



Appeal Decision

Hearing Held on 18 and 26 July 2023

Site visit made on 18 July 2023

by Philip Mileham BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/N1730/W/22/3308614

Land at Dunleys Hill, Odiham, Hook, Hampshire RG29 1TJ

- 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 Avant Homes Ltd against the decision of Hart District Council.
 - The application Ref 22/00146/OUT, dated 19 January 2022, was refused by notice dated 12 September 2022.
 - The development proposed is described as outline planning permission for up to 33 residential dwellings with all matters reserved except for access.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appeal proposal has been made in outline form with all matters reserved except for access. An illustrative concept masterplan has been submitted and I have determined this on the same basis.
3. During the appeal, a revised site location plan was submitted which removed a small area of unregistered land containing a line of mature trees. As this would not materially affect the appeal proposal it was accepted.
4. During the course of the hearing, it became apparent that following receipt of comments from the Council in respect of the proposed Unilateral Undertaking, a number of changes were likely to be agreed between the parties. As these matters were likely to result in significant amendments to the Unilateral Undertaking, it was not appropriate to deal with these matters in writing. Therefore, the hearing was adjourned to allow further exploration of the amended obligations and related conditions. This was duly carried out as a virtual hearing session on 26th July.
5. The signed Unilateral Undertaking was subsequently submitted on 2nd August as requested.

Main Issues

6. The main issues are:
 - Whether the proposed development would be in a suitable location for new housing having regard to local and national policy;

- Whether the proposed development would preserve or enhance the character or appearance of the Odiham Conservation Area; and
- The effect of the proposed development on flood risk having regard to surface water drainage.

Reasons

Suitable location

7. The appeal proposal is located on the edge of the village of Odiham and would cover the site allocated by Policy 2(v) of the Odiham and North Warnborough Neighbourhood Plan (NP) for approximately 30 dwellings. The appeal proposal is for up to 33 dwellings, albeit there is no dispute between the main parties that Policy 2 does not place a ceiling on the number of dwellings. However, the proposal's site area would also extend beyond the defined settlement policy boundary to the north and east. Policy 1 of the NP supports proposals that would be within the settlement boundary of Odiham as defined on the Policies Map. As the proposal would extend beyond the settlement and allocation boundary, it would fail to accord with Policy 1 in this regard.
8. The illustrative concept masterplan shows where the proposed residential development could be located on the site. However, the masterplan indicates that some of the proposed dwellings could be sited to the north beyond the defined settlement boundary. As site layout is not fixed, the proposed residential development could be located closer to the existing residential development stretching south along Dunleys Hill from North Warnborough. Whilst the proposal would still retain some separation to North Warnborough, the most southerly tip of development at North Warnborough would not have as much separation than if the appeal scheme were entirely within the confines of the NP allocation. Glimpsed views of the appeal proposal would be possible through vegetation along Dunleys Hill, and I find that the projection of further built development would increase the sense of enclosure between the villages when viewed from the road by passing traffic and pedestrians, contrary to policy 12(ii) of the NP which seeks to avoid harm to valued local views and vistas.
9. The defined local gap identified in Policy 3 of the NP seeks to preserve the separation between Odiham and North Warnborough as a result of the undeveloped land within the Conservation Area to the east of Dunleys Hill, and the land to the north and west of the appeal site. However, the proposal would develop part of the gap resulting in an increased sense of enclosure between the two villages in an area where the defined local gap would be around one of its narrowest points. This enclosure would also result in a sense of coalescence between the settlements contrary to the requirements of Policy 3 of the NP which seeks to resist proposals that would result in visual coalescence between Odiham and North Warnborough.
10. The concept masterplan shows the eastern part of the site area as being for open space. Concerns have been raised that the appeal proposal would not secure the expectations of paragraph 3.78 of the supporting text of Policy 14 of the NP for a wider area of 3.48 hectares of land between the appeal site and the village of North Warnborough to be transferred to community ownership as open space. Whilst Policy 14 allocates land at Dunleys Hill as open space, neither the text of Policy 2 or Policy 14 of the NP contain any provisions to

secure the development or transfer of the wider area of open space into public ownership. However, the appeal proposal would nonetheless encroach onto land allocated for open space to which the concept masterplan shows could be developed with residential dwellings. As such, the proposal would conflict with Policy 14 in this regard.

