



Appeal Decision

Hearing held on 8 and 9 April 2025

Site visit made on 8 April 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd of May 2025

Appeal Ref: APP/C3810/W/24/3356352

**Land to the rear of Meadow Way, Westergate, Chichester, West Sussex
(Easting: 493620 Northing: 104816)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval to details required by a condition of an outline planning permission.
 - The appeal is made by Redrow Homes against the decision of Arun District Council.
 - The application Ref AL/50/24 sought approval of details pursuant to condition No 1 of outline planning permission Ref AL/178/22/OUT, granted on 08 December 2023.
 - The application was refused by notice dated 14 August 2024.
 - The development proposed is demolition of 24 Meadow Way, for the construction of up to 89 residential dwellings, with access taken from Meadow Way, together with the provision of open space, landscaping and associated infrastructure.
 - The details for which approval is sought are: the appearance, landscaping, layout and scale (pursuant to outline permission AL/178/22/OUT) for the construction of up to 89 residential dwellings, open space, and associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Redrow Homes against Arun District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Prior to the Hearing, I agreed that no prejudice would be caused to any party if the appeal was considered on the basis of amended drawings. These were the drawings submitted prior to the Council's decision but which the Council had not taken into account. These drawings sought to address a number of issues raised by the Council and which were cited in the decision notice. These related to various matters including lighting, biodiversity, electric vehicle charging. The Council confirmed prior to the Hearing that it would no longer seek to pursue those matters at the appeal.
4. It was also confirmed prior to the Hearing that the electricity sub-station could not be repositioned due to the location of the existing infrastructure. As a result, subject to landscaping, the Council withdrew its objection to this aspect of the scheme.
5. At the Hearing, following the submission of two addendums to the Statement of Common Ground, the Council agreed that it no longer wished to defend reasons

for refusal 2 (highway safety) and 3 (drainage). The matter of drainage was, at the request of the Parish Council, discussed at the Hearing.

Main Issue

6. The remaining reason for refusal raised a number of concerns with the way in which the proposed scheme was laid out and the effect of its overall design on the character and appearance of the site and wider area. This was therefore the main issue in this appeal.

Reasons

7. I address below the various issues raised in the remaining reason for refusal.

Location of Affordable Housing

8. Policy H DM1 of the Arun Local Plan 2018 (ALP) and Policy H4 of the Aldingbourne Neighbourhood Plan 2021 (ANP) both require appropriate provision to be made for affordable housing on major developments. There is no dispute that the scheme addresses this matter and provides a policy compliant mix of affordable housing types and tenures.
9. Policy H4 of the ANP also requires affordable housing to be indistinguishable from market housing. Policy AH SP2 of the ALP, which is referenced in the officer report and appellant's statement but not in the Council's decision notice, requires a similar approach. Policy AH SP2 goes further, specifically noting that large groupings of single tenure dwellings or property types should be avoided. Small clusters of affordable housing units throughout development schemes shall be permitted although the policy does not define what constitutes a small cluster.
10. While there are a number of different affordable housing tenures within the scheme, they are all positioned along the southern boundary of the site and accommodated within either terraces or the flatted building. With the exception of units 68-70, no open market housing is located next to the southern boundary or provided in the form of terraced houses or flats.
11. There is no dispute between the main parties that one of the overall approaches to developing the site should be for the density to be higher in the southern part of the site. Thus, there is some logic in focussing the affordable housing in the southern parts of the site, where they comprise some of the smaller dwellings.
12. However, as was pointed out at the Hearing, some of the affordable housing units are larger than some of the open market housing. This, to my mind, suggests that some of these units could certainly have been located further away from the southern boundary without upsetting the general approach of the site density lowering from south to north.
13. There is no evidence before me to demonstrate that this would, for example, affect viability if some of the affordable units were to filter further into the site. I am also not persuaded that the layout or appearance of the scheme would be adversely affected by such a re-configuration, particularly as the Council also has no objection to the design or external appearance of the affordable houses per se.
14. The affordable housing is not accessed via a single point of entry but through separate cul-du-sacs off the main spine road, with the flats having their own

access/parking area. However, this does not disguise the fact that the affordable units would all be at the end of the cul-du-sacs and thus concentrated along the site's southern boundary.

