
Appeal Decision

Hearing held on 16 July 2014

Site visit made on 16 July 2014

by Louise Phillips MA (Cantab) MSc MRTPI

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

Decision date: 18 August 2014

Appeal Ref: APP/D3830/A/14/2217310

Land off Woodlands Close, Crawley Down, Crawley, West Sussex RH10 4JZ

- 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 Mr Mark Jackson, Gleeson Developments Limited, against the decision of Mid-Sussex District Council.
 - The application Ref 13/03312/OUT, dated 26 September 2013, was refused by notice dated 12 February 2014.
 - The development proposed is described as an "outline application for up to 51 dwellings (Use Class C3), of which up to 30% will be affordable, with associated landscaping, open space, and up to 119 car parking spaces. In principle agreement sought for point of access (gained from adjoining consented Phase 1 site [planning application ref. 12/00672/OUT] via Woodlands Close). All matters reserved".
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Decision

1. The appeal is allowed and planning permission is granted for up to 51 dwellings (Use Class C3), of which up to 30% will be affordable, with associated landscaping, open space and up to 119 car parking spaces at Land off Woodlands Close, Crawley Down, Crawley, West Sussex, RH10 4JZ, in accordance with the terms of the application, Ref 13/03312/OUT, dated 26 September 2013, subject to the conditions set out in Annex A.

Procedural Matters

2. The application is made in outline with all matters reserved for determination at a later date. Whilst the description of development makes reference to the point of access, it was confirmed at the Hearing that access remains a reserved matter. I have determined the appeal on this basis and treated the plans provided as indicative.
3. The description of development in the heading to this decision is taken from the application form. However, I have used the condensed description given on the decision notice in the formal decision at paragraph 1.
4. A completed legal agreement, made under Section 106 of the Town & Country Planning Act 1990 (as amended), was submitted at the Hearing. I have therefore had regard to it in reaching my decision.
5. A Neighbourhood Plan is in preparation for Crawley Down and, following an initial stage of consultation on the scope of the document, policies have been drafted and posted on the Crawley Down website. However, the policies

themselves have not been the subject of formal consultation or examination and so, having regard to paragraph 216 of the Framework, I afford them limited weight. Nevertheless, I have taken account of the representations and evidence submitted on behalf of the neighbourhood plan committee in reaching my decision.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character and appearance of the area;
- Its effect on the supply of market and affordable housing in the District; and
- Whether it would make sufficient provision for infrastructure.

Reasons

Character & Appearance

7. The appeal site lies outside the boundary of the built up area within a "Countryside Area of Development Restraint"; and within the Crawley & East Grinstead Strategic Gap as defined in the Local Plan¹. In these designated areas, development of the type proposed is generally restricted by Policies C1 and C2 of the Local Plan respectively. However, the Council does not have a five year supply of specific deliverable sites for housing as required by paragraph 47 of the National Planning Policy Framework (the Framework) and the main parties agree that Policies C1 and C2 are out of date by the terms of paragraph 49. Thus the decision notice does not refer to either policy.
8. Nevertheless, Section 38(6) of the Act² is clear that the proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 49 of the Framework is a material consideration to which I attach significant weight and its effect is that these policies cannot be used to restrict the supply of housing. However, interested parties emphasise their purpose in protecting the countryside and preventing the coalescence of settlements. I agree that these are valid planning considerations which should not automatically be set aside on the basis of the housing land supply position.
9. Consequently, I have had regard to Policies C1 and C2 of the Local Plan insofar as they relate to the character and appearance of the area, but, in accordance with the presumption in favour of sustainable development at paragraph 14 of the Framework, I have considered whether any adverse impacts in this regard would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework taken as a whole. My approach is consistent with the reasoning in *Cotswold District Council v SSCLG* 2013. In that case, the Judge agreed with the Inspector that a policy relating to the supply of housing, which restricts housing, "should be disapplied 'to the extent' that it 'seeks to restrict the supply of housing'" (paragraph 72).
10. The appeal site is a rectangular field to the south east of Crawley Down which is presently used for grazing horses. It is separated from the boundary of the

¹ Mid Sussex Local Plan, May 2004.

