
Appeal Decision

Site visit made on 2 February 2016

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 22 February 2016

Appeal Ref: APP/F1230/W/15/3135041

Land at Graham's Yard, Sydling St Nicholas, Dorset, DT2 9PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jeremy, John & Simon Graham against the decision of West Dorset District Council.
 - The application Ref WD/D/14/002962, dated 10 November 2014, was refused by notice dated 21 July 2015.
 - The development proposed is residential development of 15 dwellings with associated parking, landscaping and access from the High Street.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of 15 dwellings with associated parking, landscaping and access from the High Street, at Land at Graham's Yard, Sydling St Nicholas, Dorset, DT2 9PD, in accordance with the terms of application ref WD/D/14/002962, dated 10 November 2014, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs has been made by Mr Jeremy, John & Simon Graham against West Dorset District Council. The application is the subject of a separate decision.

Preliminary Matters

3. Although not a reason for refusal, the appellants have provided a planning obligation that makes provision for affordable housing and requires that boundary specifications are agreed with the Council and that boundary treatments are maintained as agreed, given that each dwelling is likely to be in separate ownership. From the evidence before me, I consider that the requirement for this provision meets the three tests set out in Paragraph 204 of the National Planning Policy Framework (the Framework) for planning obligations, which reflect those set out in Regulation 122 of the Community Infrastructure Levy (CIL) (2010). As a result, I have not considered these matters further in my decision.
 4. Since the determination of the planning application, the Council has adopted the West Dorset and Weymouth & Portland Local Plan (2015) and its policies have replaced the policies referred to in the Council's reasons for refusal.
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Main Issues

5. As a result of the evidence before me and having regard to the preliminary matter above, I consider that the main issues of the appeal are:
- whether the appeal site is sustainably located, having regard to the spatial strategy of the West Dorset and Weymouth & Portland Local Plan (2015);
 - the effect of the proposal on the living conditions of future occupants;
 - the effect of the proposal on the viability of the neighbouring Dollens Farm;
 - whether the proposal would preserve or enhance the character or appearance of the Sydling St Nicholas Conservation Area; and
 - whether the proposal constitutes sustainable development (including the planning balance).

Reasons

Spatial strategy

6. The appeal site is located in the village of Sydling St Nicholas, which does not have a defined development boundary. At the time of determining the planning application, the Council did not raise any concerns with regard to the principle of the development, based mainly on the fact that it could not demonstrate a five year housing land supply and its policies that related to the supply of housing were out of date. However, since this time, the Council has adopted the West Dorset and Weymouth & Portland Local Plan (2015) (the LP) and the appellants have not contested the fact that the Council can now demonstrate a five year housing land supply. Although, I note that the examining Inspector of the LP has set out that the housing land supply position *'is close to the minimum required to provide choice and competition. It is therefore important that the Councils closely monitor the delivery of new dwellings and take advantage of every reasonable opportunity to improve their short term supply position, as well as the overall amount of housing for the plan period'*.
7. Policy SUS2 of the LP sets out the distribution of development strategy. This identifies a settlement hierarchy and settlements without a defined development boundary are the least preferred option and the policy notes that in such locations there may be some growth to meet their local needs. Policy SUS2 of the LP goes on to set out that *'outside defined development boundaries, development will be strictly controlled, having particular regard to the need for the protection of the countryside and environmental constraints...'*. A number of acceptable development types are set out, which includes affordable housing. However, the proposal also includes open market housing, which I do not consider complies with any of the types of development listed under iii) of Policy SUS2 of the LP.
8. In terms of there being a local need, the supporting text provides more clarity on this matter. This sets out that *'...each village will be different in terms of its needs, opportunities and constraints. As such a more enabling approach is proposed for rural communities - working with those that want to see development take place, to help identify suitable sites to meet their local needs. Using neighbourhood development plans and other planning tools,*

communities can allocate sites, introduce or extend a development boundary, or develop a criteria-based policy to allow development to take place, where they consider this is the right approach for them'. At the current time, I am not aware of the preparation of a neighbourhood plan for Sydling St Nicholas or any other mechanism by which further development is being planned. The appellants have, however, set out that there is a demonstrable need for affordable housing in Sydling St Nicholas. The Council's Rural Enabling Officer has confirmed that there are over 40 households with a local connection to Sydling St Nicholas or adjacent parishes registered in affordable housing need. I accept that this is a demonstrable need for affordable housing and weighs in favour of the proposal.

