



Appeal Decision

Inquiry held on 16 & 17 September 2014

Site visit made on 17 September 2014

by Terry G Phillimore MA MCD MRTPI

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

Decision date: 4 November 2014

Appeal Ref: APP/D3830/A/14/2215289

Fairway Golf & Driving Range, Horsham Road, Pease Pottage, West Sussex RH11 9SG

- 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 Riverdale Developments Ltd against the decision of Mid-Sussex District Council.
 - The application Ref 13/02994/OUT, dated 29 August 2013, was refused by notice dated 5 December 2013.
 - The development proposed is redevelopment to provide 95 residential dwellings along with associated parking, access and open space.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment to provide 95 residential dwellings along with associated parking, access and open space at Fairway Golf & Driving Range, Horsham Road, Pease Pottage, West Sussex RH11 9SG in accordance with the terms of the application, Ref 13/02994/OUT, dated 29 August 2013, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. The appeal relates to an outline planning application. The parties confirmed that all matters of detail are reserved for later approval other than means of access.
3. At the inquiry a draft agreement containing planning obligations pursuant to section 106 of the Act was submitted. A completed version of this was subsequently provided. It overcomes the Council's reason for refusal relating to an absence of an agreement. The obligations are considered below.
4. The site lies within the area covered by the Slaugham Neighbourhood Plan. Following examination of the Plan it was recommended by the Examiner on 17 January 2014 that it should not proceed to a referendum due to a number of shortcomings. There is no current timetable for further work on the Plan, and the main parties agree that in the circumstances it should carry no material weight in the decision on the appeal.

Main Issue

5. The main issue is whether the accessibility of necessary local services to future residents of the development and the degree of reliance on the private car would be such as to warrant turning down the proposal on grounds that it represents an unsustainable development.

Reasons

6. The site of around 4.6ha is on the western edge of the village of Pease Pottage. The former driving range mostly comprises an open area of mown grassland with features such as sand bunkers and ponds. There is a disused single storey driving range building along the western boundary. The site is enclosed on other sides by mature tree lined boundaries. To the east, and to the south across Horsham Road, are residential properties. To the west is a building in commercial use.
7. The site is outside the defined built-up area of the settlement as shown in the Mid Sussex Local Plan 2004. Under policy C1 it is therefore within a Countryside Area of Development Restraint. In such locations development will be restricted to defined categories, which do not include residential development of the nature proposed. The proposal is contrary to the development plan because of the fundamental nature of this policy conflict.
8. The National Planning Policy Framework requires that local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework.
9. The Framework further requires authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements. There should be an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. The buffer should be increased to 20% where there has been a record of persistent under delivery of housing.
10. There is currently no development plan basis for the housing requirement figure in Mid Sussex, with that contained in the Local Plan not going beyond 2006. Against the requirement of the revoked South East Plan there is agreement that at best the Council is able to demonstrate a supply of 2.43 years. This assumes the application of a 20% buffer, which reflects previous shortfalls against targets. The appellant has put forward evidence based on a more up-to-date assessment of needs which indicates that the current supply could be considerably less than the agreed period. The overall evidence is clear that there is a significant shortfall in the 5 year supply.
11. According to paragraph 49 of the Framework, relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. There is agreement between the main parties that policy C1 of the Local Plan is a policy that seeks to restrict the supply of housing based on the imposition of built-up area boundaries, and therefore is not up-to-date having regard to the advice of the Framework.
12. The Framework applies a presumption in favour of sustainable development, as set out in its paragraph 14. For decision-taking this means, where the

