
Appeal Decision

Site visit made on 31 October 2016

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 15 November 2016

Appeal Ref: APP/D3830/W/16/3151602

Greenacres, Keymer Road, Burgess Hill, West Sussex RH15 0AN

- 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 David Philips, HPW Homes Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/15/4076, dated 9 October 2015, was refused by notice dated 3 May 2016.
 - The development proposed is the demolition of Greenacres and erection of 6 residential homes, with associated access, car parking, cycle parking, refuse/recycling storage and landscaping.
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Decision

1. The appeal is allowed and permission is granted for the demolition of Greenacres and erection of 6 residential homes, with associated access, car parking, cycle parking, refuse/recycling storage and landscaping at Greenacres, Keymer Road, Burgess Hill, West Sussex RH15 0AN, in accordance with the terms of the application, Ref DM/15/4076, dated 9 October 2015, subject to the attached schedule of conditions.

Preliminary matter

2. The Council's second reason for refusal was that the proposal failed to satisfy the requirements of Policies G3 and H4 of the Mid Sussex Local Plan 2004 to include a proportion of affordable housing on site or a financial contribution towards provision elsewhere in the district. However, Government policy as expressed in the Written Ministerial Statement dated 28 November 2014 is that requirements of this nature should not be sought in the case of sites for 10 units or less. In the light of this material consideration, the Council has withdrawn this objection to the scheme.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

Character and appearance

4. The appeal site comprises Greenacres, a bungalow, which is set in an extensive rectangular plot about 0.94 hectares in size on the eastern side of Keymer Road. The proposal is to demolish the existing bungalow, stop up the access,

- construct a new cul-de-sac into the site and build six two-storey houses in a linear formation facing south towards a balancing pond feature.
5. The site lies just outside the defined built up area of Burgess Hill in the Mid Sussex Local Plan 2004 (the MSLP) and therefore within the Countryside Area of Development Restraint where Policy C1 applies. This restricts development to certain limited categories, none of which apply in this case. In addition, the site lies within the defined Burgess Hill/Keymer Strategic Gap where Policy C2 seeks to prevent the coalescence of the two settlements.
 6. However, the Council accept that it cannot demonstrate a five year supply of deliverable housing sites and consequently policies which restrict the supply of housing, which include Policies C1 and C2, cannot be considered up to date. The presumption in favour of sustainable development set out in paragraph 14 of the National Planning Policy Framework (NPPF) therefore applies.
 7. The western side of Keymer Road as far south as Greenlands Drive, which is opposite the appeal site, lie within the defined built up area of Burgess Hill, but the eastern side comprises a number of properties in substantial grounds extending as far south as Broadlands and beyond. To the rear of the appeal site lies open countryside, but Greenacres and the properties on either side form an area of low density housing development on the edge of the town. With well screened boundaries on all four sides, the site is well defined such that housing development would not encroach upon the open countryside or lead to the coalescence of settlements.
 8. The Council have recently granted planning permission for two new houses in residential gardens outside the defined built up area at the end of Broadlands a short distance to the south. Furthermore, in 2013, an Inspector approved a separate dwelling to the rear of Paddocks, immediately to the south, describing the area as suburban rather than open countryside¹. These are precedents for further housing development on the Greenacres site.
 9. Given the housing land supply position, the Council appear to accept the principle of residential development on the appeal site. However, objection is raised to the detailed design of the scheme which is said to be unimaginative and bland.
 10. The proposal is for a fairly straight cul-de-sac at right angles off Keymer Road with six houses on the northern side lining the road. These would comprise a narrow 3 bed detached house gable end onto the road, an asymmetrical pair of 3 bed semi-detached houses, and then three individual detached houses, one 4 bed and two 5 bed. There would therefore be some variety of design and detailing along the cul-de-sac. The boundary screening would be retained and the southern part of the site landscaped with planting and a balancing pond feature to provide an attractive setting for the houses.
 11. Whilst the proposed straight line of houses could no doubt be redesigned in a more innovative and attractive manner, the site constraints dictate to some extent the form of the development. In terms of its context, many houses nearby are individually designed in irregular shaped plots, but there are also houses in a more regular linear pattern along two culs-de-sac, Broadlands and Wellhouse Lane, off Keymer Road to the south. The relatively straight

¹ APP/D3830/A/13/2203284

Greenlands Drive immediately opposite the appeal site is lined with very similar houses on both sides. The proposal is not therefore without precedent in the vicinity and would not appear out of place.

