



Appeal Decision

Site visit made on 3 February 2015

by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

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

Decision date: 13 February 2015

Appeal Ref: APP/L3815/A/14/2215706

Pottery Field, Land West of Pottery Lane, Main Road, Nutbourne, Chichester, 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 Mr M Bailey against the decision of Chichester District Council.
 - The application ref. CH/13/03157/OUT, dated 26 September 2013, was refused by notice dated 23 December 2013.
 - The development proposed is: erection of 26 dwellings (2 no. 1-bed apartments; 3 no. 2-bed bungalows; 5 no. 2-bed houses; 12 no. 3-bed houses; and 4 no. 4-bed houses); new access from A259; landscaping; children's play area; open space; and, junior sports field.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application form indicates that all matters of detail except access are reserved for future determination.

Main Issue

3. The Council's appeal statement confirms that it no longer wishes to pursue its 3rd and 4th refusal reasons, which relate to highway safety and protected species respectively. A unilateral undertaking has been submitted by the appellant which, subject to a matter of detail concerning recreational provision, the Council considers to address its 5th and 6th refusal reasons. I have no reason to disagree with these assessments.
4. The Council is unable to demonstrate a five year housing land supply, as required by the National Planning Policy Framework (the Framework). It follows from paragraph 49 of the Framework that relevant policies for the supply of housing cannot be considered to be up-to-date. In such cases, paragraph 14 of the Framework states (unless material considerations indicate otherwise) that permission should be granted 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. It is not disputed that the appeal scheme would increase the local supply of housing.
5. Bearing this context in mind, the main issue in this appeal is whether the presumption in favour of granting planning permission set out in paragraph 14

of the Framework is overcome by any other considerations – specifically the effect of the proposal on the area's character and appearance, bearing in mind the appeal scheme's relationship to the Chichester Harbour Area of Outstanding Natural Beauty (AONB) and its location within a Strategic Gap.

Reasons

6. The appeal site occupies flat agricultural land on the western side of the settlement of Nutbourne East. Its eastern boundary adjoins the edge of properties within the settlement, while its northern and western boundaries are marked by farm drainage ditches. To the south, the site boundary adjoins the A259 and the rear boundaries of dwellings fronting the A259. The A259 marks the northern boundary of the AONB: as such, the appeal site lies close to the designated area.
7. The appellant has submitted a Landscape and Visual Impact Assessment (LVIA) prepared by a landscape architect using an accepted methodology. For the Council, the findings of that assessment have been challenged by West Sussex County Council's landscape architect. I have considered the respective cases in the light of my own observations of the site and its surroundings.
8. The site's eastern boundary, adjoining the built-up area, is well defined by trees and mature vegetation forming garden boundaries. In contrast, its northern and western boundaries lack any visual enclosure, the drainage ditches not appearing as substantial above-ground features. Although new residential development lies further to the north, this is separated from the appeal site by a railway line – with an associated corridor of trees and shrubs – and an area of open field that does not form part of the site. While the southern boundary is partly enclosed by the above-noted frontage dwellings, the section adjoining the A259 is formed by a low hedge. Views into the site are possible over the hedge and through the existing field entrance. The proposed access would form a greater gap in this hedge than at present, with additional land required to provide adequate visibility splays.
9. As a result of the lack of visual enclosure on its western and northern sides, the appeal site has a significantly greater visual linkage with the open countryside, of which it clearly forms a part, than with the built-up area, from which it appears distinctly separate. While most details of the scheme remain to be finalised, the site's relationship to the A259 as described above means that the proposed residential development and access would be easily seen from that road (viewpoint A in the LVIA). At that location, the A259 has agricultural land on both sides. To the south, the fields lie within the AONB. I therefore disagree with the LVIA's view that the site has a context that is discrete from the AONB. To my mind, the site's open nature and degree of visibility from the A259 are attributes that do not differ significantly from land within the AONB to the south of the road. Bearing in mind the A259's well-used nature, I therefore share the Council's view that the LVIA underestimates the sensitivity of the receptor at that point: I agree that a score of 'high/medium' would be more appropriate than 'medium/low'¹.
10. Furthermore, it seems to me that replacing an open arable field that has open boundaries on two sides with a residential development including an access road would amount to a major change in character. The site's proximity to,

¹ Appendix 7 (Visual Impacts Assessment Table) of the appellant's LVIA document.

and visibility from, the A259 means that this change would be seen by most (if not all) passers-by. As such, I consider that the magnitude of visual change would be 'high' (rather than 'high/medium'). Taking these matters together, I agree with the Council that the significance of the effect, with reference to Table B of the LVIA, would be 'substantial/major' rather than 'moderate'.