- development plan is absent, silent or relevant policies are out-of-date (as in this case), granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
13. Examples of the latter policies (given in the footnote to paragraph 14) include land designated as an Area of Outstanding Natural Beauty (AONB). Small portions of the site on the north-western side lie within the designated High Weald AONB. The boundary as it runs through the site relates to no features on the ground, and there is agreement that there would not be a significant impact on the landscape and scenic beauty of the AONB due to the contained nature of the site. No objection is raised by the Council to the proposal in terms of the AONB designation based on an application of the footnote. Having regard to the particular circumstances I consider this is to be a reasonable approach, in that there would be no material harm to the protection for AONBs implied by the exception the footnote contains, or to the objectives of policy C4 of the Local Plan in that respect.
 14. Policy C2 deals with strategic gaps. The specific characteristics of the site are that it is located adjacent to the road frontage at the west end of the village between existing development. It is common ground that, in this context, the proposal would not undermine the separate identities of either Pease Pottage or Crawley and the perception of the gap between the two settlements would remain to an acceptable level. It is also agreed that the weight to be given to this policy as a mechanism to restrict housing supply should be diminished by the objectives of the Framework.
 15. The indicative layout for the development shows that, although there would be some tree removal on the site, a good visual screen to the road could be maintained. The effectiveness of this is supported by the appellant's undisputed arboricultural and landscape evidence, and appropriate regard is given to trees. There would be an element of landscape and visual harm from the loss of what is currently a substantially open greenfield site. However, the introduction of residential development would not be out of keeping with the character and appearance of the locality, and through the reserved matters the development could be successfully assimilated in this.
 16. Due to the degree of separation and screening there would be no adverse impact on neighbouring amenity. The technical evidence, including the assessment of the local highway authority, supports that the scheme would not give rise to significant road safety or traffic harmful effects, despite some local concerns raised in this respect.
 17. The Council confirmed that it has no objection to the proposal with respect to its scale, which would not be disproportionate in the context of other modern development that has taken place in the settlement.
 18. The only issue of objection maintained by the Council relates to the availability of local services and the consequent travel requirements of future occupiers.
 19. In addition to its residential properties, the village of Pease Pottage has a public house, florist, bus stop, recreational open space, and a number of business uses. Nearby on the eastern side of the M23 is the Pease Pottage motorway service area. This has a food store, newsagent, coffee shops,

- bakery, and cash machine. Although on the far side of the motorway, it can be accessed from the village by walking at grade on a bridge across the road cutting, with a direct footpath link to the services building. The service area caters primarily for the needs of motorists, but there is clear evidence of its use as a facility by residents of the village on foot and by bike. The proximity of the service area therefore appears to offer an availability of local convenience shopping which is taken up.
20. The centre of the site is some 400m from the village bus stop. This provides an hourly service through much of the day, with a journey time of around 10 minutes to the centre of Crawley. This is a town with extensive shopping, employment, and other facilities. The bus service is within the Crawley Metro transport zone, facilitating connections to other parts of the urban area.
 21. Broadfield District centre, some 2.5km away on the edge of Crawley, can be reached by a footpath/cycleway link from the village. There is a toucan crossing where this crosses the busy A264 (which is soon to be provided with a ramp) and the cycle ride is under 15 minutes. Nevertheless, the gradient and nature of the route, in addition to the distance, mean that it is likely to be used only by stronger walkers and cyclists.
 22. The appellant provided evidence of school children making use of the bus to reach local schools and colleges. However, most journeys to primary schools are likely to involve the private car. Medical facilities are also beyond normal walking distance.
 23. The merits of Pease Pottage as a location for residential development have been considered in two recent appeal decisions. On 26 March 2013 an appeal was allowed for the construction of 51 dwellings at Forest Ridge and land rear of Old Brighton Road (APP/D3830/A/12/2184075). This site lies outside the settlement boundary at the east end of the village. The Inspector referred to the local facilities and those further away, stating it was likely that most people would travel away from the village on a fairly regular basis, and it would be likely that a high proportion of these longer journeys would be by private car. However, he noted the measures contained in a Travel Plan and improvements to transport proposed to be secured through planning obligations. He also recorded that the Council had raised no in-principle objections to the proposal from a sustainability and access perspective, and in the light of the above saw no reason to take a different stance. That development is now under construction.
 24. On 17 June 2014 an appeal involving a proposal for the erection of 52 dwellings on Land south of Buchan Reservoir, Horsham Road, Buchan Hill was dismissed (APP/Z3825/A/13/2209207). That site lies to the west of the current one and is fully within the AONB. Again the Inspector noted the location of services and facilities, and referred to the local bus services. He also referred to the restrictions of a bridleway to the north as a route to Crawley. Overall he considered that the sustainability of the location is limited and the development would not give future occupants a real choice about how they would travel, and that it was highly likely that they would be largely dependent on the use of the private car.
 25. The current site is more than 2km from the nearest schools, doctor's surgery, the Broadfield centre and a leisure centre, whereas the Old Brighton Road site is within 2km of these. Conversely, the Buchan Reservoir site is some 860m

