



Appeal Decision

Inquiry opened on 9 December 2014

Site visit made on 11 December 2014

by Katie Peerless Dip Arch RIBA

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

Decision date: 23 February 2015

Appeal Ref: APP/C3810/A/14/2220943

Land west of Westergate Street, east of Hook Lane, Westergate, Sussex, PO20 3TE

- 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 Hallam Land Management Limited against the decision of Arun District Council.
 - The application Ref AL/39/13 dated 5 June 2013 was refused by notice dated 14 February 2014.
 - The development proposed is the demolition of Oakdene and all other structures within the site and the erection of a residential development of up to 79 dwellings, public open space, children's play areas, landscaping, drainage measures and all other associated works (means of access into the site to be considered; appearance, landscaping, layout, scale and access within the site to be reserved).
 - The Inquiry sat for 3 days on 9 – 11 December 2014
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of Oakdene and all other structures within the site and the erection of a residential development of up to 79 dwellings, public open space, children's play areas, landscaping, drainage measures and all other associated works at land west of Westergate Street, east of Hook Lane, Westergate, Sussex, PO20 3TE in accordance with the terms of the application Ref: AL/39/13, dated 5 June 2013, and the plans submitted with it, subject to the conditions set out at Annex A to this Decision.

Procedural matters

2. Before the Inquiry opened, the Council and the appellants agreed a Statement of Common Ground (SoCG) on the Housing Land Supply position in the District. This concluded that the Council could not demonstrate a 5 year supply and that the current provision was between 2.91 and 3.1 years. Given the extent of the common ground between the parties, it was agreed that the witnesses on this topic would not need to give evidence. However, their proofs of evidence have been taken into account in the light of objections from interested parties.
3. On the second day of the Inquiry, representatives from interested parties, in particular the Village Action Group (VAG) and Aldingbourne Parish Council expressed surprise at the Council's change of position, which had altered from that held at a previous Inquiry in November and as reported to a Local Plan Sub-Committee meeting at the end of October. They requested that the Inquiry be adjourned in order to allow them to take legal advice on the matter.

4. I refused this request and continued to hear the evidence from all parties. However, I gave the interested parties further time to comment on the figures agreed in the SoCG by the expert witnesses on housing land supply. I also gave the Council and the appellants time to respond to any comments made. All these comments have been taken into account when reaching my Decision.
5. The submissions made by the VAG included matters other than a discussion limited to whether the Council had a 5 year land supply and this was noted by the appellants in their response. These matters, including prematurity, the weight to be given to current Local Plan policies and the deliverability of the site had not previously been raised by the objectors, either in written submissions or orally at the Inquiry and were beyond the remit of the topic on which I had expressly indicated I would take further submissions. However, the appellants have responded in detail to these comments and I have also taken these representations into account when reaching my decision.

Main Issues

6. I consider that the main issues in this case are:
 - (a) the impact of the proposed development on the character and appearance of the surrounding area;
 - (b) whether the a proposal represents sustainable development having regard to the policies within the National Planning Policy Framework (the Framework), with specific referenced to the 3 strands set out in paragraph 7;
 - (c) whether suitable provision has been made for affordable housing;
 - (d) whether suitable provision has been made for public infrastructure including play facilities, open space, local highways, strategic highways improvement on the A29, libraries, fire service, pools, halls and pitches and public health facilities.

Site and surroundings

7. The appeal site is an agricultural field, most recently used as pasture for horses. It lies adjacent to, but outside, the adopted built-up boundary of the village of Westergate and is bounded on 3 sides by development; there is housing on 2 sides and Aldingbourne primary school on the other. A footpath runs along the northern boundary, separating the site from another field and linking Meadow Way to the east and Hook Lane to the west. The site is flat and open with a number of mature trees along the boundaries.
8. The proposed access to the site is from Hook Lane, to the south west, through the property at Oakdene, which would be demolished to make way for a new road. Hook Lane is a rural road with soft verges and few areas of pavement and it links the main A29 with Oving Road to the north west.
9. Westergate extends in a linear form on each side of the A29, with additional development in a series of residential closes and cul-de-sacs behind the properties fronting the main road. It has convenience stores, a post office, the primary school, a public house, a sports centre and recreation ground, a church and a garage close to the junction of the A29 and the B2333, to the north of the village. A railway line, with a level crossing over the A29 lies to the south in the adjoining village of Woodgate, and Westergate is served by 2 bus routes, numbers 66 and 85. There is no railway station, the nearest being at Barnham, some 2.5 miles from the appeal site. Bognor Regis is the nearest large town, about 4 miles to the south.