² Planning & Compulsory Purchase Act, 2004.

built up area by Burleigh Wood, which forms the northern boundary of the site, and by a parcel of land to the west which is currently being developed to provide 46 dwellings. The development in progress was granted planning permission on appeal in June 2013³ and is known as Woodlands Close, Phase 1. The appeal scheme now before me would represent Phase 2 and the proposed dwellings would be accessed through the first site.

11. The southern boundary of the site is with the commercial and residential properties that are spaced out in large plots along Burleigh Lane. This narrow lane, which is wide enough for only one vehicle, forms part of the Sussex Border Path (public footpath) and it has a distinctly rural feel. The eastern boundary of the site is with an undeveloped field parcel, which lies between Burleigh Wood and Rushetts Wood, and extends right up to the boundary of the settlement at Hazel Close. This is one of many similar field parcels to the east of the appeal site in the wider countryside.
12. Thus the appeal site forms part of an area which provides a marked transition between the urban development to the north and west, and the largely rural area to the south and east. In my view, this transition occurs some way to the north of Burleigh Lane and the undeveloped land between it and the main edge of Crawley Down does contribute to its rural character. In the same way, the open land contributes to the distinctive character of Crawley Down as a settlement in the countryside which is typical of the dispersed pattern of development in the High Weald.
13. Therefore, in that the appeal scheme would introduce built development between the settlement edge and the countryside, it would cause some harm to the character of the area. In particular, the natural boundary provided by Burleigh Wood would be replaced by one which would inevitably have a more suburban quality.
14. However, the Council accepts that the visual impact of the proposed development would be limited and I observed that the site is largely screened from the existing development to the north and immediate west in Crawley Down. Whilst it might be possible to see the new dwellings from the southern end of Woodlands Close and Bricklands to the west, this development itself represents an extension of the main built up area of the settlement. Indeed it stretches further to the south than either the Woodlands Close Phase 1 site or the current appeal site.
15. Turning to more sensitive locations, the development would not be visible from the north in Hazel Close due to the density of Burleigh Wood and to the presence of a well established hedgerow on the eastern boundary of the site. The distinctive character and appearance of the settlement edge in this particular location would therefore be preserved for those looking out. Whilst those looking towards the settlement from Burleigh Lane would perceive the extension of the urban edge, the landscaping indicated on the southern boundary of the site would mitigate the visual impact of the development in the medium term.
16. Burleigh Wood would become a backdrop to the houses, but nonetheless, the view from the lane would be of a landscaped field boundary, and this would not look out of place. The effectiveness of the screening would of course be

³ Ref APP/D3830/A/12/2184589.

reduced in the winter, but ultimately, the new dwellings would be seen alongside the existing properties in Woodlands Close and Bricklands, and those to be constructed on the adjacent land.

17. Furthermore, the site is well contained to the south by the properties on Burleigh Lane; and to the east by the aforementioned hedgerow. The depth of the plots on Burleigh Lane provides the separation necessary to secure its rural character and the existing boundary hedgerow represents a strong and natural barrier against incremental encroachment to the east. Therefore, the proposed development would not represent an unnatural extension of the settlement boundary. It would not give rise to any undue coalescence; and it need not, and should not, perpetuate the unrestricted sprawl of Crawley Down.
18. For the reasons above, I conclude that the proposed development would cause some harm to the character and appearance of the area by virtue of the transitional location of the site. Thus there would be a degree of conflict with Policies C1 and C2 of the Local Plan insofar as they relate to the protection of the countryside; and with the provisions of paragraphs 7 and 17 of the Framework, which, amongst other things, seek to protect and enhance the natural environment and to recognise the intrinsic character of the countryside.
19. However, the visual impact of the scheme would be limited and the more significant effects could be mitigated by landscaping. Therefore, as the development could be satisfactorily integrated into its surroundings, I find no particular conflict with paragraphs 58 and 61 of the Framework.