from the village bus stop. There is acknowledgement by both main parties that neither of these decisions should be regarded as determinative on the merits of the current site. The sustainability of development requires an overall judgment to be made, taking into account the economic, social and environmental dimensions identified in the Framework as well as all of its policies.

26. The Inspector in the Buchan Reservoir case found that the proposal would have a significant detrimental impact on the character and appearance of the open countryside location and the AONB. He also found it to be detached both visually and physically from a built-up area. In this case, as set out above, the development has the potential to integrate well with the settlement, and it would give rise to very little environmental harm. There would be the significant economic and social benefits of new housing provision including 30% affordable housing, with appropriate mitigation provided by planning obligations, as set out below. Also to be recognised in considering the accessibility of the site is that Mid Sussex is a largely rural district, which nevertheless has a substantial need for additional housing. In this context, while there would no doubt be extensive use of the private car by occupants of the development, the site offers some choice of travel by other modes. In addition, the site can be regarded as reasonably compliant with the advice of the Framework that housing in rural areas should be located where it would enhance or maintain the vitality of rural communities.
27. Overall I consider the proposal to amount to a sustainable development. With respect to the provisions of paragraph 14 of the Framework, the adverse effects of granting permission, in particular in terms of the limitations of accessibility of local services and the likely extent of need to travel by private car, do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
28. Policy G2 of the Local Plan imposes various requirements on development, of which part (e) is that it should be accessible by a choice of means of transport and not rely solely for access on the private car. Similarly, policy T4, among other things, requires development to be located close to public transport routes, seek to minimise the increase in private car trips generated, and provide convenient and safe pedestrian access to and within the development which should link to the wider footway network. To the degree that the proposal is not fully in line with these requirements, the conflict is warranted by the overall sustainable nature of the development and its benefits. The requirements of the Framework also outweigh the conflict with policy C1.

Obligations and Conditions

29. Joint evidence has been put forward to support the planning obligations in the submitted section 106 agreement. The obligations provide for contributions towards various elements of infrastructure. Based on the supporting evidence and having regard to the requirements of policy G3 of the Local Plan and of the Council's Supplementary Planning Document 2006, the contributions are needed to address needs that would arise from occupation of the development. Provision for affordable housing is required in accordance with policy H4 and to help meet local needs. A travel plan commitment is warranted in the interests of sustainable travel. Overall I am satisfied that the obligations are necessary, directly related to the development, and fairly and reasonably related to it in

scale and kind. The obligations can therefore be given weight in support of the proposal.

30. Conditions suggested jointly by the main parties were discussed at the inquiry, with a number of minor amendments agreed. Conditions appropriate to an outline permission are needed. With the scale of the proposal and the potential impact of implementation on local amenity, adherence to an agreed Construction Management Plan is warranted. Various requirements relating to access and provision of transport infrastructure are needed to cater for generated movements and safeguard highway conditions. The submitted ecological evidence supports the need for certain ecological measures, subject to which the scheme would have an acceptable impact on biodiversity. Archaeological investigation is necessary to safeguard identified potential interest. Drainage measures should be put in place in order to ensure that this is appropriately provided for in the development. As part of the reserved matters, details of materials should be approved to ensure a satisfactory appearance and tree protection provided to secure appropriate regard for trees.