Reasons

Planning policy

10. Paragraph 14 of the National Planning Policy Framework (the Framework) explains that the presumption in favour of sustainable development requires proposals that accord with the development plan to be approved without delay and, where relevant policies are out of date, planning permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
11. The Arun District Local Plan 2004 (LP) is now dated, but has not yet been replaced by the emerging Local Plan which is due to be submitted for examination in public early this year, following the end of the consultation period, which was due to expire shortly after the closure of the Inquiry.
12. 2 of the policies from the LP that were quoted in the reasons for refusal, GEN2 and GEN3, are agreed by the Council to relate to the supply of housing and are now out of date because of the lack of a 5 year housing land supply, in accordance with paragraph 49 of the Framework. The Council accepts that they should therefore be accorded only limited weight in this respect. However, this is disputed by interested parties who consider that there is a 5 year housing land supply and that GEN3 is still relevant in terms of providing intrinsic protection for the countryside.
13. Where a 5 year supply can be demonstrated, this does not necessarily preclude otherwise acceptable schemes from being granted planning permission. However, where there is no identified 5 year supply, applications for housing schemes should be considered in the context of the presumption in favour of sustainable development, as set out in paragraph 14 of the Framework, which also makes clear that development must normally be in accordance with the other policies of the Framework. Paragraph 7 explains that sustainability has 3 dimensions, economic, social and environmental, and these are to be considered together because they are considered to be mutually dependent.
14. It is also the case that, whilst the Framework generally resists isolated new houses in the countryside, it also recognises that, in rural areas, housing should be located where it would enhance or maintain the vitality of rural communities.

Housing Land Supply

15. Despite agreement between the Council and the appellants that the annual requirement for housing since 2011 is 786 dpa, that there is no identified 5 year housing land supply for the District and that it is appropriate to apply a 20% buffer for persistent under-delivery in previous years, this position has been challenged by interested parties. They submit that the Strategic Housing Market Assessment (SHMA) figures originally used by the Council demonstrate a 5 year supply and that these figures should be preferred to those cited by the appellants which, they claim, have not been properly analysed in terms of their sustainability.
16. It is not for me to comment in a s78 appeal on the likely outcome of the Local Plan process but I can take evidence on housing need into account on a 'policy off' basis, in advance of the Local Plan Inquiry and reach a conclusion on the availability of a 5 year supply, based on an assessment of the most up-to-date evidence available.

17. In this case, I note that the figures used by the Council prior to the production of the SoCG are at the lower end of the identified range upon which the report to committee was based (580 – 700 dpa) and have not varied to any significant extent from those produced prior to the publication of the Framework. It is therefore questionable whether they have responded to the requirement to 'boost significantly the supply of housing'¹.
18. The identified need in the SHMA² was between 700 and 750 dpa but the reduction to the figure of 580 dpa, reported to and agreed by the Council in October 2014, appears to be based on policy restraints. This is a 'policy on' approach, which should not be applied to a s78 decision such as this.
19. Objectively assessed need (OAN) for housing starts with the latest Household Projections produced by the Department of Communities and Local Government and can then be adjusted to take into account population projections, economic growth and market signals. Looking in detail at these factors has led the Council to agree, in the SoCG, that the minimum need for Arun District would be 768 dpa and this figure is closer to the findings of the SHMA than those previously suggested by the Council.
20. It is also submitted that the 20% buffer for persistent under-delivery should not be applied to the total of number of houses required because, in some years since 2006/7, there was a marked over-supply. However, from the totals of gross and net completions for these years contained in the Council's Housing Proof of Evidence³, it is evident that, in total, there was a clear under-provision, with the net provision only exceeding the target twice in 8 years. I consider that this demonstrates that the overall under-provision was 'persistent' and it would be reasonable to apply the 20% buffer. This was also a conclusion reached by the Inspector in appeal decision APP/A/11/2163208.
21. The Council's evidence is that there is currently a land supply sufficient for 3326 dwellings⁴. Therefore, if a 20% buffer were to be applied to the Council's original figure of 580 dpa (resulting in the need to provide land sufficient for 3480 dwellings) there would be no 5 year supply. If the objector's suggested figure of 650 dpa were to be used as the number required, and a 5% rather than a 20% buffer were to be applied as they suggest (giving a land requirement sufficient for a total of 3412.5 dwellings), there would still be a shortfall.
22. Although the objectors have referred to a total of 4460 allocations that are likely to come forward in the 'medium' term, this does not indicate that they will all contribute to the present 5 year supply. The assumption that any shortfall in the 5 year supply is likely to be made up in subsequent years does not meet the requirement in paragraph 47 of the Framework that the local planning authority should identify '*annually a supply of specific deliverable sites sufficient to provide five years worth of housing*'.
23. I consider that, even without accepting that the appellants' detailed housing figures are necessarily definitive or will be those eventually adopted in the emerging Local Plan, the figures originally quoted by the Council are an underestimate of housing need and there is, at present, no 5 year housing supply identified. The relevant LP policies must therefore be considered out of date, as explained in the Framework.