Market & Affordable Housing

20. It is common ground between the parties that there is a "substantial and significant" shortfall in the Council's housing land supply and the appeal decisions referred to by the appellant support this position⁴. In this context, the provision of up to 51 dwellings on the appeal site would be an obvious benefit of the scheme and I attach considerable weight to it. Moreover, 30% of the total number of units would be affordable and the Council confirmed at the Hearing that there are presently 1843 households on the Housing Register for the District.
21. Interested parties take a more local perspective and, on the basis of a survey conducted in connection with the emerging Neighbourhood Plan, they suggest that there is no need for further market or affordable housing in Crawley Down. Whilst I understand this position, in the absence of any indication as to where the more general housing need in the District might preferably be met, I see no convincing reason why Crawley Down should not contribute. In this respect, I note that the area surrounding the settlement is relatively unconstrained, lying outside the Area of Outstanding Natural Beauty, and benefitting from reasonable access to service provision.
22. In reaching this view, I have had regard to the appeal decisions submitted by interested parties which relate to a rural exception site in East Sussex⁵. In that case, the appeals were dismissed because there was no demonstrable need for the affordable housing proposed. However, the Inspector very specifically limited his considerations to the needs of the immediately adjacent village, owing to its relative isolation from services and facilities. In the present case,

⁴ Refs APP/D3830/A/12/2173625, APP/D3830/A/13/2198213 and 2198214.

⁵ Refs APP/C1435/A/12/2173782 & 22177980.

the appeal site is not isolated from services and facilities and, because the development would not be a rural exception site, the affordable housing could potentially be allocated to people from further afield.

23. Therefore I conclude that the proposed development would have a significant beneficial effect on the supply of market and affordable housing in the District. It would comply with the requirements of Policy H4 of the Local Plan, which relates to affordable housing provision, and it would support the aim of the Framework to “boost significantly the supply of housing” as set out at paragraph 47.

Infrastructure

24. With reference to Policy G3 of the Local Plan, the Council requires financial contributions towards children’s play space, formal sport, community buildings and local community infrastructure. It also requests contributions towards education, “total access demand” (TAD) and libraries as well as the provision of two additional fire hydrants, on behalf of West Sussex County Council. The completed legal agreement before me would secure these contributions.
25. The Development & Infrastructure Supplementary Planning Document sets out the basis for each of the requirements and provides a formula for determining the level of contribution requested. The parties agree that the contributions are necessary to make the development acceptable in planning terms and, at the Hearing, the appellant provided evidence which identifies the specific projects upon which the money would be spent. Consequently I am satisfied that the financial contributions requested are necessary and directly related to the proposed development.
26. In relation to education, interested parties suggest that a financial contribution would have little effect because the local primary school is full and there are no plans to expand it. However, the County Council assesses the need for school places on a “locality” basis and there are plans to extend two other primary schools which pupils in Crawley Down would be able to attend. This represents a deliberate decision in relation to education provision in the area and so I am satisfied that the financial contribution requested would be necessary and appropriate.
27. In considering infrastructure, I have also taken account of the concerns raised in respect of sewerage capacity and healthcare in the local area. With regard to sewage, Southern Water has indeed indicated that there is insufficient capacity in the local network to service the proposed development. However, its representations outline the process by which the necessary infrastructure could be requested and provided, and there is no suggestion that such a request would be refused. Therefore I see no good reason why this matter should hinder the implementation of the scheme. In respect of healthcare, the NHS has confirmed that the Crawley Down Health Centre could easily accommodate the additional residents of the proposed development. This gives me enough comfort in relation to this matter.
28. For these reasons, I conclude that the proposed development would make sufficient provision for infrastructure in accordance with Policy G3 of the Local Plan and that the Council’s requirements would meet the tests set out in paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Other Matters

29. The appeal site lies within 7km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). Natural England has determined that residential development within this zone has the potential to have a significant effect on the conservation objectives of the site, either alone or in combination with other plans or projects. In particular, Natural England is concerned about the potential for dog walking to disturb ground nesting birds.
30. However, based on an extrapolation of the evidence prepared at the time of the Phase 1 appeal, it is estimated that the proposed development would result in 0.2 additional dog walks per day. To offset this small increase, the appellant proposes a package of measures to include the upgrading of public footpaths in the vicinity of the site. The necessary finance to deliver the improvements would be secured by the legal agreement.
31. Natural England considers that the improvements would mean that significant effects on the SPA/SAC would be unlikely to occur. It therefore states that no further assessment of this matter is required. I have no reason to disagree and thus I conclude that the proposed development would not have a significant effect on the conservation objectives of the site, either alone or in combination with other plans or projects.
32. In reaching my decision, I have taken account of the concerns raised by interested parties in respect of highway safety. These include that the evidence of transport impact did not take account of the cumulative effects of the proposal along with those of the Phase 1 development. However, the appellant's Transport Assessment⁶ does take account of the cumulative effects of Phase 1 and also of other recent development in the area. The Highway Authority is satisfied that the road network and associated junctions could accommodate the additional traffic and that the development would provide for its own parking demand on site. Nothing that I saw on my site visit would lead me to a different view.