11. Policy 14 of the NP envisages the potential for some buildings or structures on the wider 'gap' land beyond the settlement policy boundary. However, any such buildings, structures or surfacing would be associated with recreational uses and thereby be read by passing pedestrians or motorists as being such. The extent of the proposed residential development beyond the allocation boundary would bring the visual effects of domestic paraphernalia closer to North Warnborough resulting in the proposal being more visually prominent than if it were within the allocation boundary. Furthermore, domestic paraphernalia which could include items such as washing lines or refuse storage would have a visually different effect than the recreational or functional maintenance buildings that criterion iii of Policy 14 envisages.
12. The sketch plan for the site allocation within the NP shows one particular design solution for the site. However, concerns have been raised that if the NP sketch were followed, it would not provide a suitably attractive layout in design terms or include adequate space for drainage. The indicative plan provided with the appeal proposal does not indicate that the proposed number of dwellings could be accommodated within the NP allocation boundary. Furthermore, no parameter plans or density plans have been provided which could be subject to the imposition of planning conditions which could provide control over where buildings would be located on the site. As the design detail of the development is not fixed by the outline proposal, it is unclear whether the residential element could be contained within the settlement boundary or whether alternative design solutions may be possible which could avoid harm in terms of coalescence. I therefore find that the proposal would fail to accord with Policy 2 of the NP in this regard.
13. In light of the above, the proposal would not be in a suitable location for new housing having regard to local and national policy. The proposal would thereby conflict with policies SD1, SS1 and NBE1 of the Hart Local Plan (Strategy and Sites) (2020) which seek to support the delivery of new homes through Neighbourhood Plans, focus development within defined settlements and within settlement boundaries. It would also fail to accord with Policies 1, 2, 3, 12 and 14 of the NP for the reasons set out above.

Preserve or enhance character and appearance of Conservation Area

14. The proposed development would be located outside of the Odiham Conservation Area (CA) albeit it would be within its setting. The Odiham CA is designated for, amongst other things, its medieval street patterns, timber framed buildings and the southern section of the former royal deer park. The views across the CA also contribute to its setting along with the open space beyond its boundaries.
15. The proposed development would be sited opposite a petrol station and a residential development which have been identified in the Conservation Area Appraisal (2022) (CAA) as buildings not otherwise contributing to its significance. The appeal proposal would result in the loss of a currently undeveloped area of land outside the CA and would reduce the opportunity for

some glimpsed views of the CA from Dunleys Hill. However, when viewed looking south along Dunleys Hill, the proposal would principally limit views of developments within the CA that do not contribute to its significance.

16. The proposed development would, when viewed looking west from the edge of the CA from Dunleys Hill in the vicinity of the former deer park, restrict views across the towards the western field boundary. The proposal would also result in a greater sense of enclosure than if it were confined within the allocation boundary by reducing the sense of openness and space found in this part of its setting. However, the space in this part of the setting of the CA would not be significantly reduced by the proposal to the extent there would be any harmful effect on the CA. As such, the proposal would preserve the character and appearance of the CA.
17. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area, to which I attached considerable importance and weight.
18. In light of the above, the proposal would preserve or enhance the character or appearance of the Odiham CA. It would therefore accord with Policy NBE8 of the Hart Local Plan (Strategy and Sites) (2020) (the HLP), saved Policy GEN1 of the Hart District Local Plan (Replacement) (2002) (HDLPR) and Policy 6 of the NP which seek to sustain significant views that contribute to the character and appearance of the conservation area and include provision for the conservation or enhancement of the District's historic heritage.

Flood risk

19. The appeal proposal was submitted with a Flood Risk Assessment and drainage strategy (FRA) which identified potential sources of flooding which may affect the site. The appeal site was identified as being subject to a surface water flow route running broadly north to south across the site. The illustrative concept masterplan shows that the site could be developed by providing a green corridor of around 20 metres through the site which could take into account the surface water flow route.
20. Concerns were raised that no information had been submitted with the appeal proposal to demonstrate that ground conditions were suitable to allow infiltration Sustainable Drainage Systems (SUDS) to be effective in respect of surface water drainage. However, paragraph 2.16 of the FRA references a separate site investigation document which includes soakaway testing. Furthermore, the FRA indicates that the geology of the site would be capable of supporting infiltration provided this is located within the areas of chalk soil on site. The FRA reflects the findings of the infiltration evidence which confirms infiltration would be a viable outfall strategy for the site. As such, I am satisfied that an acceptable drainage solution could be implemented.
21. A proposed condition has been suggested which would secure a detailed surface water drainage strategy which would be provided to accompany future reserved matters applications. This would also enable the detailed strategy to influence any finalised site layout which is not currently fixed by the outline proposal. As such, if I were minded to allow the appeal, I consider this matter could be satisfactorily addressed by the imposition of such a condition.