¹ Ref: The Framework paragraph 47

² Proof of Evidence of S Macklen paragraph 5.4 - 5.5

³ Proof of Evidence J Redwood paragraph 4.2

⁴ Proof of Evidence J Redwood paragraph 6.1

24. Although LP policy GEN3 (which restricts development outside defined built-up areas) is said by objectors not to relate to housing provision, when it is read in conjunction with policy GEN2 (which limits development to within built-up area boundaries), these policies resist most forms of built development in the countryside and this must also, by definition, include housing.
25. Following the findings of recent court cases⁵, which incline towards a broad approach when considering whether a policy relates to the supply of housing, these policies seem to me to '*generally affect housing numbers, distribution and location*' as defined in the South Northamptonshire case. They do not seek to '*protect specific areas or features such as gaps between settlements, the particular character of villages or a specific landscape designation*'. They are consequently related to the supply of housing, as agreed by the Council and the appellants.
26. Policy GEN3 refers to the presumption that the countryside should be safeguarded for its own sake, but this former Government policy has not been carried forward into the Framework and it is consequently also out-of-date in this respect. I also note that a previous appeal Decision⁶ issued after the publication of the Framework, considered this question and concluded that the policies relating to the built-up boundaries were out of date, as some housing sites will inevitably be required outside these boundaries.
27. I therefore conclude that, because the Council does not have a 5 year supply of housing land as required by paragraph 47 of the Framework, the provisions of paragraph 49 of the Framework are consequently engaged in respect of LP policies GEN2 and GEN3.

Character and appearance

28. The Council has made clear that it does not allege there would be any demonstrable harm to the landscape quality of the area in its reasons for refusal of the application. Rather, it cites the principle of the loss of an area of countryside, which it considers would be harmful to the character and appearance of the surroundings. It considers the appeal site makes an important contribution to the green setting of the village, and this view is supported by the comments made by the Inspector conducting the Local Plan Inquiry in 2002, when the appeal site was ruled out as a potential location for housing.
29. At that time however, there was no need for additional sites to come forward to meet the housing requirements of the Council and the Inspector therefore gave considerable weight to the contribution the open area made to the surroundings. The situation in respect of the need for housing sites has changed since then and the Council has accepted in the emerging Local Plan that some areas of countryside will need to be developed to meet the current need.
30. For example, there is an allocation in the emerging Local Plan for 2000 houses and associated infrastructure on land to the south of the village of Eastergate, between Westergate and Barnham and, although not yet part of an adopted Development Plan, this indicates to me that it is likely that greenfield land will be needed to meet housing demand.

⁵ *Cotswold DC v SSCLG* [2013] EWHC 3719 (Admin) & *South Northamptonshire v SSCLG & Robert Plummer* [2013] EWHC 4377 (Admin)

⁶ Ref: APP/A/11/2163208 issued 3/07/2012

31. However, the extent of any harm would, I consider, be limited. The appeal site differs in character from the areas of countryside that lie further to the west of the village, in that it is largely contained by existing residential development and is not part of the broader open spaces where development is sporadic and isolated. This is illustrated in the appellants' Visual Appraisal Plan⁷ which shows the site as being within the Westergate Western Fringe (as defined by the Arun Landscape Study 2006). The study rates this area as being moderately sensitive in landscape terms, with a slight landscape value and a consequent medium/high capacity to accommodate development.
32. The contribution the site makes to the village setting can really only be appreciated from the footpath to the north and from the rear of surrounding properties in the southern section of Hook Lane, St Johns Close and Meadows Way. Because of the generally flat topography, the site is screened in longer views by intervening development and vegetation. The impact on the character of the surroundings would not, in my opinion, be readily perceptible from any further afield than the immediate boundaries of the site.
33. The inclusion of housing on the site, as shown in the illustrative material produced to accompany the application, would follow the general pattern of development in the village, behind that fronting the A29, as set out on plan RG-M-07-48 and would consequently not appear isolated or out of place in its context.
34. Therefore, although there would be intrinsic harm through the loss of land designated as countryside, I conclude that the level of this harm would not be significant and would not weigh heavily against the scheme in the balancing exercise between the benefits and dis-benefits of the proposal.