12. The Council draw attention to a recent appeal for a detached house at the end of Broadlands which was dismissed as it would have no street frontage and would be akin to a backland development². However, the proposed houses in this case would each have street frontage to the cul-de-sac, and would be seen as a coherent group accessed from Keymer Road through the roadside treebelt which would maintain much of the verdant character of the main road.
13. For these reasons the form and detailed design of the proposal would not cause significant harm to the character and appearance of the area. Contrary to the Council's view, it would not materially conflict with Policy B1 of the MSLP which expects new buildings to be a high standard of design, construction and layout, to demonstrate a sensitive approach to urban design, respecting the character of the locality and contributing to a sense of place³.

Other matters

14. A large number of representations were made against the scheme, mostly objecting to the principle of the development in view of its location outside the defined built up area boundary of Burgess Hill, within the countryside area of development restraint, a strategic gap and close to the South Downs National Park. However, as explained above, the Council cannot currently demonstrate a five year supply of deliverable housing sites and restraint policies in the MSLP cannot therefore be given full weight in this appeal. A new Mid Sussex District Plan allocating housing land for the period to 2031 is under preparation, but this has not yet been tested at examination. The Burgess Hill Neighbourhood Plan does not cover the appeal site and therefore does not apply.
15. Other objections raised include the traffic and highway safety implications of the proposal, but the highway authority are satisfied with the scheme subject to conditions. It is argued that the scheme could lead to further housing in adjacent fields, but that would be the subject of a separate decision and the eastern boundary of the site is strong and defensible. The wildlife implications have been assessed by a detailed ecological report which recommends a series of mitigation measures and these can be secured by condition. High Chimneys is a Grade II listed building but lies sufficiently far away to the north of the site for its setting to be preserved. The outlook and privacy of nearby occupiers would not be significantly affected. Finally, the site is well related to the services and facilities of Burgess Hill and therefore would be a sustainable location for additional houses.

Conditions

16. The Council has suggested a number of conditions should the appeal be allowed and I have assessed these against the relevant tests, combining some and making minor amendments as necessary. In addition to the standard implementation time limit it is necessary to define the plans which have been approved in the interests of certainty. Conditions to control the materials to be used and the form of boundary screening are necessary to ensure the development has a satisfactory appearance. Details of proposed landscaping

² APP/D3830/W/16/3149636

³ or with Policy DP24 of the emerging Mid Sussex District Plan which is very similar

and its maintenance are necessary in the interests of visual amenity and details of surface and foul drainage to protect against flooding and pollution.

17. Restricted working hours and a construction management plan are necessary to protect the living conditions of nearby residents. Conditions are also necessary to protect existing wildlife on the site and to secure habitat enhancements for the future; also to ensure satisfactory treatment should contamination be found. It is necessary to ensure that satisfactory access is provided (including visibility splays) in the interests of highway safety and that parking/turning/cycle spaces (including garage spaces) are provided in the interests of highway safety and sustainable transport. Finally, suitable provision should be made for the storage of waste.
18. A number of these conditions need to be discharged before work commences on site as these are fundamental to a satisfactory scheme.
19. The Council seek control of window details and site levels but the reason for this is not explained. The site is self-contained with the proposed buildings some distance and well screened from nearby properties. In this context control of these details would be excessive and unnecessary.

