
Appeal Decision

Site visit made on 20 September 2016

by R J Marshall LLB DipTP MRTPI

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

Decision date: 2 December 2016

Appeal Ref: APP/Z3825/W/16/3151573

Forest House, Forest Road, Horsham, West Sussex, RH12 4HL

- 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 Millwood Designer Homes Ltd against the decision of Horsham District Council.
 - The application Ref DC/15/1984, dated 28 August 2015, was refused by notice dated 3 December 2015.
 - The development proposed is residential development of 19 dwellings and associated access roads.
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Decision

1. The appeal is dismissed.

Background/procedural matters

2. One of the reasons on which planning permission was refused was the absence of on-site affordable housing and an absence of financial contributions towards infrastructure requirements arising from the proposed development. A Unilateral Undertaking has since been submitted that, amongst other things, provides for on-site affordable housing and infrastructure contributions. In the absence of evidence to the contrary I take it that these meet the Council's requirements and that its concerns on these matters are overcome. This is reflected in my choice of main issues below.
3. Following the Council's decision on the application the appellant has submitted a revised layout. This makes some minor changes by way of provision for a footpath west of the proposed vehicular access and the handing of one of the units. I am satisfied that such minor changes, which the Council says would overcome a highways reason for refusal, may be made without prejudice to anyone with an interest in the appeal. I shall therefore take the revised plans into account in my decision.

Main Issue

4. Having regard to the above the main issues in this appeal are: **first**, whether the proposed development accords with policy on the location of new residential development; and **second**, its effect on the character and appearance of the area which includes the High Weald Area of Outstanding Natural Beauty.

Reasons

Accordance with Policy on location of new housing

5. Policy 15 of The Horsham District Planning Framework (excluding South Downs National Park) 2015 (HDPF) says that provision will be made for at least 16,000 homes in the period 2011 -2031 achieved by: housing completions in 2011-2015; homes already permitted; strategic sites (including 2,500 homes and land north of Horsham); at least 1500 homes throughout the District in accordance with the settlement hierarchy to be allocated through Neighbourhood Planning; and 750 on windfall sites.
6. HDPF Policy 2 sets out a spatial strategy for development. This focuses new development in and around the key settlement of Horsham and allows for growth in the rest of the District in accordance the indentified settlement strategy. Amongst other things it seeks to safeguard the compact and attractive character of Horsham and to manage development around the edges of existing settlements in order to prevent them merging and to protect the rural character and landscape.
7. The above Policy is expanded upon by Policy 3 on development hierarchy and Policy 4 on settlement expansion. The former Policy says that development will be permitted within towns and villages which have defined built up areas and it identifies Horsham as being at the top of the hierarchy. The latter Policy says that the growth of settlements across the District will continue to be supported to, amongst other things, meet identified local housing needs. It says that outside built-up area boundaries the expansion of settlements will be supported, and outlines where that will be the case. Amongst other things it must be where the site is allocated in the Local Plan or in a Neighbourhood Plan and adjoins a settlement edge.
8. The explanatory text to Policies 3 and 4 say that the HDPF seeks to ensure that development takes place in a way that retains and enhances the settlement pattern and rural landscape character of the District whilst allowing settlements to grow. It says that the mechanism for this will be the designation of built-up area boundaries and the planned expansion of existing settlements through the Local Plan or Neighbourhood Planning. Within the built-up area boundaries development is accepted in principle whereas outside those boundaries it will be strictly controlled. HDPF Policy 26 says that outside built-up area boundaries the rural character and undeveloped nature of the countryside will be protected against new development and any proposal must be essential to its countryside location and meet certain specific criteria.
9. The proposed development lies outside but adjoining the settlement boundary of Horsham adopted as part of the HDPF in 2015. It is not on land allocated for development in the Local Plan or a Neighbourhood Plan. The proposal therefore, for this reason alone, conflicts with the Council's spatial strategy for development and is contrary to HDPF Policies 2, 3 and 4. And as the site is outside a built up boundary, and there is no evidence that it is essential to its countryside location, it also conflicts with HDPF Policy 26. There is no absence of a 5 year housing land supply to render these Policies out of date.
10. In arriving at this view I accept that Policy 4 could be better worded. However, read with the explanatory text and other Policies referred to above, it is clear to me that, whilst Policy 4 allows for new housing beyond development

boundaries as part of the Council's development strategy, this must be where it has been allocated through the development plan. I note from the Council's evidence that in some recent appeal decisions, on cases albeit different in some details one from another and from the case before me, a broadly similar approach was taken to assessing new housing development against the Council's spatial strategy.