15. Furthermore, while the design of the properties is not in dispute, it is nonetheless noticeable that the affordable houses are, with the exception of Nos 68 – 70, the only terraced houses. Whichever point of entry were used from the footpath along the site's southern boundary, the housing would be terraced and so to some extent clearly distinguishable from the housing further to the north which are all the open market houses.
16. In reality, the layout is such that the affordable housing would, with the possible exception of plots Nos 68 - 70, be easily distinguishable from the open market housing. While the site's context and affordable housing mix will inherently create some limitations as to where the affordable housing can be located, it is conspicuous in having been positioned along the site's southern boundary. As such, it could not be described as having been sufficiently dispersed through the site. The clustering of the affordable houses along the southern boundary, as opposed to a more balanced spread through other parts of the site would work against the aims of local policies and the Framework in creating mixed and balanced communities. This weighs heavily against allowing the proposal.

Flatted Development

17. Units 81 – 89 would be accommodated within a block of flats located at the site entrance from Meadow Way. The building would be two and a half storeys and have a ridge height of 10.9m. This height accords with the Parameter Plan that formed part of the outline permission.
18. As it is the first building that is seen upon entering the site and as it sits on its own separate space, it would be prominent. At the Hearing it was explained that the flats would form an arrival building that provides a focal and wayfinding point.
19. In my opinion this prominence highlights the importance of ensuring the building embodies good design and makes a positive contribution to the area around it. Unfortunately, the appeal proposal would fail to meet with these objectives.
20. It would appear as a bland and unimaginative over-sized block lacking in showing any meaningful relationship to its surrounds. I recognise that some of the materials would be used in other buildings across the site. However, even with this the elevations would look bulky with the fenestration pattern giving the front and roadside elevations a horizontal emphasis which adds to the blandness and offers little design-integrated articulation.
21. Although it was described as an arrival building, its design and main entrance fail to directly address the road, with it being angled and positioned so that it is surrounded on two sides by parking/access road with its only communal space being to the front of the building. In combination this would give it an air of the building having been squeezed onto the site, with little thought to its context.
22. While I acknowledge that a two and a half storey building could be acceptable here, the appeal scheme would look over-ordinary and appear at odds with the scale and thus character of the surrounding development. It would not be a positive focal point. This also weighs heavily against the scheme.

23. I saw on my site visit an example of a two and a half storey flatted building in Pine Close that was surrounded by two storey houses. However, it did not appear comparable in scale and massing and has not harmed the character and appearance of that site in the same way as the appeal scheme would do.
24. At the Hearing it was suggested that in order to meet the Council's requirements for communal garden space for the flats, the area of land to the front of the building could be given over for that purpose. The Council accepted this approach and confirmed that the matter could be addressed through a condition. However, while this might overcome the lack of garden space for future occupants, it would not overcome the harm caused by the building to the wider character and appearance of the site.

Open Space and Tree Planting

25. The Parameter Plan attached to the outline permission set out broadly that the residential development would occupy the western and central parts of the site. The main green infrastructure and open space areas were located to the eastern end but also extended along the northern and southern boundaries and included the western entrance to the site.
26. The scheme as amended provides a total of 7,706m² of open space, including 1,097m² of play space provision. These figures exceed the requirements of the 'Open Space, Playing Pitches, Indoor and Built Sports Facilities' Supplementary Planning Document (SPD), whose use is endorsed by Policy OSR DM1 of the ALP.
27. The appellant acknowledged that there was no separate area of amenity space provided. However, they indicated that amenity space was wrapped up with the natural space on the eastern side of the site and thus the overall amount of space exceeded the SPD requirements.
28. The Council questioned the validity of including the strips of land along the northern and southern boundaries within the calculations. However, they accord with the Parameter Plan, and I see no reason not to count them as part of the overall green infrastructure provision for the site.
29. Aside from this, the Council's main concerns in respect of the open space provision was the lack of a second play area and that the provision was concentrated in the east. At the Hearing it was agreed that an outdoor fitness trail within the proposed open space would overcome the need for a second play area and that this could be secured by condition.
30. Nevertheless, the Parameter Plan clearly sets out that the development area is to include, amongst other things, open space and landscaping. Although it was suggested at the Hearing that the grassed areas and tree planting within the development area provided the open space, these would generally comprise small strips of grass with some trees planted within them. To my mind, whilst they would offer some landscape value, they would be a feature often found and expected within housing layouts. They would not however be usable open space and in practice it would be difficult to see how they would fulfil that function. In this respect the layout would not accord with that intended by the Parameter Plan.

