



Appeal Decisions

Site Visits made on 26 August 2021 and 28 October 2021

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal A Ref: APP/C3810/W/21/3275509

Land to the south of Ford Lane and East of North End Road, Ford BN18 0DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement, or approval to details required by a condition of an approval.
 - The appeal is made by Miss Tilly Whishaw of Redrow Homes Ltd against the decision of Arun District Council.
 - The application Ref Y/50/21/DOC, dated 16 April 2021, sought approval of details pursuant to condition No 8 of an approval Ref Y/82/20/RES, granted on 10 November 2020.
 - The application was refused by notice dated 20 May 2021.
 - The development proposed is 4.5ha of residential development comprising of 3.4ha of land for the erection of 100 No. dwellings (up to 30 (30%) affordable housing) together with 1.1ha of land set aside for public open space, strategic landscaping, 2.2ha of public open space, green corridors with vehicular access from Ford Lane & pedestrian/cycle access only from North End Road.
 - The details for which approval is sought are: Electric Vehicle Charging Strategy.
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Appeal B Ref: APP/C3810/W/21/3280238

Land south of Ford Lane and East of North End Road, Yapton BN18 0DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement, or approval to details required by a condition of an approval.
 - The appeal is made by Miss Tilly Whishaw of Redrow Homes Ltd against the decision of Arun District Council.
 - The application Ref Y/51/21/DOC, dated 16 April 2021, sought approval of details pursuant to condition No 8 of an approval Ref Y/82/20/RES, granted on 10 November 2020.
 - The application was refused by notice dated 20 May 2021.
 - The development proposed is 4.5ha of residential development comprising of 3.4ha of land for the erection of 100 No. dwellings (up to 30 (30%) affordable housing) together with 1.1ha of land set aside for public open space, strategic landscaping, 2.2ha of public open space, green corridors with vehicular access from Ford Lane & pedestrian/cycle access only from North End Road.
 - The details for which approval is sought are: Electric Vehicle Charging Strategy.
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Appeals A and B: Decisions

1. The appeals are dismissed.

Appeals A and B:

Preliminary Matters

2. Condition 8 states: 'No development above damp proof course (DPC) level shall take place until an Electric Vehicle Charging Strategy has been submitted and

approved in writing by the Local Planning Authority which identifies the nature, form and location of electric charging infrastructure to be provided across the development. The electric vehicle strategy shall then be implemented in accordance with the approved details, prior to first occupation.'

3. The Reason given for Condition 8 is: 'New petrol and diesel cars/vans will not be sold beyond 2040, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with Policy D DM1 and Policy QE DM3 (c) of the Arun Local Plan and the NPPF. It is considered necessary for this to be a pre-commencement condition to ensure that the requisite charging infrastructure is designed into the housing development and it is implemented.'
4. The Council's reasons for refusal in both appeals refer to 15 flats, but the appellant has confirmed that there are 16 flats, as shown on the plans.

Reasons

5. Policy D DM1 of the Arun Local Plan 2011-2031 (July 2018) (LP) seeks regard for several aspects of form and design quality including innovation, and to raise standards of design by embracing new technologies where a development has the potential to do so. LP Policy D DM1 also seeks adaptability, acknowledging diversity and difference, and for buildings and places to be flexible to future adaptation, including the changing needs of occupants. Criterion c of LP Policy QE DM3 aims for all major development to encourage the use of cleaner transport fuels through the inclusion of electric car charging points. The electric vehicle charging strategies in Appeals A and B would satisfy the thrust of LP Policies D DM1 and QE DM3.
6. Paragraph 107 of the National Planning Policy Framework (Framework) says that, if setting local parking standards, policies should take into account the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles. Framework paragraph 112 aims for development to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
7. The Arun District Council Parking Standards Supplementary Planning Document January 2020 (SPD) explains that the Council's standards for electric vehicle provision takes a hybrid approach using the West Sussex County Council Guidance on Parking at New Developments May 2019 and Arun District Council's Electric Vehicle Infrastructure Study (November 2017) (AVS). SPD paragraph 2.7 says that the minimum requirements for electric vehicle charging points (EVPs) in new development are set out in SPD Table 2.2. The AVS table relating to Provision of Parking Bays & Charging Points for Ultra-low emission vehicles (ULEV) in New Development (including Conversions) is included in SPD Appendix 1. Although there is nothing in Appendix 1 to say so, the Council has confirmed in its Statement of Case that Appendix 1 is part of its evidence base for the SPD, and that it is not part of the SPD.
8. During the appeal process the SPD was amended to deal with a 'typographical error'. Whilst SPD paragraph 2.8 and Table 2.2 referred to houses with a driveway and garage, and SPD Appendix 1 referred to a house with garage or driveway, paragraph 2.8 and Table 2.2 of the amended SPD refer to houses with a driveway or garage. For clarity, I shall deal with the appeals on the basis of the unamended SPD and deal with the amended SPD later.