Conclusion

33. I find that the proposed development would cause some harm to the character and appearance of the area. However, this is largely because it would extend beyond the existing edge of Crawley Down into an area of presently undeveloped countryside. Given the shortfall in the Council's housing land supply, I cannot conclude that the location of the appeal site should render it unsuitable to assist in meeting the housing needs of the District.
34. Therefore, in the absence of any unacceptable visual harm or other harm, I give substantial weight to the provision of market and affordable housing. In the planning balance, I consider that the adverse impacts of the proposed development would not significantly and demonstrably outweigh this benefit. Thus it would represent a sustainable form of development for which there is a presumption in favour and so I conclude that the appeal should be allowed.

Conditions

35. In addition to the standard conditions relating to the submission and approval of reserved matters and the commencement of development, the Statement of

⁶ Transport Assessment, ref SAJ/GLES/2013/1782/TA01, prepared by RGP, dated September 2013.

Common Ground includes a number of other conditions which the parties agree should be applied if the appeal is allowed. I have considered them in light of the tests set out at paragraph 206 of the Framework and the advice in the Planning Practice Guidance.

36. As all matters are reserved for consideration at a later date, I have not imposed the suggested conditions which relate to materials; landscaping; vehicular access; roads, footways & casual parking. Such conditions would duplicate the requirements of the reserved matters stage and so they are not necessary now. I appreciate that the parties would find it useful to include a comprehensive list of conditions, but the test in the Framework is one of necessity rather than convenience.
37. However, in the interests of protecting biodiversity, it is necessary to impose the suggested conditions concerning the protection and long-term management of animals, trees, hedgerows and open spaces on the site. I have also imposed a condition requiring details of boundary treatments to protect the character and appearance of the area. For the avoidance of doubt, and because the scheme would generate a need for children's play space, I have included a condition to require that the landscaping details to be submitted make provision for a Local Equipped Area of Play (LEAP). As discussed at the Hearing, I have also included a condition to ensure that the final layout provides adequate space between the development and the edge of Burleigh Wood.
38. The conditions related to drainage and contamination are required to protect future residents from harm, and those requiring the provision of cycle & vehicle parking spaces, garages and refuse & recycling facilities prior to occupation are attached in the interests of providing good living conditions. The purpose of requiring a Construction Management Plan and of limiting working hours is to protect the living conditions of existing nearby occupiers.
39. It is necessary to include a condition requiring a scheme of archaeological investigation because the County Council has indicated that the site has the potential to contain buried remains. The requirement for the development to generate a proportion of energy from decentralised and renewable or low carbon sources will contribute to its overall environmental sustainability. The condition concerning the provision of information leaflets to the first occupiers of the development is necessary as part of a package of measures designed to protect the Ashdown Forest SPA/SAC.