31. Whilst the scheme overall would provide for more than the minimum requirement for open space, play space, green infrastructure, landscaping etc. good quality design should not all be about the quantity. It is also about how and where it is provided and thus the overall quality of the environment that is created. This all adds weight to my concerns as to the overall approach to how the site has been laid out and the extent to which the development would result in a high-quality, well-designed place.
32. With regard to the tree planting specifically, there is no dispute between the main parties that across the site as a whole, the number of trees exceeds the policy requirements. It was clear from the discussions at the Hearing that there was a specific methodology to the planting scheme and why particular trees were chosen for certain locations. This would help to ensure the trees adapted to their context and required less maintenance.
33. Therefore, while the tree planting scheme in itself would provide some landscaping benefits to the site as a whole, it would not overcome the concerns identified above and the deviation from the Parameter Plan, which all add further weight against the scheme.

Interface Distances

34. The Council was concerned with the relationship between a number of proposed properties and that the distances between them contravened guidance within the District Design Guide SPD (2021). It was explained at the Hearing that this SPD's focus on distances between properties is designed to both prevent overlooking and to help create a sense of space.
35. It was acknowledged that a number of the Council's overlooking/privacy concerns could be overcome through conditions and the use of obscure glazing, without this compromising internal living environments. Therefore, the main concerns were with regard to the overall design of the site and the relationships between the flats and plot 5, and the houses opposite each other along the site's main spine road.
36. It was suggested by the appellant that the main spine road narrows once it passes the flats and the open space which helps to draw the eye and create a focal point around the flats. Given my observations on the flats, I do not consider this to necessarily be a benefit of the scheme.
37. Reference was made to the nearby Toop Gardens, where interface distances were said to be 11.3m. However, this is a relatively short road and as the Council pointed out, it pre-dates the current SPD. In contrast, the spine road along the appeal site would be longer and have more houses in close proximity to one another, thereby creating a more intensive and built-up character.
38. I acknowledge that the SPD is only guidance, but it nevertheless appears to have been a conscious attempt by the Council to try to achieve better environments for future residents. It seeks a minimum distance between the fronts of properties of 16m. Having some flexibility in applying these requirements can be of value and allows, for example, schemes to respond to existing environments or provide some variety in the street scape.
39. However, in this case the reduced interface distances along the main spine road would give the impression of an over concentration of housing along this central

core and on the southern parts of the site. This does not particularly reflect the site's edge of village location or create a seamless transition of density across the site.

40. In addition to layout, good design promotes quality of life for occupants, and this includes matters such as privacy. It would be only a relatively small number of dwellings that would not meet the separation distance of 16m and have direct window to window positioning. However, separation distances of 12 - 13m would no doubt compromise some of the privacy of future residents of these properties.
41. There is no evidence to indicate that a housing design and layout could not have achieved a well-designed street scape appropriate for the area while still maintaining acceptable distances. None of this therefore points towards the scheme functioning well and adding to the overall quality of the area for the lifetime of the development. This reinforces my concerns about the scheme.