Conclusion

20. The proposal would provide a net increase of five much needed new houses with important social and economic benefits for the area. It would make a modest but important contribution to housing land supply. Whilst there may be some reservations about the form and detailed design of the proposal, these and the other matters raised do not demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. The scheme therefore represents sustainable development and the presumption in favour of such development applies.
21. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
Drawing numbers P046_P01, T046_P02, P046_P11, T046_P10, 354/100 Rev B, T046_P100, T046_P101, T046_P102, T046_P103, T046_P104, T046_P50.
Sustainability Statement.
- 3) No development above slab level shall take place until details (and samples if required) of materials and finishes to be used for the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.
- 4) No development above slab level shall take place until details of proposed boundary screen walls/fences/hedges have been submitted to and approved in writing by the local planning authority and the dwellings hereby permitted shall not be first occupied until the boundary screen walls/fences/hedges associated with them have been erected or planted. The boundary treatments as approved shall remain in place thereafter unless otherwise agreed in writing by the local planning authority.
- 5) No development above slab level shall take place until a scheme including full details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. These shall include details of all existing trees and hedgerows on the land, together with those to be retained and measures for their protection in the course of development, and these measures shall be carried out as approved.
- 6) The hard and soft landscape works shall be carried out in accordance with the approved details prior to the first occupation of any part of the development or in accordance with the scheme agreed with the local planning authority. Any trees or plants which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.
- 7) No development shall take place until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority and no building shall be first occupied until all drainage works have been carried out in accordance with the approved details. The details shall include a timetable for the implementation of the works and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by a public authority or statutory undertaker or other arrangements to secure the operation of the scheme throughout its lifetime. The maintenance and management of the scheme shall then be in accordance with the approved details.

- 8) No development shall take place until details of the proposed foul water drainage and means of disposal have been submitted to and approved in writing by the local planning authority and no building shall be first occupied until all drainage works have been carried out in accordance with the approved details.
- 9) No works, including the use of plant and machinery, necessary for the implementation of this consent shall take place outside the following times:
Monday-Friday: 0800hrs-1800hrs, and
Saturday: 0900hrs-1300hrs.
No work shall take place on Sundays and Bank Holidays.
- 10) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Construction Management Plan shall provide full details, including but not restricted to the following matters:
- temporary arrangements for access for construction traffic,
 - the anticipated number, frequency and types of vehicles used during construction,
 - the method of access and routing of vehicles during construction,
 - the parking of vehicles by site operatives and visitors,
 - the loading and unloading of plant, materials and waste,
 - the protection of neighbouring properties from dust,
 - the storage of plant and materials used in construction of the development,
 - the erection and maintenance of security hoarding,
 - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
 - details of public engagement both prior to and during construction works.
- 11) No development shall take place, including any works of demolition, until the following details have been submitted to and approved in writing by the local planning authority:
- a wildlife protection and mitigation plan setting out the practical steps to be taken to avoid impacts on wildlife during site preparation and construction;
 - a detailed lighting plan showing measures to be used to minimise light pollution of wildlife habitats;

- full details of wildlife habitat enhancements and provision for long term management including funding arrangements and responsibility for implementation; and
- reasonable avoidance measures to prevent harm to dormice and enhancement measures sufficient to ensure there is no net reduction in habitat resource for this species.

The approved details shall be implemented in full prior to first occupation of any building.

- 12) During construction where contamination of the soil is found or suspected, all works shall stop in that area and the local planning authority shall be informed immediately. Works shall not proceed until a scheme detailing the risk from the contamination, and the method by which it will be eliminated, has been submitted to and approved in writing by the local planning authority. Works shall then proceed in strict accordance with the approved details.
- 13) No part of the development shall be first occupied until (i) the vehicular access serving the development has been constructed in accordance with the approved plans; (ii) provision has been made to prevent surface water draining onto the public highway in accordance with details to be submitted to and approved in writing by the local planning authority; (iii) the vehicle parking and turning spaces have been constructed in accordance with the approved plans; and (iv) covered and secure cycle parking facilities have been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The vehicle parking/turning spaces and cycle parking facilities shall thereafter be retained for that purpose.
- 14) The garages hereby permitted shall be used only as private domestic garages for the parking of vehicles incidental to the use of the properties as dwellings and for no other purpose.
- 15) No part of the development shall be first occupied until visibility splays of 2.4 m by 120 m have been provided at the site access onto Keymer Road in accordance with the approved drawings. Once provided the splays shall thereafter be maintained and kept free of obstructions over a height of 0.6 m above adjoining carriageway level.
- 16) Before the dwellings hereby permitted are first occupied, refuse and recycling storage facilities shall be provided in accordance with details to be submitted to and approved in writing by the local planning authority. The facilities shall thereafter be retained for that purpose.