9. It is also important, however, to examine the level of local services and facilities available to future occupants of the proposed dwellings. The village benefits from a church, a village hall, a public house and has access to school buses. However, there is no shop, doctors, school or access to public transport. Therefore, I consider that future occupants of the open market and affordable dwellings would be entirely reliant upon a private motor vehicle for the vast majority of their day to day needs. The supporting text to Policy SUS2 of the LP sets out that the *'resulting dependency on cars would inevitably increase carbon emissions and disadvantage those who don't have a car (usually the more vulnerable groups in our society), which is why it makes sense to try to focus development at the towns'*. Consequently, I consider that the lack of local services, facilities and public transport weighs against the proposal, as does the heavy reliance on a private motor vehicle. Interested parties have also set out that internet speeds are slow.
10. I acknowledge that the lawful use of the appeal site could generate vehicle movements and I accept that this would to some degree off set potential carbon emissions from the heavy reliance on a private motor vehicle. However, such movements are of a different kind and were permitted before the current development plan was adopted. In addition, this matter does not address my concern with regard to the potential disadvantage and isolation that would occur to those who don't have a car, given the lack of local services and facilities for day to day needs.
11. In conclusion on this matter, the provision of affordable housing is supported by Policy SUS2 in rural areas without a defined settlement boundary and there is an identified need in the local area for such accommodation. However, there is a distinct lack of local services and facilities, including public transport for the day to day needs of future occupants, who would be heavily dependant on a private motor vehicle. This runs contrary to the stated purpose of Policy SUS2 of the LP. These matters will be taken into account in the overall planning balance.

Living conditions

12. The proposed vehicular access to the proposal is along a shared track that currently serves the appeal site and the neighbouring Dollens Farm. I understand that the track is owned by the appellants, although Dollens Farm has a deed in place that secures access along the track. The track is used by Dollens Farm's 200 strong dairy herd, twice a day to access grazing land on the eastern side of the village. This results in the track becoming fouled by slurry/manure on a frequent basis and this was observed on my site visit.

13. I acknowledge the Council's concern that there is the potential for conflict between the future occupants of the proposed dwellings and Dollens Farm as a result of having to access the dwellings via the fouled track. The appeal site benefits from an additional access to High Street and it is proposed that this would be used as a pedestrian access. Therefore, it is likely that only trips within vehicles would be made along the track.
14. Dollens Farm already has an obligation, which can be enforced by the local highway authority to keep the right of way (track) clear of any obstructions. These are set out in the Council's officer report as padlocked gates, rubbish, barbed wire, slurry, manure, electric fences and chained or loose dogs. I accept that the proposal is likely to result in the track needing to be kept clear more frequently, however, this responsibility should be fulfilled on a regular basis in any event. This requirement as a result of the proposal does not introduce any further responsibility to the operators of Dollens Farm.
15. I accept the Council's view, however, that despite the best efforts and goodwill of the operators of Dollens Farm that there is likely to be circumstances when vehicles utilising the track to access the proposal will become fouled by slurry/manure. This is likely to result in vehicles needing to be washed more regularly, but I agree with the appellants that this would be a personal choice. Further, I am sure that the relationship with the neighbouring farm would be clearly evident to future occupants of the proposed dwellings when they viewed the properties before deciding to live within them.
16. Given the above findings and bearing in mind that no health concerns have been raised in relation to this matter, I consider that the proposal would provide suitable living conditions to future occupants. Therefore, I consider that the proposal complies with Policy ENV16 'Amenity' of the LP.