Sustainable development

35. The Framework recognises the intrinsic character and beauty of the countryside but the appeal site, whilst a pleasant green open space, does not have any special qualities other than its designation as countryside in both the adopted and emerging Local Plan. Development on the land would inevitably result in a loss of openness and the character of the land would be permanently altered. This would represent some environmental harm and this harm must be considered alongside any economic and social benefits that the development would provide.
36. The Council and interested parties consider that the site is badly located in respect of its accessibility to public transport and consequently to facilities and job opportunities and that occupiers of the proposed development would largely be reliant on the private car. It is true that the 66 bus service through the village is limited, running only about once an hour, with no service to and from the railway station at Barnham or Bognor Regis after late afternoon.
37. The 85 and 85A service, running east/west between Chichester and Worthing, is more infrequent still and the bus stops are located at a considerable distance from the appeal site, at the northern end of the village. It is likely, therefore, that the opportunities for commuting to work using only public transport would be limited if the occupiers of new dwellings on the appeal site were employed outside the village.

⁷ Ms Toyne's Figure LT1

⁸ Appendix 13 to the Appellants' Statement of Case

38. Nevertheless, Westergate is well located in that it is close to Bognor Regis and Barnham, where transport services are more frequent and it would therefore be possible to utilise public transport for journeys beyond these destinations. Within Westergate, there are convenience stores and a post office as well as the other facilities noted in preceding paragraphs. This means that residents would be able to carry out 'top-up' shopping without having to use a car and without the need to travel out of the village. The primary school is within walking distance and the Ormiston Six Villages Academy secondary school, about a mile away, is within a reasonable cycling distance.
39. As previously noted, land between the 3 villages of Westergate, Eastergate and Barnham is being considered as a location for 2000 new houses and the area is classed as being '*a particularly sustainable location*' in the Sustainability Appraisal⁹ carried out to inform the emerging Local Plan. I note that the above assessments are dependent on the provision of a wider package of infrastructure and road improvements, but it nevertheless indicates that the general area is not isolated from the existing main centres of development and their associated facilities.
40. The villages noted above are also considered as sustainable locations in the Arun Settlement Sustainability Study 2007 and the witness for the Council agreed that development within the built-up boundaries of these villages would be classified as such for the purposes of determining planning applications. The site is immediately adjacent to the built-up boundary and is consequently not isolated from the services and facilities that contribute to the sustainability credentials of Westergate.
41. The appeal site is also included as part of site reference WE11 in the 2012 Arun Strategic Housing Land Availability Assessment Update¹⁰, which is identified as having future potential for housing development because its '*accessibility to facilities, job opportunities and public transport*' made it '*suitable in principle*'.
42. There was some detailed forensic examination and comparison undertaken at the Inquiry between the sustainability credentials of the 3 villages and it is clear that, apart from the distance to the railway station, there was not a great deal to separate them in this regard. The presence of the station obviously gives Barnham a higher sustainability score but I also note that the other comparisons did not take into account the improvements to the transport options that would be brought about by the appeal proposals and which would improve the sustainability of Westergate as a location for development. A condition of any planning permission would require the provision of a Green Travel Plan and this Plan would include measures to encourage car sharing and financial incentives for residents of the site to reduce their car use.
43. In addition, the proposals include an upgrading of existing public rights of way to provide surfaced footpaths that would link the site with the centre of Westergate and further afield to Eastergate. It was accepted by the Council's planning witness that these measures would improve the sustainability of the site but they would not, of course, bring about any improvements to the existing bus services.

⁹ Non-Technical Summary, paragraph 4.6 Main Report, paragraph 4.7

¹⁰ Mr Murray-Cox's appendix 28

44. Nevertheless, West Sussex County Council (WSSC), when consulted on the proposal in its role as Highway Authority, did not raise any objection to the development of the site on the grounds of it being in an unsustainable location. Development on the site would support the aims of the Framework by providing a social role in supporting this thriving rural community and in providing new housing in a location where it will enhance or maintain the vitality of such communities. The Framework also recognises that opportunities to maximise sustainable transport solutions will vary between rural and urban areas, indicating that a lower level of sustainability may be expected and consequently sometimes acceptable, in areas such as Westergate.
45. The adjacent village of Woodgate differs from Westergate in that it lies to the south of the railway level crossing and the frequent closure of the gates is likely to deter its residents from using the facilities in Westergate, either on foot or by car. Consequently, although previous Inspectors¹¹ considered that a site in Woodgate was unsustainable, this site cannot be directly compared to the appeal site.
46. Therefore, whilst some of the occupants of the new development would be likely to use the private car for journeys to the main employment and retail locations, these journeys would be relatively short and, whilst not ideal, the location of the site would not be so unsustainable as to warrant refusal of planning permission for this reason alone, when the improvements secured through conditions and the agreement submitted under s106 of the Town and Country Planning Act 1990 (as amended) (the s106 agreement) are taken into account.
47. The Council has not raised any other sustainability concerns other than those discussed above. The development would have the benefit of providing up to 79 new houses, including a proportion of much needed affordable units, and would help to support local facilities and services. I therefore consider that, in respect of the economic role the development would play, there would be obvious benefits in terms of its sustainability as it would provide new infrastructure and support growth in the District.