Protected Trees

42. The western boundary of the site contains some protected trees which would overhang a number of proposed rear gardens. In particular, plots 38, 46-48 would be most affected.
43. The Council suggested that a 2m buffer zone should be applied along the site's western boundary to safeguard the overhanging protected trees. While it was not a specific requirement of the Parameter Plan it was open to the appellant to provide it as part of the overall open space provision within the development area. However, the absence of such a buffer is not an impediment to the scheme as I see no reason why a protected tree cannot overhang a garden. Therefore, the absence of such a dedicated buffer zone does not weigh against the proposal.
44. The reports submitted by the appellant indicated that the trees would not unduly restrict sunlight/daylight to the gardens of the affected properties. The Council did not challenge these reports. Furthermore, permitted development rights can be restricted in any affected plots to prevent building works impacting root protection areas. Therefore, the main concern would be leaf, twig and other detritus dropping from the trees and whether this would lead to pressure for pruning or removal.
45. In the case of plot 38, a large protected oak would overhang the northwestern corner of the rear garden. However, the property would benefit from a large garden and being adjacent to the open countryside, future occupiers could reasonably expect some natural debris in a small part of their garden.
46. For plots 46-48 their context would be slightly different, being a terrace of three properties in the southwestern corner of the site. Plot 48 is unlikely to be particularly affected given the size and position of its garden. However, Plot 46 has one of the shortest lengths of rear gardens within the scheme yet some of it would be affected by the trees on the western boundary. Plot 47 would have a significant portion of its rear garden being overhung by the trees. The situation is likely to cause some inconvenience to the occupiers of these two properties and thus some pressure for pruning or removal of the trees in question. This attracts a small amount of adverse weight.
47. I have had regard to the appeal decisions presented to me on this matter. However, the nature of the issue is heavily dependent upon the particular

circumstances of the case and such matters as the relationship between the property and the tree, the size of the garden and how much of the garden might be affected. Therefore, these other decisions are not directly applicable.

48. It was also suggested that having houses generally located along the western boundary in close proximity to the protected trees would prejudice the trees' public amenity value. Given that the site has planning permission for up to 89 houses, views of the trees would inevitably be interrupted by new houses, regardless of the precise layout or exact number of dwellings. There was no information to demonstrate that the appeal scheme would be any more impactful than any other layout when considering the wider public amenity benefit of the protected trees.

Garden Depths

49. The rear gardens of four plots were highlighted as being below the 10.5m in length, as required by the Council's SPD. The Council explained at the Hearing that this requirement is partly to ensure sufficient distances between occupiers but also to ensure there was sufficient garden space for residents to enjoy.
50. Two of the plots in question do not back onto other dwellings and the two that do, maintain a minimum of at least 21m between habitable room windows. As such, these shorter gardens would have no impact on the privacy of future occupiers.
51. With regard to the amount of space the gardens provided, it was noted that in the case of plot 77, which at 8.6m would be the shortest garden within the scheme, provided some 52m² in area. In contrast, there were said to be at least three other nearby properties that would have gardens of at least 10.5m in length but provided less overall outside area. Two of the examples quoted were smaller houses with fewer likely occupants and so the use of the outside space would be less compromised than plot 77. However, the Council acknowledged that for the purposes of this appeal, it could be considered that this represented a reasonable justification to accept the length of the proposed gardens.

Accessible Parking

52. It was indicated at the Hearing that focussing the majority of the accessible car parking spaces at the eastern end of the site was in part a response to the open space and flats being in this area. However, even accepting that, there was no particular logic for two accessible spaces to be positioned alongside plot 10. While it was also noted by the appellant that properties on the western end of the site would all have driveways, this would be equally applicable to houses on the eastern side of the site.
53. A stretch of the main spine road alongside Plots 32 and 33 would potentially allow for some on street parking, something which given the positioning of driveways might be less easy to achieve elsewhere on the site. However, this would not be limited just to those needing accessible parking.
54. The scheme clearly does not provide an even spread of accessible parking spaces across the site, with seemingly little rationale for where many of the spaces are positioned. In itself this is not a factor which weighs heavily against the scheme, but equally does not suggest a particularly clear design vision for the site.