Dollens Farm

17. The Council and the operators of Dollens Farm are of the view that the potential conflict between future occupants of the proposed dwellings and the farm could result in the viability of the farm being compromised. However, there is no evidence of substance before me to support this view. Given this and my findings above in relation to living conditions, I consider that there is no reason before me to consider that the proposal would threaten the future viability of the farm and therefore weaken the economic role of the village or the desire to achieve sustainable development as defined in the Framework. To put it simply, the operators of Dollens Farm would simply need to undertake a responsibility that is already required of them. There is also no evidence to suggest that the security of the farm would be compromised.

Character and appearance

18. The appeal site is located on the settlement edge and currently accommodates some buildings of a commercial/industrial appearance, many of which appear derelict. I observed that the appeal site is set back behind the main road through the village (High Street), but does maintain a relationship with the village core through the views that are gained from High Street along the connecting access that is proposed to be the pedestrian access. The site is surrounded by residential properties and their curtilages to the south and east, Dollens Farm to the north and open countryside to the west. The site is located within the Sydling St Nicholas Conservation Area (the Conservation

Area) and within the wider West Dorset Area of Outstanding Natural Beauty (AONB)

19. Despite the appeal site's location in the AONB, the Council is satisfied that there would be no harm to the character, special qualities or natural beauty of the designated landscape, subject to securing the long-term management and maintenance of landscape features along the site boundaries. I agree with this view. Further, the Council has set out that given the previously developed nature of the site, it does not object in principle to the development of the site. The Council's concern relates to the form and design of the dwellings and the site layout.
20. The Cerne Abbas, Charminster, Sydling St Nicholas & Godmanstone Conservation Area Appraisal (the Conservation Area Appraisal) sets out that the plan form of the village is markedly linear and it is noted that most of the older houses run parallel to the road, on the highway edge or are set behind small front spaces, which I observed is particularly evident along High Street.
21. The appellants have set out that the design 'ethos' was to create a rural 'back lane' feel in order to pick up the existing characteristics of the village. The proposed dwellings would be orientated around the access roads, in largely linear manner and I agree that it would create a 'back lane'. Of particular importance is that the dwellings would be set close to the access road edge or set behind small front spaces in line with the existing pattern of development along High Street. Some concern has been raised in terms of density, particularly by the Council's landscape architect. However, whilst the proposal would be greater in density than the properties that immediately surround it, there are examples in the wider Conservation Area of similar densities. Of note is the Council's Conservation Officer's view that the density would pick up on the predominant development grain of the Conservation Area, thereby at least preserving its character. For the above reasons, I agree with this view.
22. The Council are of the view that the layout of the dwellings fail to reflect the more organic manner in which the existing dwellings along High Street follow the road. Whilst I accept that some of the proposed dwellings follow straight lines, there is some variation, such as Plots 1, 2 and 3 which follow a subtle curvature in the access road. I do not share the Council's view that Plot 3 sits uncomfortably, as it provides a natural orientation given those of the adjoining Plots 1 and 6. Further to this, the dwellings vary in size and there is a mix of detached, semi-detached and terrace properties, which in my view all contribute to the proposal's conformity to the organic nature of the existing dwellings along High Street.
23. The proposed dwellings incorporate modern fenestration. The appellants accept the windows and door openings are generally larger than other buildings in the village. I share the Council's concern, however, the proposal would be set back from High Street and would largely only be evident from within the development. I consider that this moderates the harm that would occur.
24. I accept that the Conservation Area Appraisal identifies that some of the problems that the villages experiences are: the potential loss of gardens and boundaries from the pressure for infill development, the poor relationship of some modern areas of development with the village core and some individual poor quality infill developments. In this case, there would be no loss of gardens, as none currently exist and the long term management of the site

boundaries has been secured through a planning obligation. In addition, for the reasons above, I consider that the proposal would have a suitable relationship with the village core and would not be a poor infill development.