11. In addition, I disagree with the appellant's assessment of the scheme's effect when seen from a public footpath within the AONB (LVIA viewpoint C). The photograph included in the LVIA for that view does not, to my mind, give an accurate impression of the site's visibility from that point. On my visit I saw that the houses built to the north of the site can be seen from that position across the appeal site and the intervening field to the south of the A259. However, they are distant and do not appear as prominent features. In contrast, the present scheme would bring the edge of the settlement significantly closer. As a result, the proximity of built development to the AONB would be seen more easily. I do not therefore accept the LVIA's conclusion that no change would be likely to be visible from this point.
12. Taking these matters together, I consider that the appeal scheme would create a 'substantial/major' visual effect in views from the A259 (viewpoint A). While tree screening is suggested as mitigation, the details are not before me. In any event, bearing in mind that a residential access road is proposed at this point, it is likely that the proposed expansion of the built-up area would be clearly apparent. Furthermore, in views from the A259 at that point, the proximity of such development to the open countryside of the AONB would be easily seen. Bearing in mind the importance of retaining the AONB's rural and natural character in line with the requirements of the Chichester Harbour AONB Management Plan 2009-2014 (notably policy A1), the resulting effect would harm the AONB's setting. This harm would be amplified by the scheme's visibility from within the AONB itself (viewpoint C) as described above. For these reasons the proposal would conflict with policy RE4 of the Chichester District Local Plan First Review (LP). While the Council's decision notice also refers to an Interim Statement of Housing – Facilitating Appropriate Development (FAD), this has now been withdrawn. Accordingly, and bearing in mind the restrictions placed by legislation on the scope of supplementary planning documents, I do not attach weight to the FAD in this appeal.
13. The Council also raises concerns about the scheme's location outside the identified Settlement Policy Area (SPA) for Nutbourne East and within the Chichester to Emsworth Strategic Gap. However, the Council accepts (and I agree) that LP policies RE1 and BE1 relating to SPAs are considered out-of-date in the terms of the Framework. As such, I afford limited weight to the scheme's conflicts with these policies. In respect of the Strategic Gap, it seems to me that – for the reasons set out above – the appeal scheme would be seen as an expansion of the built-up area along part of the northern side of the A259. This would reduce the degree of separation between the settlements of Nutbourne East and West along that road. However, open fields would remain to the west of the site and, as such, coalescence between Nutbourne East and West would be avoided. An obvious open and undeveloped gap would remain.
14. While the appellant accepts the development would make some contribution to the cumulative erosion of the overall Strategic Gap between Chichester and Emsworth, I share his view that bearing in mind the intended scale of the scheme and the resulting absence of coalescence (as noted above), the harm

arising from the scheme's conflict with LP policy RE6 would be limited. On its own, this matter would not be sufficient to significantly and demonstrably outweigh the benefits of the scheme in the terms of the Framework.

15. The Council raises concern that the appeal scheme would 'serve as a precursor to further development to the north and west'. However, all proposals have to be considered on their own individual merits and I have seen no evidence that a grant of permission in the present appeal (were matters otherwise acceptable) would make it difficult for the Council to refuse developments which would result in serious harm. I do not attach weight to this argument.
16. However, as already noted, paragraph 14 of the Framework does not support the granting of planning permission in cases where specific policies of the Framework indicate that development should be restricted. Paragraph 115 of the Framework attaches great weight to conserving landscape and scenic beauty in AONBs, which (along with National Parks and the Broads) have the highest status of protection in relation to landscape and scenic beauty. For proposals within or affecting an AONB, section 85 of the Countryside and Rights of Way Act 2000 requires that regard should be had to the purpose of conserving and enhancing the natural beauty of the area. National Planning Practice Guidance (PPG) states that this duty is relevant in considering development proposals that are situated outside AONB boundaries, but which might have an impact on the setting of, and implementation of, the statutory purposes of the protected area².
17. Bearing the above in mind, I consider that the harm that would be caused to the setting of the AONB, as described above, would represent a clear and substantial conflict with the provisions of the Framework and the relevant statutory duty. I conclude that this matter is sufficient to overcome the presumption in favour of granting planning permission set out in paragraph 14 of the Framework. Given this conclusion, I am not required to take a view as to whether the submitted unilateral undertaking accords with the requirements of CIL Regulation 122. Accordingly, there is no need for me to comment on the acceptability or otherwise of the Council's requirements for recreational provision. While I have had regard to a number of appeal decisions mentioned by the main parties in this appeal, my conclusion relates to the particular circumstances of the present proposal and its relationship to the AONB as described above.
18. I have considered all the other matters raised, but none change my overall conclusion that the appeal should not succeed.

M J Hetherington

INSPECTOR

² PPG reference ID: 8-003-20140306.