Character Areas

55. The overall density of the site is considered acceptable. The layout proposes a north/south split with the northern edge being looser in the placement of houses, which have more space around them than the more structured and denser layout of the houses to the south.
56. In itself, there is nothing objectionable in seeking to achieve a more spacious layout at the northern edge of the site as it is adjacent to open countryside. However, as a whole the spacious layout on the northern parts of the site would be achieved to the detriment of other parts of the site.
57. The play area, open space and tree planting would provide a green and spacious eastern entrance into the site. However, the absence of open space elsewhere on the site and the narrow spine road creates a noticeable concentration of built form, particularly on the southern half of the site.
58. Added to this, there are no memorable features or groupings of buildings which create a sense of cohesion or give the development any clear legibility. Indeed, aside from the flatted building, the most obvious differentiation are the terraced houses, which are all located along the southern boundary of the site and so likely to be identified as being the affordable housing.
59. The lack of any coherent approach to the provision of accessible parking, together with the need to have some short rear gardens and two gardens which are significantly overhung by protected trees are, to my mind, a further indication of the layout not having had sufficient regard to its context and therefore, requiring these compromises to be made. I acknowledge that they could be seen individually as small transgressions but they only serve to re-emphasise the concerns as to the overall approach to how the site has been laid out.
60. The underlying design objectives in the Framework, and which are broadly reflected in the local policies, are for new development to create well-designed and well-built places that benefit people and communities. There is not a sufficiently strong basis to conclude that the scheme meets these objectives.

Conclusion

61. The outline permission allows the site to be developed for up to 89 houses. This can also include buildings up to 2.5 storeys in height. However, the outline permission does not specify exactly how this is to be realised or even that this number and height must be achieved. They are merely limits to the permission.
62. Thus, the reserved matters process is required to examine the specific details of a scheme and ensure that the selected approach whilst not breaching the terms of the outline permission does not, amongst other things, cause harm to the character and appearance of the area.
63. In this particular case, I have found that although the scheme does not breach the limits of the number of units nor the maximum heights allowed, it does not achieve a sufficiently high standard of design and layout and so causes harm to the character and appearance of the site and wider area.
64. In view of the above, the proposal would conflict with Arun Local Plan policies OSR DM1, D SP1, D DM1, ENV DM4, QE SP1 and AH SP1; and Aldingbourne

Neighbourhood Development Plan policies H3, H4, H8, EH6 and GA3. These policies require, amongst other things, developments to generally contribute positively to the quality of the environment and have regard to local character and context, but also ensure affordable housing is indistinguishable from open market housing, appropriate open space is provided, protected trees are safeguarded, individual gardens are not prejudiced and that there is convenient car parking.

65. In addition to the conflict with the SPDs, the proposal would not accord with the Framework's objectives of developments being well designed and which establish a strong sense of place and do not undermine the quality of life or community cohesion.
66. In reaching the above conclusions I am mindful that this does not mean that a different scheme for 89 houses that includes buildings of 2.5 storeys would necessarily be unacceptable.

Other Matters

67. The Council acknowledges that it is unable to provide a five-year supply of deliverable housing land. At the Hearing the parties agreed that the current figure should be taken as 3.41 years, which would weigh significantly in favour of the proposal.
68. The Council did not seek to defend reason for refusal 3 (drainage). Nevertheless, at the Hearing the Parish Council highlighted a number of concerns it still had around this issue. These included the provision of infrastructure and capacity in the area to support the development generally. Concerns from flooding, which could occur from surface water run-off into local drainage ditches were also identified. These fears were further underpinned by an unease as to the rainfall data that was used which was said to include some years which had abnormal rainfall figures.
69. The substantive technical information before me indicates that the development could be undertaken without there being a flood risk. The issues raised by the Parish Council, and some local residents too, are legitimate concerns but there is not the information before me to indicate that these issues will arise or that the scheme would not be capable of addressing them if they did.
70. Furthermore, while drainage can have implications such as how a site would be laid out or where landscaping/planting can be located I am mindful that drainage is not a reserved matter. Moreover, given that drainage is addressed through the comprehensive conditions 10, 11 and 12 attached to the outline permission, a more detailed and technical discussion would seemingly be appropriate as and when applications are made pursuant to those conditions. It is therefore a neutral issue in this appeal.
71. More generally, the appellant notes that there are now no objections from statutory consultees to the scheme. However, this does not mean that no other harms will arise as a result of this proposal. The absence of objections may have reduced the potential obstacles to the site's development but does not, of itself, weigh in favour of the scheme.