25. The proposal would result in the removal of the existing commercial buildings on the site, which I observed are unattractive and incongruous within the local context. I agree with the Council's conservation officer that the proposal would be a vast improvement. Given all of the above, I consider that despite the modern fenestration of the proposed dwellings, the proposal would provide a minor enhancement to the character and appearance of the Conservation Area¹.
26. In conclusion on this main issue, I consider that the proposal would provide a minor enhancement to the character and appearance of the Conservation Area. The proposal therefore complies with Policies ENV10 'Landscape and Townscape Setting', ENV11 'The Pattern of Street and Spaces' and ENV12 'The Design and Positioning of Buildings' of the LP. I also consider that the proposal complies with the Framework and the Conservation Area Appraisal.

Sustainable development?

27. The Framework identifies that there are three strands to sustainable development: social, economic and environmental. The proposal would result in social benefits through the provision of 15 dwellings, of which 5 would be affordable units. There is a demonstrable need for affordable housing in the local area. There would also be some associated economic benefits associated with the construction of the dwellings and the future spending of the occupants, although these would be fairly modest.
28. In terms of the environmental role, I have identified that there is some conflict with the spatial strategy of the LP, in so far that the village has limited local services, facilities and available public transport. There will be a heavy reliance on a private motor vehicle for future occupants. On the other hand, I have identified that the proposal would be a minor enhancement to the character and appearance of the Conservation Area, through the removal of derelict buildings of commercial/ industrial appearance. Further, it is accepted that the appeal site constitutes previously developed land, which also goes in the proposal's favour.
29. Interested parties have raised a number of other concerns with regard to highway safety (including the access), proposed drainage and flood risk, rights of way and living conditions (loss of privacy of neighbouring dwellings). I have considered each of these matters carefully and as a result of the evidence before me and my observations on the site visit, I consider that with the imposition of necessary planning conditions, the proposal would not cause any harm in regard to these matters. I am also mindful that the Council share this view.
30. I consider that the benefits in the social and economic dimensions, along with the environmental matters that go in favour of the scheme, as set out above, outweigh the identified harm in terms of the lack of local services, facilities and public transport, the heavy reliance on a private motor vehicle and the development plan conflict with Policy SUS2 of the LP. This is in despite of the

¹ Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

presence of a five year housing land supply. I consider that the proposal therefore, on balance, constitutes sustainable development.

Overall Conclusion

31. For the reasons set out above and having regard to all matters raised, the proposal represents sustainable development and therefore the appeal is allowed.

Planning Conditions

32. I have considered the 16 suggested conditions against the tests set out within the Framework and the advice provided by the Government's Planning Practice Guidance and have amended them where required. In addition to those proposed by the Council, the standard time commencement condition is required and a condition is necessary that requires the development to be undertaken in accordance with the approved plans to ensure certainty.
33. To ensure the suitable appearance of the proposal, conditions are necessary that require: a schedule of external materials; details of the finished floor levels for each building; a landscape scheme; and details of the boundary treatments of each dwelling to be agreed with the Council.
34. In the interests of highway safety, a number of conditions are imposed that require: the access, geometric highway layout, turning and parking areas to be laid out before the permitted dwellings are occupied; the first 20 metres of the access crossing to be laid out before any other development commences; the visibility splay areas to be cleared/excavated to a level not exceeding 0.6 metres above the relative level of the adjacent carriageway; and the southern access to be modified to restrict use to vehicle users, other than emergency vehicles in accordance with a scheme that has been agreed with the Council.
35. To ensure sustainable development, a condition is necessary that requires a scheme showing precise details of the proposed cycle parking facilities to be agreed with the Council. To protect the living conditions of local residents, conditions are imposed that require a construction traffic management plan and a lighting strategy of the shared areas to be agreed with the Council.
36. In the interests of the drainage and flood risk, a condition is imposed that requires a foul and surface water management scheme to be agreed with the Council. To ensure that the development is acceptable in ecological terms, a condition is necessary that requires a biodiversity mitigation plan to be agreed and implemented.
37. Given the previous use of the site for industrial purposes and in the interests of health and safety of future occupants, conditions are imposed that require the production and implementation of a remediation scheme of works to remove any contamination within the appeal site.
38. The Council's suggested conditions for the necessary landscape scheme, construction traffic management plan and the contamination remediation scheme all included detailed requirements for their content. However, in the interests of brevity, I have removed such details from the conditions. This is because the Council ultimately has the power to discharge the conditions and can request the details that it deems reasonable to do so.