Affordable housing and infrastructure provision

48. Since the application was refused, the appellants, Arun District Council and WSSC have entered into the s106 agreement noted above which provides for a percentage of the dwellings to be affordable in accordance with policy DEV17 of the Arun Local Plan and paragraphs 47 and 50 of the Framework. It also provides for contributions to offset the increased demand that the development would make on local services in terms of leisure and sports facilities, healthcare provision, fire and rescue services, libraries and public open space.
49. The s106 agreement also provides for contributions towards the strategic highway improvements planned for the A29, a signalised crossing over the A29 in Westergate, highway improvements at the junction with Hook Lane and Westergate Street and the upgrading of public footpaths. The Council has confirmed that this agreement has overcome reasons for refusal 3 and 4.

¹¹ Refs: APP/C3810/11/2163208 & 13/2196029

50. The contributions and obligations contained in the document are required to comply with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. To be compliant, contributions must be necessary in planning terms, directly related to the development and fair and reasonably related in scale to it.
51. Arun District Council has given an explanation of why it considers the contributions it seeks are necessary in the proof of evidence of its witness and WSCC has also provided statements addressing these issues. The Property Services division of the NHS has explained the need to increase the capacity of the local surgery, which is already oversubscribed¹², to cater for the increased number of patients that would occupy the development and has indicated how the financial contribution sought would be used to achieve this.
52. Having taken these documents into account, I am satisfied that the contributions towards health care provision and affordable housing are required to help meet the existing shortfall in the District and are in line with the LP and the Framework in this respect. There is currently a deficit of leisure facilities in the District which would be exacerbated by the proposed development and the contributions would be used to cater for the increased demand. The open space provision is called for by the Council's adopted Supplementary Planning Guidance on Open Space and Recreation Standards and it has been shown that such provision can be accommodated within the site.
53. The contribution towards highway works and footpaths will, as explained in previous paragraphs, help to upgrade the sustainability of the area through improvements to the A29 and the connectivity of the site. The upgrade of the Hook Lane junction is necessary for highway safety. The libraries and fire and rescue contributions are based on a formula used by WSCC and they have explained how the contributions would be used. I am consequently satisfied that the contributions meet the requirements of the CIL Regulations and have overcome reasons for refusal numbers 3 and 4 in relation to affordable housing and infrastructure provision.

Other matters

54. Interested parties have disagreed with the conclusions of the Council on a number of matters. Firstly, they are very concerned that development on the site would increase the risk of flooding in the area and point to examples locally where roads and gardens have recently been under water during periods of heavy rain. They note that the appeal site is already marshy in places and that nearby ditches and ponds are often full.
55. The appellants have carried out a flood risk assessment and conclude that the current problems with flooding are caused by poor drainage of surface water rather than from overflows from rivers and streams. The underlying layer of clay soil does seem to contribute to this poor drainage but the design of the appeal scheme can be undertaken to take this into account and ensure that the situation would be improved by surface water being collected and disposed of via a sustainable drainage system. The Environment Agency has raised no objection to the proposal provided these measures are secured by conditions.

¹² See also Document 29

56. Local residents are also very concerned about highway safety in Hook Lane, submitting that this narrow and winding country lane is unsuited to the additional traffic that it would have to accommodate from the proposed new dwellings. They have produced photographs of accidents in the lane and commercial vehicles that have driven into the ditches at the side of the road.
57. However, the Highway Authority (WSCC), who initially objected to the proposal, has now withdrawn its objections following further modifications to the scheme and subject to the measures secured through the s106 agreement. The Authority is responsible for ensuring the highway capacity is not exceeded because of new development and for ensuring that roads and junctions meet its safety standards. I am confident that, if it had any remaining reservations on these matters, it would have maintained its previous objections.
58. I sympathise with the concerns of the local residents and recognise that their views are based on their own experiences; however the evidence presented is not compelling enough to persuade me to conclude that the expert evidence of appellants' Transport Assessment, or the conclusions drawn by the Highway Authority based on that original document and the later modifications to it, are flawed.
59. The VAG has suggested that development of this site would be premature in the light of the progress of the emerging Local Plan. The Government's Planning Practice Guidance (PPG) sets out the circumstances when planning permission should be withheld on the grounds of prematurity. For this to be justified, the emerging Plan would have to be at an advanced stage but not yet formally adopted and the development would need to be so substantial and its cumulative effect so significant as to undermine the plan making process. The PPG also notes that refusal on prematurity grounds will seldom be justified where a draft Local Plan has yet to be submitted for examination, which was the case with the emerging Arun Local Plan at the time of writing this Decision.
60. The emerging Plan is already proposing 2000+ dwellings in the area between Westergate, Eastergate and Barnham and this proposal for 79 houses is not of a scale that would have any significant impact on, or undermine that allocation or the plan making process in respect of the location of housing development. This issue was considered by the Council in the Officer's report for the scheme. The Report noted that '*prematurity as an issue would clearly not apply in this instance*' and it was not a reason given for refusing the proposal. I conclude that the indicators that the PPG states might suggest that a development would be premature have not been triggered in this case.
61. The VAG has also suggested that it has not been shown that the development is deliverable. The Framework notes that sites with planning permission should be considered deliverable unless there is clear evidence that the scheme will not (my emphasis) be implemented within 5 years. There is no requirement to provide positive evidence of the likelihood of implementation. The fact that the appellants are not themselves developers is not '*clear evidence*' that the scheme would not be implemented.
62. In any event, this definition relates to the circumstances in which sites can be considered deliverable in order to contribute to the 5 year housing supply, not as a reason for refusing planning permission. I conclude that there is no reason to refuse the application on the grounds that it would not be deliverable.