Conclusion

31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

T G Phillimore

INSPECTOR

Schedule of Conditions

- 1) Details of the 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 until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved plan shall be implemented and adhered to throughout the entire construction period. The plan shall provide details of the following matters:
 - 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 by site operatives and visitors;
 - d) The loading and unloading of plant, materials and waste;
 - e) The storage of plant and materials used in construction of the development;

- f) The erection and maintenance of security hoarding;
 - g) The provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including where necessary the provision of temporary Traffic Regulation Orders);
 - h) Measures to control the emission of dust, dirt and noise during demolition and construction, lighting for construction and security;
 - i) Details of public engagement both prior to and during construction works.
- 5) No development shall commence until visibility splays of 2.4 metres by 125 metres to the east and 122 metres to the west have been provided at the proposed site vehicular access onto Horsham Road in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level.
- 6) No part of the development shall be first occupied until the proposed footway links, pedestrian crossing points, carriageway markings and surface treatments on Horsham Road as indicatively shown on drawing number 2013/1780/003 Revision E have been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. The development shall only be constructed in accordance with the approved details.
- 7) No dwelling shall be first occupied until the car parking spaces, associated with that dwelling, have been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained at all times for their designated use.
- 8) No part of the development shall be first occupied until the road(s), footways, and visitor parking areas serving that part of the development have been constructed, surfaced and drained in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.
- 9) No dwelling shall be occupied until covered and secure cycle parking spaces, associated with that dwelling, have been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. The development shall only be constructed in accordance with the approved details.
- 10) Prior to development or any preparatory works on site, details of a bat sensitive lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.
- 11) Prior to the commencement of development or any preparatory works to the site, an ecological enhancement scheme shall be submitted to and approved in writing by the Local Planning Authority, based upon the mitigation and enhancements identified within the Ecology Solutions Ltd Ecological Assessment dated August 2013 ref 5968.EcoAss.vf1 submitted in support of the proposal. The development shall only be implemented in accordance with the approved details.

- 12) No removal of any tree, shrub, hedgerow or other potential bird nesting sites shall be carried out on site between March to August inclusive in any year, unless otherwise approved in writing by the Local Planning Authority. Where vegetation is cleared in accordance with such approval during the bird breeding season a check for nesting birds by a suitably qualified ecologist shall be undertaken and any vegetation containing occupied nests shall be retained until the young have fledged. Compensatory nesting provision shall be made in accordance with details including of timing submitted to and approved in writing by the Local Planning Authority.
- 13) No development shall be carried out on the land until the applicant, or their agents or successor in title, has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.
- 14) The development hereby permitted shall not commence until details of the proposed surface water drainage and means of disposal, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context, have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all drainage works have been carried out in accordance with such details. The details shall include a timetable for implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 15) Prior to the commencement of development details of the proposed foul drainage and means of disposal shall be submitted to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until all drainage works have been carried out in accordance with such details. The details shall include a timetable for implementation and a management plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 16) No development shall take place unless and until samples and a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall only be constructed in accordance with the approved details.
- 17) The submitted landscaping details shall include indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development and these works shall be carried out as approved. Any existing or newly planted trees or plants which, within a period of 5 years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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DOCUMENTS SUBMITTED

- 1 Council's notification letter
- 2 Site layout plan 1299/P/02 Rev B
- 3 Appellant's site location and isochrones plan
- 4 Appellant's photos
- 5 Bus timetable – Routes 271 & 273
- 6 Dartford Borough Council v (1) SSCLG (2) Landhold Capital Limited [2014] EWHC 2636 (Admin)
- 7 Crawley town centre bus map
- 8 Access arrangement and off-site works plans for Black Swan Close, Pease Pottage (3no)
- 9 West Sussex County Council highway responses dated 9 July 2012 and 30 September 2013
- 10 List of retail stores in Crawley County Mall
- 11 Shops in Crawley Town Centre
- 12 Wikipedia entry on Pease Pottage
- 13 Agreed conditions
- 14 Kinwood Vale Crawley offsite works: M23 Junction 11 plans (2no)
- 15 Joint statement relating to s106 agreement
- 16 Draft s106 agreement

- 17 Planning permission ref DC/10/1612 relating to Holmbush Farm Landfill Site, Crawley Road, Faygate, West Sussex
- 18 Press release dated 10 April 2014 re: new community building at Finches Field
- 19 Council's closing submissions
- 20 Appellant's closing submissions
- 21 S106 agreement dated 25 September 2014

Richborough Estates