Jonathan Manning

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL001, GA-002 Rev PL3, GA-003 Rev PL1, GA-020 Rev PL2, GA-021 Rev PL2, GA-040 Rev PL1, GA-041 Rev PL1, GA-042 Rev PL1, GA-043 Rev PL1, GA-044 Rev PL1, GA-045 Rev PL1, GA-046 Rev PL1, GA-047 Rev PL1, PL-010 Rev PL1, PL-011 Rev PL1, PL-012 Rev PL1, A087082-SK03 Rev C and A087082-SPA01 Rev A.
- 3) No development shall take place until a schedule of external walling and roofing materials has been submitted to and approved in writing by the local planning authority.
- 4) No development shall take place until the finished floor levels for each building hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 5) The dwellings hereby permitted shall not be first occupied until a hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The approved landscaping scheme shall be implemented in the planting season immediately preceding the first occupation of the development.
- 6) None of the dwellings hereby permitted shall be first occupied until the proposed means of enclosure to its plot boundaries (other than soft landscaping) has been completed in accordance with a scheme which shall first have been submitted to and approved in writing by the local planning authority.
- 7) None of the dwellings hereby permitted shall first be occupied until the access, geometric highway layout, turning and parking areas shown on drawing numbers GA-002 Rev PL3 and A087082-SK03 Rev C have been constructed in accordance with a detailed specification that shall first have been submitted to and approved in writing by the local planning authority. Thereafter, the areas concerned shall be maintained, kept free from obstruction and kept available for the purposes specified.
- 8) No other development shall commence until the first 20 metres of the access crossing shown on drawing number A087082-SK03 Rev C, measured from the nearside edge of the carriageway, has been laid out and constructed in accordance with a specification that has been submitted to and approved in writing by the local planning authority.
- 9) No other development shall commence until the visibility splay areas as shown on drawing number A087082-SK03 Rev C has been cleared/excavated to a level not exceeding 0.6 metres above the relative level of the adjacent carriageway. The visibility splay areas shall thereafter be maintained and kept free from obstruction.

- 10) None of the dwellings hereby permitted shall be first occupied until the southern access shown on approved drawing GA-002 Rev PL3 has been modified to restrict use to vehicle users, other than emergency vehicles, in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority. Thereafter the access shall be maintained in accordance with the approved details.
- 11) No development shall take place until a scheme showing precise details of the proposed cycle parking facilities has been submitted to and approved in writing by the local planning authority. No individual house shall be first occupied until its associated cycle parking facilities have been provided in accordance with the approved scheme. Thereafter, the approved cycle parking facilities shall be maintained, kept free from obstruction and be kept available for the purpose specified.
- 12) No development shall take place until a Construction Traffic Management Plan and programme of works has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 13) No development shall take place until a lighting strategy setting out the lighting of shared spaces has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details, before any of the dwellings hereby permitted are first occupied.
- 14) No development shall take place until a scheme for managing foul and surface water has been submitted to and approved in writing by the local planning authority. Development shall be completed in accordance with the approved details.
- 15) No development shall commence until a Biodiversity Mitigation Plan (BMP) has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved BMP.
- 16) No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 17) No other development shall commence until the works set out in the approved remediation scheme has been carried out. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of the works identified in the approved remediation scheme, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the local planning authority.

- 18) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be submitted to and approved in writing by the local planning authority. Following the completion of works identified in the approved remediation scheme, a validation report that demonstrates the effectiveness of the remediation carried out, shall be submitted to and approved in writing by the local planning authority.

Richborough Estates