9. SPD Principle 3 seeks a minimum provision of 'active' EVPs, with ducting provided at all remaining spaces where appropriate to provide 'passive' provision for these spaces to be upgraded in future. Passive provision involves the inclusion of necessary infrastructure underground to enable a connection to a charging point later, but it was not a concern in the Council's reasons for refusal. As Condition 8 is not a pre-commencement condition, I agree.
10. SPD Table 2.2 sets out a phased approach to the provision of EVPs in 2 categories, 'Houses with a driveway and garage' and 'All other developments'. Whilst SPD Table 2.2 seeks active EVPs in 100% of parking spaces for houses with a driveway and garage, the Council's reasons for refusal do not raise concern that more than one EVP should be provided for any one dwelling. As the requirements of low-emission and zero-emission vehicles depend on evolving technologies, I agree.
11. The proposed EVP is a single-vehicle smart charger designed for domestic residential purposes only, for drivers charging from home. So, its use would only be related to the house or flat where it is installed. No concern has been expressed about the type of EVP proposed, and I see no reason to disagree.
12. Appeal A applies SPD Table 2.2 on the basis of dwellings rather than parking spaces, so all 60 houses with a driveway and garage would each have one EVP. In addition, 8 dwellings (that is 20% of the remaining 40 dwellings, which are houses without a driveway and garage and the flats) would each have an EVP. These include 3 pairs of semidetached dwellings with parking bays mainly in front of their homes (that is 6 EVPs), one EVP for one end of terrace dwelling and one EVP for the parking space by the flats (that is 2 EVPs). This totals 68 EVPs as shown on the appellant's plan. The other houses would have no EVP, and as the type of EVP proposed could only be related to one of the flats, there would be no EVP provision for the other flats, or for visitors.
13. Appeal B applies SPD Appendix 1. From the appellant's data, the strategy would provide each house with a garage or driveway with one EVP (that is 62 EVPs), one EVP for one flat (as there are less than 50 flats), and 2 EVPs for one pair of semidetached houses (2% EVP provision for the rest of the parking spaces in the development, which is 20 visitor spaces and 44 others associated with flats and houses without a garage or driveway). This totals 65 EVPs as shown on the appellant's plan. As the use of each EVP could only be related to a specific house or flat, there would be no EVP for the remaining flats and houses, and none for visitors.
14. Referring to the flats as 'all other developments' in SPD Table 2.2 in its reasons for refusal in Appeals A and B, the Council says that 20% of the 15 (*sic*) flats should have EVPs (that is 3 EVPs).
15. In appeal A, there is no separate category for flats in SPD Table 2.2 and no reference to flats in SPD paragraph 2.8. As 'All other developments' includes all other houses without a driveway and garage and the flats, one EVP for one of the flats is acceptable.
16. In Appeal B, there are separate categories for flats in SPD Appendix 1, and one EVP would be numerically acceptable. The proposed type of EVP would not be a free standing weatherproof charger but as the Council says that the provision for flats in SPD Appendix 1 has been superseded by SPD Table 2.2, one EVP for one flat could be acceptable if 20% of all other development has an EVP.