Conditions

63. The Council and the appellants have agreed a list of conditions to be attached to any planning permission in the event of the appeal succeeding and these were discussed in detail at the Inquiry. I have considered these conditions, in accordance with the guidance given in the PPG and have amended the suggested wording where necessary to follow this guidance. The conditions are set out at Annex A to this Decision.
64. The first 3 conditions relate to the procedure for applying for approval of the reserved matters and list the relevant plans, for the avoidance of doubt. A condition would be required to ensure approval is sought for the details of the materials and finishes of the buildings, to ensure an acceptable design quality. For the same reason, the reserved matters will be required to be substantially in accordance with the submitted Design and Access Statement.
65. Conditions would ensure that existing trees on the site are protected during the construction of the access road and the proposed dwellings and that landscaping details are submitted for approval and then implemented, in the interest of protecting and enhancing the natural environment.
66. It would also be necessary to ensure, through the imposition of conditions, that schemes for the disposal of foul and surface water drainage are submitted for approval and implemented and maintained as approved, to ensure a satisfactory standard and reduce the risk of flooding. These will include the provision that surface water is prevented from draining onto the highway.
67. I am not persuaded that the suggested requirement for the developer to provide a high speed broadband network is necessary to allow the proposal to go ahead. Although Chapter 5 of the Framework aims to support high quality communications systems, this seems to me to be directed towards giving encouragement to proposals that aim to provide the wider infrastructure for this and removing obstacles from its delivery. It does not place an obligation on applicants for other development to include proposals to provide the service within their schemes. I will not, therefore, impose the condition suggested by the Council on this matter.
68. In order to protect nearby wildlife and its habitat, the developer will be required to submit an ecological enhancement and management scheme for approval and subsequently implement it before development commences. In the interests of energy conservation and biodiversity, a lighting strategy for the development is to be submitted for approval and subsequently implemented.
69. In the interests of highway safety and the general amenity of the surrounding area, a Construction Management Plan is to be submitted for approval before development commences and is to be subsequently implemented throughout the construction period. For the same reasons, the vehicular access to the site and the visibility splays to it are to be constructed before any other construction work commences. The splays are thereafter to be kept clear in perpetuity. A condition will also require the provision of wheel washing and highway cleaning facilities to be provided during the construction period to prevent any danger caused by mud being deposited on the highway.
70. It will be necessary to impose conditions to ensure that refuse storage is adequately provided, that garages are of a suitable size and that a scheme showing the proposed parking provision is submitted for approval and implemented, to protect the amenities of future occupiers, to ensure sufficient parking spaces are available and in the interests of road safety.

71. To ensure that any archaeological assets are identified and recorded, an investigation of the site is to be carried out in accordance with an approved scheme before construction work is commenced.
72. In the interests of sustainability, a Green Travel Plan will be required to be submitted, approved and implemented upon occupation of the first dwelling. For the same reason, the pedestrian access along Hook Lane to the A29 is to be improved in accordance with an approved scheme before the first dwelling is occupied.

Conclusions

73. I have found that the harm that the proposal would cause in terms of loss of countryside would be very limited and the setting of the village would only be marginally affected by the development of this area of unremarkable grassland.
74. The Council considers that the general area of Westergate and the surrounding villages is a suitable location for expansion and I find no reason to disagree with this assessment. The appeal proposal would fit in with the general vision that is emerging for the area and be well related to existing development and most services. It would deliver the social and economic benefits set out above and these would, I consider, be sufficient to outweigh the disadvantages in sustainability terms that the limitations of the public transport network represent. I therefore conclude that the proposal would be sustainable development in terms of paragraph 7 of the Framework. .
75. I have found that the Council cannot demonstrate an up to date supply of housing land for the next 5 years and the relevant policies for the supply of housing are therefore not up-to-date. The proposal must therefore be considered in the context of the presumption in favour of sustainable development.
76. The Framework, in paragraph 14, makes clear that, in order to justify a refusal of proposals for development in this situation, any adverse impacts must significantly and demonstrably outweigh the benefits. In this particular scheme I find that they do not and that the benefits of the proposal would clearly outweigh the disadvantages discussed in preceding paragraphs. Therefore, for the reasons given above I conclude that the appeal should be allowed.