Planning Balance

72. The Council cannot demonstrate a five-year supply of deliverable housing sites. The evidence indicates that the figure has risen since the outline planning permission was granted but nonetheless is still short of what is expected by national policy.
73. The balance required by paragraph 11 d) of the Framework was undertaken at the outline application stage. Nevertheless, a planning balance still needs to be undertaken of the proposal, and there are matters which weigh in its favour.
74. The proposal would support the Government's objective of significantly boosting the supply of homes, including the affordable housing although this provision was established at the outline stage. The dwellings would include solar and air source heat pumps for future residents and as a whole the scheme would be a low carbon development. The site would be in a sustainable location but this was a consideration at the outline stage and does not specifically relate to the reserved matters.
75. There would be a biodiversity net gain evaluated at around 10.1%. However, I am mindful that a biodiversity net gain of at least 10% was taken into account at the outline stage. Thus, the requirement to provide open space and trees/landscaping would be likely to generate such net gains regardless of the layout.
76. There would also be economic benefits arising from the construction process and from ongoing expenditure into the local economy by future occupants and their families. There would also be some social benefit arising from the scheme albeit these do not directly relate to the reserved matters.
77. Conversely, there are clear disadvantages in the proposed appearance, landscape, layout and scale of the development. Individually, some of the concerns raised may not result in an unacceptable development. However, when taken together with the other substantive concerns, they indicate that the scheme falls short of the expectations set out in policy to achieve amongst other things well designed places and mixed and balanced communities.
78. The harmful effects of this scheme would persist for the long term. In my judgement the identified benefits of the scheme would not outweigh the harm. For the avoidance of doubt, I make it clear that this is my position whether or not paragraph 11 d) of the Framework had been triggered.

Conclusion

79. I therefore conclude that the proposed details of layout, scale, landscaping and appearance would not represent an appropriate response to developing the site. Consequently, the proposal would conflict with the development plan taken as a whole, as well as the objectives of the Framework for achieving well-designed and beautiful places and mixed and balanced communities.
80. Accordingly, for the reasons given, the appeal should be dismissed.

Stewart Glassar

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Boyle	Barrister, KC
Peter Cleveland	Partner – Head of Planning at Henry Adams LLP
Dawn Appleton	Senior Planner at Henry Adams LLP
Tilly Whishaw	Head of Planning at Redrow Homes Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Daniel Vick	Area Team Leader, Arun District Council
Sue Howell	Leisure and Landscape Officer, Arun District Council

INTERESTED PERSONS:

Cllr Wallsgrave	Local Councillor
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S Foott	Parish Council
C Brown	Parish Council
K Jarman	Parish Council
R Rickard	Parish Council

W Corney	Local Resident
L French	Local Resident
S French	Local Resident
M Gregory	Local Resident
M Runnals	Local Resident
M Turner	Local Resident

DOCUMENTS SUBMITTED AFTER THE HEARING

Suggested conditions for maintenance of roads and communal space for flats



Costs Decision

Hearing held on 8 and 9 April 2025

Site visit made on 8 April 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd of May 2025

Costs application in relation to Appeal Ref: APP/C3810/W/24/3356352
Land to the rear of Meadow Way, Westergate, Chichester, West Sussex
(Easting: 493620 Northing: 104816)

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Redrow Homes for a full award of costs against Arun District Council.
 - The appeal was against the refusal of approval of reserved matters for outline planning permission AL/178/22/OUT, granted on 8 December 2023.
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Decision

1. The application for a full award of costs is not allowed but a partial award is made in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In brief, the applicant contends that a full award of costs should be allowed as the Council's decision delayed a development that should clearly have been permitted. Furthermore, the Council were said to have refused the application on grounds which were capable of being dealt with by condition and that their approach to the application of supplementary guidance was inconsistent with other schemes nearby. Overall, there was considered to be a lack of positive engagement by the Council.
4. The Council has disputed that it acted unreasonably.
Delayed a development that should have been permitted
5. Reason for refusal 1 was essentially a matter of planning judgement. The main parties have differed on the degree of consistency the appeal proposal had with the outline permission, development plan, supplementary guidance and the Framework. On some matters I have agreed with the appellant and on others the Council. However, on the main substantive points, it is the Council's case which was the more persuasive. Consequently, given my decision on the appeal, I do not find that this was a proposal which clearly should have been permitted.
6. The applicant specifically references the Council's approach to the Parameter Plan and that this contributed towards the unreasonable behaviour. Given my overall

findings on the appeal, this is not a matter that I need to address in detail. However, while the main parties approached the Parameter Plan differently, the Council's approach could not be said to have been unreasonable. For example, despite there being no specific requirement for a western buffer, there was a requirement for open space in the development area, something which I considered the scheme lacked.