17. The Council's reasons for refusal say that the parking spaces mainly in front of various dwellings are 'private driveways', but there is no definition of a 'driveway' in the SPD. A reasonable interpretation of a driveway is a route that would provide a 'way' for a vehicle to be driven to a destination. So, for the detached houses on, say, Plots 1 and 31, whilst those driveways could also be used for parking, they would provide a way for a vehicle to be driven to a detached or integral garage, so they are driveways. By contrast, the parking spaces mainly in front of most terraced and semidetached dwellings are just parking spaces. They are not driveways because they do not provide a way for a vehicle to be driven to anywhere else. Instead, these parking spaces, whether 'on-plot' or not, are destinations in themselves.
18. From the appellant's technical data, it seems that the EVP would be fixed to the dwelling or other robust structure within its plot, and the cable from it (either tethered or socketed) would be connected to the electric vehicle for charging. The siting of the EVPs is shown on the appellant's car charging points plans and all EVPs would appear to be fixed to a building. A cable connecting a vehicle in a parking space to a charging point at a building that crosses a path leading to other dwellings would be likely to present an unacceptable trip hazard for nearby occupiers and their visitors. Due to this possible hazard, the parking spaces that are separated from the houses by shared paths are not considered to be 'private driveways', so no EVPs have been provided for all or most of the houses identified in the Council's reasons for refusal in both appeals.
19. I have had regard to the Arun District Design Guide Supplementary Planning Document including Figure 161 and the Government's consultations on electric vehicle charging. Even so, as the paths between nearly all dwellings identified in the Council's reasons for refusal and the parking spaces closest to their homes could be used by occupiers of and visitors to other dwellings, and as the layout of the parking spaces for most semidetached dwellings is similar, those parking spaces could not reasonably be considered to be private driveways.
20. However, the appellant's point about the unacceptability of trailing cables crossing paths applies with similar force to occupiers of, and visitors to, most semidetached dwellings with an EVP, because, due to the siting of most EVPs, a charging cable would cross the path leading to the front door. Similarly, a cable to parking space U/A by the flats would cross a path that anyone might use. As the occupier of any dwelling might need to charge their vehicle at any time including after dark, trip hazards due to cables crossing paths to which anyone could have access, including those who may, say, be partially sighted or have restricted mobility, would not be acceptable.
21. The charging strategy in Appeal A would satisfy the numerical requirements of SPD Table 2.2. However, due to the potential trip hazards from charging cables crossing paths to which anyone could have access, the siting of the EVPs for some of the dwellings shown on the plan would not be acceptable. These include Plots 47, 80, 81, 82, 90 and 91, and the EVP for one of the flats.
22. The strategy in Appeal B would be contrary to SPD Table 2.2 because less than 20% of the remaining flats and houses without a garage or driveway would each have an EVP, and because the use of some EVPs, including the EVP at Plot 80 and the EVP for one of the flats, could present unacceptable trip hazards.
23. Regarding the amended SPD, the appellant says that the Council added an updated document to its website in roughly late August 2021. Irrespective of

changes to the Council's website, as there is no note in the amended SPD to say that it has been amended, what the amendments are, or under what authority it was amended, the amended SPD attracts little weight. Moreover, as the amended SPD would affect Appeal A only, and it would seek an EVP for each of only 2 dwellings with a driveway or garage, that shortage would not be sufficient reason on its own to dismiss the appeal. However, that would not overcome the harm identified above.

24. Thus, the proposed electric vehicle charging strategies in both appeals would not be acceptable. They would be contrary to the SPD, and Framework paragraph 130 which aims to ensure that developments will function well, and to create places that are safe, with a high standard of amenity for future users.

25. Therefore, I consider that the details of the Electric Vehicle Charging Strategy in Appeals A and B should not be approved.

Conclusions

26. For the reasons given, the appeals should be dismissed.

J Reid

INSPECTOR