Katie Peerless

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Edward Grant Of Counsel, instructed by the Solicitor to Arun District Council

He called
Mr Peter Cleveland MSc Senior Planner, Arun District Council
LRTPI

FOR THE APPELLANT:

Thomas Hill QC Instructed by Barton Willmore

He called
Ms Lisa Toyne BA(Hons) Dip Landscape Consultant, Barton Willmore LLP
LA Dip TP CMLI
Mr P Boileau BEng(Hons) Highways & Environmental Consultant,
CEng CEnv MICE Brookbanks Consulting Ltd.
Mr David Murray-Cox
BA(Hons) MPlan MRTPI

INTERESTED PERSONS:

Mrs Sue Foote Local resident
Mr Tom Blaylock Local resident
Mrs Susan Williams Local resident
Mr Mike Turner Village Action Group & local resident
Mrs Wendy Corney Local resident
Mrs Elaine Sturgess Local resident
Mr Laurence Ward Aldingbourne Parish Council

DOCUMENTS

- 1 Notes of Mr Grant's opening statement
- 2 Table showing method of travel between villages
- 3 Planning Officer's report for application EG/71/14/OUT
- 4 Statement of Common Ground – Location of Amenities
- 5 Emerging Arun Local Plan
- 6 Extracts of Arun Settlement Sustainability Study 2007
- 7 Statement of Common Ground – Highways
- 8 Notes of Mrs Foote's statement
- 9 Notes of Mr Blaylock's statement
- 10 Notes of Mrs Williams' statement
- 11 Housing Land Supply Assessment agreed by Council in November 2014
- 12 Notes of Mrs Corney's statement
- 13 Notes of Mrs Sturgess' statement
- 14 Notes of Mr Turner's statement and appendices
- 15 Notes of Mr Ward's statement and appendices
- 16 Agreement under s106 of the Town and Country Planning Act 1990
- 17 List of agreed conditions
- 18 Hook Lane Footway document
- 19 Statement of Common Ground – General (December 2014 update)
- 20 Hook Lane Tree Preservation Order

- 21 Notes of closing statement on behalf of the VAG
- 22 Notes of closing statement on behalf of the Council
- 23 Notes of closing statement on behalf of the Appellants
- 24 Further written submissions from VAG
- 25 Authorities submitted by VAG
- 26 Written submissions from Aldingbourne Parish Council
- 27 Appellants' response to Post Inquiry written submissions
- 28 Letter from Aldingbourne Parish Council re Mr Ward
- 29 Letter from Croft Surgery

PLANS

- 1 Census areas for Westergate
- 2 Ormiston Six Villages Academy catchment area
- 3 Location plan for site at Woodgate

PHOTOGRAPHS

- A Set of photographs submitted by interested parties
- B Set of photographs submitted by interested parties
- C Set of photographs submitted by interested parties

Richborough Estates

Annex A – Conditions to be attached to planning permission AL/39/13

1) The permission hereby granted is an outline permission under Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995 and an application for the approval of the Local Planning Authority for the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:

- Layout
- Scale
- Appearance
- Landscaping.

2) The development hereby permitted shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved under condition 1 above, whichever is the later.

3) The development hereby approved shall be carried out in accordance with the following approved plans:

- RG-M-22
- RG-M-12 A
- RG-M-09-113
- 1313/SK146

4) No development shall be carried out unless and until a schedule of materials and finishes to be used for the external walls and roofs of the proposed buildings has been submitted to, and approved in writing by, the Local planning Authority. A 'statement of detail' shall be submitted setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

5) The burning of materials obtained by site clearance, or from any other source, shall not take place within 6m of the furthest extent of the canopy of any tree or group of trees to be retained on the site or on land adjoining it.

6) (a) Prior to commencement of development or any preparatory operations being undertaken on site, a scheme for the protection of retained trees produced in accordance with BS5837:2012 (Trees in relation to design, demolition and construction: Recommendations), which provides for the retention and protection of trees, shrubs and hedges to be retained on, or adjacent to, the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to, and approved in writing by, the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection required by the approved protection scheme are in place.

c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the construction of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

7) 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 recommendations of the SUDS Manual produced by CIRIA.

Winter groundwater monitoring to establish highest annual ground water levels and percolation testing to BRE 365, 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 that property has been implemented in accordance with the agreed details.

8) The development shall not proceed until formal consent has been approved in writing from the local planning authority [acting as agent for the Lead Local Flood Authority (WSCC)] 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.