22. Concerns were also raised during the hearing in respect of the capacity of the foul water network to accommodate the proposed development. The FRA indicates that the foul drainage from the site would be discharged into the public foul sewer crossing the site. However, foul water is a matter for the sewage undertaker who has not raised concerns in respect of the appeal proposal.
23. In light of the above, the proposal would not have a harmful effect on flood risk having regard to surface water drainage. It would therefore accord with Policy NBE5 of the HLP and Policy 12 of the NP which indicate that development should be permitted providing it would not increase the risk of flooding elsewhere and that development will be safe from flooding and where applicable, include mitigation measures where flooding from any source could occur on site.
24. The proposal would also accord with paragraph 167 of the Framework which seeks to ensure, amongst other things, that proposals are appropriately flood resistant and resilient and ensure that flood risk is not increased elsewhere.

Other matters

25. The appeal proposal includes highway access which is shown on the submitted plans. Following receipt of a further technical note, the Local Highway Authority no longer has concerns regarding access subject to the appellant entering into an agreement under Section 278 of the Highways Act and through the imposition of a condition to secure access works. If I were minded to allow the appeal, the requirement to enter into an agreement under Section 278 would be secured by the Unilateral Undertaking. Subject to such an agreement and the imposition of the aforementioned condition, I find that the proposal would accord with policies NBE9 and INF3 of the HLP, and GEN1 of the HDLPR which seek to, amongst other things, provide safe access. It would also accord with paragraph 111 of the Framework which indicates that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety.
26. Concerns had been raised that the proposal did not provide adequate information in respect of the incorporation of any renewable or low carbon technologies to reduce Carbon Dioxide emissions or the reduction in energy consumption. However, this matter would be capable of being addressed through the imposition of a suitably worded condition if I were minded to allow the appeal. As such, the proposal would accord with Policy NBE9 of the HLP which seeks to reduce energy consumption through sustainable approach to building design and layout and that proposals incorporate renewable or low carbon energy technologies. For the same reasons it would also accord with paragraph 157 of the Framework.
27. Concerns have been raised regarding the effect of the proposal on the living conditions of neighbouring residents and the capacity of local infrastructure to support the development. However, as I am dismissing the appeal for other reasons, these matters are not considered further.

Planning balance and conclusion

28. The proposal would provide benefits as a result of the construction of up to 33 additional dwellings, including 8 of these which would be affordable rented

units and 5 shared ownership units. These dwellings would make a contribution to meeting housing need in the local area. Economic benefits would arise as a result of the construction jobs created by the proposal and in the materials supply chain albeit these would be temporary during the construction period. Social benefits would arise as a result of future occupants utilising local services and facilities and contributing to community activities. There would also be environmental benefits arising as a result of the proposed biodiversity net gain of around 15% according to the Council's figures. I ascribe the collective benefits above moderate weight.

29. I have found that the proposal would preserve or enhance the CA and accord with policies relating to flood risk. However, as set out above, the proposal would conflict with the policies of the development plan relating to the site allocation, the location within the defined settlement boundary, the defined local gap and the open space allocation. Therefore, I find that the proposal would not accord with the Development Plan when read as a whole.
30. There is agreement between the parties that the Council can demonstrate in excess of 5 years supply of housing required by the Framework and therefore that the Framework's tilted balance is not engaged.
31. Overall, I do not consider that the other considerations identified are of sufficient magnitude to outweigh the conflict I have identified with the Development Plan in this instance.
32. In light of the above, the appeal is dismissed.

Philip Mileham

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Mike Holmes – Kember Loudon Williams
Mr Charles Banner KC – Counsel for the appellant
Mr Ignus Froneman – Cogent Heritage
Ms Lucy Moxon – Glanville Consultants
Ms Vicky Walsh – Transport Planner, Glanville Consultants
Ms Lindsay Ramsden – Avant Homes
Ms Priya Patel – Solicitor, Avant Homes

FOR THE LOCAL PLANNING AUTHORITY:

Mr Miguel Martinez – Principal Planner, Hart District Council
Mrs Pippa Moore – Team Leader, Hart District Council
Ms Emma Bethel – Solicitor, Hart District Council

INTERESTED PERSONS:

Councillor Pamela Verdon – Odiham Parish Council
Mr John Fleming – Committee Member, Whitewater Valley Preservation Society
Mrs Helen Fleming - Resident

DOCUMENTS:

Amended site location plan – LP.01 Rev B3
Revised Unilateral Undertaking received 2nd August 2023

Richborough