7. Similarly, although the scheme did not breach the height stipulation of the Parameter Plan, the Council's reason for refusal was based on the scale of the building not its height. I too concluded that the scale of the building was a negative feature of the scheme.
8. Overall, the Council's evidence in its officer report and statement of case set out its concerns and adequately explained why the proposal was not considered to be acceptable. Together with the arguments made at the Hearing, the Council conveyed the reasons why the proposal could not be supported. The Council's case has been adequately reasoned, and this is framed within the context of the development plan and outline permission.
9. I have found that the Council had reasonable concerns about the proposal which justified its decision. In these respects, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Reasons for refusal capable of being conditions

10. The outline permission addressed drainage matters and imposed three conditions requiring the submission of further details. Drainage is not a reserved matter per se, and while it is sensible for a layout to be informed by an agreed drainage scheme, it is not mandatory. In this case the convergence of drainage infrastructure and open space provision meant that it was particularly useful for some details to be provided as part of the reserved matters submission.
11. Similarly, there is some merit in the Council highlighting potential difficulties or areas of uncertainty which might necessitate an amended layout or which might create a tension between an approved layout and a submission in relation to the outline planning conditions. Ultimately though, if an approved layout has to be amended or drainage details cannot be agreed, then this is a matter for the developer to seek to resolve.
12. In this case, even though the Local Lead Flood Authority had concerns, these related more to a lack of information/detail rather than a fundamental disagreement as to whether appropriate drainage could be achieved. Indeed, the subsequent discussions attest to this being the case.
13. As such, not only was this a matter which could have been addressed through additional information and/or conditions but ultimately it was a matter already addressed by the outline permission. Indeed, the officer report makes clear in commenting upon the representations received that matters such as foul and surface drainage strategies were covered by conditions attached to the outline permission. The Officer Report specifically advises that 'these are not relevant to the reserved matters, it is not relevant to respond to these through this report.'

14. The subsequent imposition of a drainage reason for refusal was therefore not only contrary to the officer advice to councillors but in the light of my findings above, was also unreasonable behaviour.
15. It seems to me that the subsequent technical discussions with the LLFA and the work which took place to reach agreement on the drainage details would have been necessary at some point, regardless of the decision on the reserved matters proposal. This does not therefore appear to have been unnecessary work. However, the work undertaken on drainage in relation to the preparation of the applicant's initial statement of case and the subsequent production of the additional Statement of Common Ground (SoCG) were unnecessary and resulted from the Council's unreasonable behaviour.
16. Upon receipt of the addendum to the SoCG the Council chose not to pursue the matter. Nevertheless, their approach to the issue 'opened the door' to it being discussed by the Parish Council at the Hearing. The amount of Hearing time this took up was relatively short, but it was clearly not something which should have been necessary for the applicant to do, and no doubt some costs will have arisen in relation to preparing for and dealing with the issue at the Hearing itself.
17. With regard to the issue of highway safety, the initial consultation response from the Highway Authority elicited a number of separate points of concern. These included more than just the final surface materials in respect of the roads and footways. In addressing these concerns, some amendments to the overall layout were necessary, including widening the cycle/pedestrian access by 1m. Although they can be seen as being relatively minor issues within the overall scheme, they did raise legitimate safety concerns.
18. It would have been difficult to deal with all of them through conditions at the point the Council made its decision. Indeed, it was only following amended layout drawings and discussions with the Highway Authority that it became clear that the only outstanding issues were ones of surfacing and that they could be addressed by condition.
19. Some of the changes to the layout required by the Highway Authority were contained within the amended drawings submitted to the Council prior to its decision but which were not taken into account. I deal with this aspect of the costs claim elsewhere in my decision.