9) 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 is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's 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.

10) 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 in writing by, the Local Planning Authority to prevent surface water draining on the public highway.

11) Before the development hereby permitted is commenced, details of a proposed foul drainage system shall be submitted to, and approved in writing by, the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate) and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details for that dwelling.

12) The landscaping and layout particulars to be submitted in accordance with Condition 1 shall include:

- Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;

- Details of the positions, height, design, materials and type of boundary treatment to be provided;
- Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree;
- The detailed landscape design for the development including the layout and design of the public realm within the development;
- Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

134) Landscaping (hard and soft) shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding seasons following the first occupation of each phase or sub-phase of the development hereby permitted or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of 5 years from the completion of the development or the completion of the phase or sub-phase, 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 consent to any variation.

14) Prior to the commencement of development or any preparatory works, an ecological enhancement and management scheme shall be submitted to the local planning authority for approval and is to be based on the recommendations within the supporting ecological statement as appropriate. All approved details shall then be implemented in full in accordance with the agreed timings and details.

15) Prior to the commencement of development or any preparatory works, a lighting strategy shall be submitted to the Local Planning Authority for approval. All approved details shall then be implemented in full.

16) 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. 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;
- Details of public engagement both prior to and during construction works.

17) The vehicular access serving the development shall be constructed in accordance with the approved planning drawing 1313/SK14C prior to the commencement of any other part of the development within the site.

18) Visibility splays of 2.4 metres by 47 metres are to be provided at the site vehicular access onto Hook Lane in accordance with the approved planning drawings, prior to the commencement of any other part of the development within the site. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above adjoining carriageway level or as otherwise agreed.

19) Prior to the construction of development, details of vehicle wheel cleaning facilities and a highway cleaning strategy shall be submitted to and agreed in writing by the local planning authority. The cleaning facilities shall be provided as approved, the highway cleaning strategy shall be implemented as approved and all construction vehicles exiting the site involved in constructing or building the development shall have all tyres and wheels cleaned before entering the highway.

20) No dwelling shall be occupied until refuse and recycling bins have been provided and space has been laid out for their storage in relation to that dwelling in accordance with details that have been submitted to, and approved in writing by, the local planning authority. Thereafter these areas shall not be used for any purpose other than the storage of refuse and recycling bins.

21) Garages provided on the site shall measure a minimum of 6m x 3m internally.

22) No dwelling shall be occupied until space for that dwelling has been laid out for the parking of cars, motorcycles and cycles in relation to that dwelling in accordance with a drawing and schedule to be submitted to, and approved in writing by, the Local Planning Authority. These areas shall thereafter not be used for any purpose other than the parking of cars, motorcycles and cycles.

23) An archaeological investigation of the site shall be carried out at the expense of the developer in accordance with a specification (written scheme of investigation) to be submitted to, and agreed in writing by, the Local Planning Authority before the commencement of building works.

24) Prior to the commencement of development, a method statement for the construction of the access road around the retained trees shown on drawing 1313/SK14C is to be submitted to, and approved in writing by, the local planning authority. The method statement shall include:

- details of the protection of Root Protection Areas before construction activities, preparation of access, positioning of pile rigging, sleeved piles and manoeuvring the raft;
- details of how all associated piles and cables will be installed by the developer to minimize adverse impact upon the rooting environment and existing roots within the Root Protection Area;
- details of the 'pile and raft bridge' over the roots of T3 to prevent damage or compaction of the soil and the construction of the bridging structure;
- confirmation that there will be no discharge of surface water from the proposed access road system into the surrounding or underlying subsoil in the vicinity of the tree roots system;

- details of the impermeable construction with surface water runoff collected positively in trapped gullies before discharge in a highway sewer a considerable distance away from the location of the tree and how air circulation is maintained beneath this impermeable construction;
- details of 'tree friendly' construction methods without the need to damage roots;
- details of how incursion into the Root Protection Areas will be mitigated and how the soil environment will be improved to provide an improved growing environment;

The above shall include details of a no-dig design for the construction of the proposed access and the development shall be carried out in accordance with the approved details.

25) Before the development hereby permitted commences a Green Travel Plan describing the means by which residents of the development shall be encouraged to travel to and from the site by means other than the private car, shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Green Travel Plan shall be implemented from occupation of the first dwelling within the development and thereafter complied with unless otherwise agreed in writing with the local planning authority.

26) The reserved matters to be submitted pursuant to condition 1 shall be substantially in accordance with the Design and Access Statement dated May 2013.

27) Prior to the commencement of development, a scheme of works to improve pedestrian access along Hook Lane between the site access and the A29 shall be submitted to the local planning authority for approval. The approved scheme shall be implemented prior to the first occupation of any dwelling.

Richborough Estates