Louise Phillips

INSPECTOR

Annex A – Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place, including any works of demolition, until a Construction Environment Management Plan has been submitted to, and approved in writing by, the local planning authority. The Plan shall include details of mitigation measures for protected species including bats, badgers and reptiles based on recent surveys of those species; and, having regard to BS 5837:2012 "Trees in Relation to Construction", the Plan shall provide for the protection of trees, hedgerows and woodland during the construction period. The approved plan shall be adhered to throughout the construction period.
- 5) No development shall take place until a Bat Sensitive Lighting Scheme has been submitted to and approved in writing by the Local Planning Authority. Lighting shall be designed to face away from, and minimise light spill onto, the woodland edge and hedgerows. The development shall be carried out in accordance with the approved scheme.
- 6) The details submitted in respect of landscaping pursuant to Condition 1 shall include details of a LEAP of 400sqm, and particularly of its layout, drainage and fencing.
- 7) The details submitted in respect of layout pursuant to Condition 1 shall provide for a buffer of at least 15m between the development and the edge of Burleigh Wood. If surface water attenuation areas are to be provided within the minimum buffer zone, these shall not be located within the root protection area of any tree.
- 8) No development shall take place until a Landscape & Ecological Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include details of the management of open space; the protection of trees, hedgerows and woodland; and mitigation measures for protected species including badgers, bats and reptiles based on recent surveys of those species. Details shall also be provided in respect of the timetable for the completion and future management & maintenance of the play area (LEAP), including details of the management company and maintenance schedules. The Plan shall be implemented as approved.
- 9) No development shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the local planning authority. The boundary treatment shall be completed before the buildings they enclose

- are first occupied. Development shall be carried out in accordance with the approved details.
- 10) No buildings hereby permitted shall be occupied until foul and surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before details of the surface water drainage works are submitted, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) 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 approved Plan shall be adhered to throughout the construction period. It shall provide for:
- i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 12) Demolition or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0900 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank or Public Holidays.
- 13) No dwelling shall be occupied until covered and secure cycle parking spaces have been provided in accordance with details to be submitted to and approved in writing by the local planning authority.
- 14) No dwelling shall be occupied until any parking spaces, garages and turning areas associated with them have been provided in accordance with details to be submitted to and approved in writing by the local planning authority. Thereafter, the parking and turning areas provided shall not be used for any purpose other than the parking and turning of vehicles.

- 15) No dwelling shall be occupied until the refuse and recycling storage facilities serving the dwelling have been provided in accordance with details to be submitted to and approved in writing by the local planning authority.
- 16) If, during the course of development, any contamination is found or suspected, all works in that area shall stop immediately and the local planning authority shall be advised immediately. No further work shall take place until an investigation and risk assessment has been carried out by a competent person. Should it be found that remediation is required, measures for the remedy of the source of contamination shall be submitted to and approved in writing by the local planning authority. The works shall take place in accordance with the approved measures.
- 17) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 18) Before the development begins, a scheme to secure a proportion of the energy supply of the development from decentralised and renewable or low carbon energy sources (proportion to be set within the scheme) shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submissions required by condition 1. The approved scheme shall be implemented in accordance with an agreed timetable and shall be retained as operational thereafter.
- 19) No dwelling shall be occupied until Wildlife Information Leaflets regarding Burleigh Wood, the Ashdown Forest, Worth Way and the Sussex Border Path have been submitted to and approved in writing by the local planning authority. The approved leaflets shall be given to the first occupants of all new dwellings within the first month of occupation.

APPEARANCES

FOR THE APPELLANT:

Mr J Litton QC	Landmark Chambers
Mr A Ross BA(Hons) DipTP MRTPI	Nexus Planning
Mr A Smith MSc CMLI	Landscape Architect, Fabrik

FOR THE LOCAL PLANNING AUTHORITY:

Mrs J Fisher BSc MA MRTPI	Senior Planning Officer, Mid Sussex District Council
Mrs E Shuttleworth	Housing Enabling Manager, Mid Sussex District Council
Mr B Hilder DipLA CMLI	Landscape Architect, Enplan

INTERESTED PERSONS:

Mr I Gibson	Worth Parish Council
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DOCUMENTS

1. Policies C1 and C2 of the Mid Sussex Local Plan, May 2004.
2. Development and Infrastructure Supplementary Planning Document, Mid Sussex District Council, February 2006.
3. Appeal decisions ref APP/D3830/A/13/2198213 and 2198214, determined by the Secretary of State for Communities & Local Government on 1 May 2014.
4. Appeal decision ref APP/D3830/A/12/2173625.
5. Schedule of Housing Land Supply (since March 2013).
6. Capacity of Mid Sussex District to Accommodate Development, by LUC, dated June 2014 (extract).
7. Executed S106 Agreement, dated 15 July 2014.
8. Summary of S106 Contributions.
9. Site Visit itinerary.
10. Appeal decisions ref APP/C1435/A/12/2173782 & 2177980; and the Council's and appellant's comments in relation to them.