Inconsistency

20. As part of their appeal submissions the applicant drew attention to other sites where the Council's supplementary guidance had been applied flexibly and standards below those proposed in the current scheme had been accepted by the Council.
21. Supplementary guidance by its very nature tends to be applied flexibly where the situation allows. However, as this can be dependent upon the circumstances of each case, direct comparisons are not always instructive.
22. As became clear during the course of the appeal and Hearing, some of the concerns which the Council initially highlighted were capable of being addressed through conditions or were subsequently shown to not necessarily be harmful in and of themselves. Some of them may have been resolved had discussions and

amendments been part of the process prior to the Council's decision. This is a matter I address further in the next section.

23. In this case, while the transgressions of guidance might be considered to be minor in nature, they can be seen as proxy indicators of some more significant deficiencies in how the site had been laid out. Whilst some of the more substantive issues carried greater weight in my decision, the breaches of the guidance reinforced my view that the scheme as a whole was not acceptable. Consequently, I do not find it unreasonable for the Council to have highlighted these matters within its overall reason for refusal or for them to have been discussed at the Hearing.

Proactive engagement

24. A Council is not obliged to accept amendments to a scheme when dealing with a 'live' application. Indeed, this would not be an efficient use of a Council's resources where for example, the amendments did not address a Council's concerns or were insufficient to influence the overall outcome. I note that the Council publicise how it will deal with applications in relation to amendments, which no doubt helps bring some certainty to the process and allows the Council to make decisions in a timely manner.
25. As part of its approach to handling applications the Council also offers a pre-application advice service. It appears that the applicant chose not to use the service, relying instead upon the Parameter Plan. As I have noted, such a document provides an overall context for the development but does not necessarily mean that a detailed scheme according with such broad parameters is guaranteed to be successful.
26. I have some sympathy with the applicant in terms of the amended plans which were submitted before the decision was made by the Council and which addressed a number of issues that formed part of the eventual reasons for refusal. It seems that these could have been accepted by the Council without too much difficulty and although this may not have prevented a refusal, or subsequent appeal, it may have narrowed down sooner some of the discussions. I also note that the Council did not object to my taking the amended drawings into account as part of the appeal process.
27. Nevertheless, while some flexibility might not have gone amiss, it is difficult to conclude that the Council acted unreasonably given their widely stated approach to dealing with amendments. For that reason, it is not clear that even if the Council had acted more quickly in some of its administrative duties and re-consultations had been undertaken earlier, that the amendments and comments would have been taken into account in the final decision. Indeed, had the Council gone against its stated approach this might be seen by others as being inconsistent or unreasonable.
28. Although the applicant is correct that a reserved matter application is technically an application pursuant to a condition, it is often perceived differently, including by professionals. Indeed, as was noted at the Hearing, one of the conditions in the Statement of Common Ground referred to the reserved matters as a permission rather than approval. So, while I disagree that the Council's advice in relation to how it will deal with 'discharge of conditions' provides sufficient support to the applicant's case, the Council may wish to look at clarifying its wording to avoid similar suggestions in the future.

Conclusions

29. For the reasons given above, a full award of costs is not justified in this case. However, a partial award is justified. I have concluded that there was unreasonable behaviour in relation to raising drainage as a reason for refusal when there were conditions on the outline permission capable of dealing with the matter.
30. The unreasonable behaviour caused the appellant to incur unnecessary expense in the appeal process as the appeal statement needed to address this issue and an addendum SoCG needed to be produced. A further consequence of all this was that the matter needed to be discussed, albeit briefly, at the Hearing. This would all have resulted in additional professional time being spent.

Costs Order

31. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Arun District Council shall pay to Redrow Homes, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the issue of drainage in the Statement of Case, producing the Addendum Statement of Common Ground (Drainage); to prepare and deal with the drainage issues at the Hearing; such costs to be assessed in the Senior Courts Costs Office if not agreed.
32. The applicant is now invited to submit to Arun District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Stewart Glassar

INSPECTOR