SUDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and Percolation testing to BRE365, or similar approved, will be required to support the design of any Infiltration drainage. No building shall be occupied until the complete surface water drainage system serving the development has been implemented in accordance with the agreed details.
- 13) The development shall not commence until formal consent has been approved in writing from the Lead Local Flood Authority (West Sussex County Council) or its agent (Chichester District Council) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values.

- 14) Development shall not commence until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been submitted to and approved in writing by the Local Planning Authority. No construction is permitted, which will restrict current and future landowners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.
- 15) Development shall not commence until full details of the maintenance and management of the SUDs system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. Upon completed construction of the SUDs system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.
- 16) Prior to the commencement of the development, details of the measures that will be undertaken to divert/protect the public sewers present on the application site shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with approved details.
- 17) Details of the means of disposal of foul sewage shall be submitted to and approved by the Local Planning Authority in writing before development commences on the site and implemented as approved.
- 18) Before work begins on the development hereby permitted details of site levels and longitudinal and latitudinal sections through the site of the dwellings shall be submitted for the approval of the Local Planning Authority to show the relationship of the buildings with existing ground levels and carried out in accordance with the approved details.
- 19) 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 by an appropriately qualified archaeologist, and shall include the recording of findings and subsequent publication of results.
- 20) No development, including site works of any description, shall take place on the site and before any equipment, machinery or materials are brought onto the site, until all the existing trees or hedges to be retained on the site have been protected by a fence to be approved by the Local Planning Authority erected around each tree or group of vegetation at a radius from the bole or boles of 5 metres or such distance as may be agreed in writing by the Local Planning Authority. This fencing shall be maintained until all equipment, machinery, surplus materials and soil have been removed from the site. Within the areas so fenced off the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon without the prior written approval of the Local Planning Authority. If any trenches for services are required in the fenced off areas they shall be excavated and backfilled by hand and any tree

roots encountered with a diameter of 25 mm or more shall be left unsevered. All in accordance with BS 5837:2012

- 21) The existing public right of way along the west side of the site shall remain undisturbed throughout the construction of the development and thereafter. Furthermore the alignment of the public right of way shall be protected by appropriate means, to be first submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council, prior to the buildings being brought into use for the development hereby permitted, and shall remain so protected thereafter.
- 22) No development shall commence until the reptile mitigation as detailed in the approved Reptile Mitigation Report produced by Arbtech Ltd dated 07 November 2013 has been completed.
- 23) The development hereby permitted shall be constructed so as to achieve 10% of the DER/BER from on-site renewable energy. No development shall take place until the Local Planning Authority has approved a report provided by the applicant identifying how this will be achieved. The carbon savings which will result from this will be above and beyond what is required to comply with Part L of the Building Regulations.
- 24) Prior to any of the dwellings hereby approved being occupied details of bird boxes to be installed on dwellings and/or trees shall be submitted to and approved in writing by the Local Planning Authority. Once agreed the boxes shall first be installed prior to the final unit being occupied and shall remain in perpetuity.
- 25) Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.
- 26) No development shall take place unless and until details of screen walls and/or fences have been submitted to and approved by the Local Planning Authority and no dwellings shall be occupied until such screen walls and/or fences associated with them have been erected. This shall include details of walls/fences to the front of properties, to distinguish between public and private space. Once erected they should be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
- 27) Before development commences, detailed plans and proposals shall be submitted to the Local Planning Authority for approval showing refuse bin storage (sufficient for 2 no. 240 litre wheeled bins) and collection points. Once approved, the storage shall be provided for each dwellinghouse and shall thereafter be kept permanently available for the stated purpose.
- 28) Prior to first occupation of any of the dwellings on site the applicant shall prepare a residents educational pack to be distributed to all new residents explaining the importance and sensitivity of the SPA and suggesting ways in which residents can reduce their impact on it. This pack shall be submitted to and agreed in writing by the Local Planning

Authority in consultation with Natural England and Chichester Harbour Conservancy.

- 29) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows or dormer windows shall be constructed on the northern elevation of the dwelling shown on plot 1 of drawing No 13/0164-11.
- 30) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extension or enlargement shall be made to the dwelling shown on plot 1 of drawing No 13/0164-11 that shall take any part of it closer to the northern boundary with No 1 Kings Meadow or, if the extension or enlargement is to be of more than 1 storey, any further to the west of the existing footprint of the dwelling.

Richborough Estates