11. The appellant says, by reference to 2 appeal decisions, that the above approach is wrong. First, reference is made to appeal decision APP/Z3285/W/15/3138611, where the Inspector held that the "present boundary of the site can be deemed to be out-of-date in terms of paragraph 14 of the Framework". However, that decision, to dismiss an appeal, was on a site just beyond the development boundary of a village where a Neighbourhood Plan (NP) was being formulated which could involve a review of the built-up area boundary. That is not the situation in the proposal before me where the built up area boundary is to remain fixed until such time as housing allocations are reviewed. Moreover, even in the decision referred to above the Inspector found that there would, nevertheless, be conflict with the development plan's settlement strategy given that HDPF Policy 4 clearly envisages that sites will come forward through a Local Plan or NP process.
12. The second appeal decision referred to by the appellant is APP/Z3285/W/15/3022944 for houses at West Chilton Common. In this case the Inspector said that to say that a proposal would, as a matter of principle, conflict with the HDPF because it was on a site beyond a development boundary was not a proper interpretation of the wording of the Council's Policies. What lay behind this was his view that development on windfall sites, clearly envisaged by HDPF Policy 15, could not come forward under Policy 4 if it was read as restricting development outside development boundaries as a matter of principle, especially as no other Policy on windfalls existed. However, Policies 2 and 3 allow for development within settlements and such development can constitute windfall development. There is no substantial evidence that the amount of windfall development envisaged, 750 units over the plan period, could not be accommodated within settlement boundaries. Thus this appeal decision does not assist the appellant's case.
13. It is concluded that the proposed development would not accord with policy on the location of new residential development. There would be conflict with HDPF Policies 2, 3, 4 and 26.
14. In arriving at this conclusion I have had regard to the appellant's assertions on the likely delivery times of houses in the Council's strategic allocation to the north of Horsham and that this highlights the role windfall development will play. However, on the limited evidence provided, and the undisputed evidence that the Council has a 5 year housing land supply, this does not alter my conclusion above. And any long term impact on housing land supply that may arise from Brexit is largely conjectural at present.

Character and appearance

15. The appeal site lies within the High Weald Area of Outstanding Natural Beauty (AONB). Such areas have the highest status of protection in relation to landscape and scenic beauty and great weight should be given to conserving these attributes.

16. The appeal site abuts the built-up edge of Horsham. Although close to residential estates to the west the appeal site and the surrounding rural area in which it is located is most attractive. The appeal site is a notably large plot of land on which a single dwelling, and some associated features such as tennis courts, is located on its northern portion towards Forest Road. Similar development exists to the east along this road, most particularly on its southern side. However, the dwellings are sufficiently well set back from the road, and screened from it, to ensure a pleasing semi-rural appearance to the area when proceeding along Forest Road.
17. To the south of Forest Road in the vicinity of the appeal site the land is roughly level for some distance before sloping downwards towards extensive woodland. A combination of this topography and the woodland results in a most pleasing landscape. And it is an area capable of being enjoyed by those on foot as a footpath runs along the western boundary of the appeal site to the woodland to the rear.
18. The topography of the appeal site follows that of the surrounding area. The existing house would be retained as would the 2 current access points onto Forest Road. The easternmost access would become the sole access for the existing house and would also serve one of the proposed new houses. The westernmost access would become the access for the remainder of the development. The new houses would be sited on the level land leaving the steep slope and woodland area beyond undeveloped. The new housing would not look unlike some of the existing residential development to the west within the development boundary. Two of the proposed houses would be roughly adjacent to the existing house. The remainder of the houses would be on land to the rear.
19. The proposed development would intensify development along the road frontage. Screening would be provided by the frontage hedgerow/tree screen, and this could be supplemented by new planting. However, it is unlikely that the proposed houses on the site frontage would be entirely screened from view. And views down the proposed access into the remainder of the site, along with the proposed new footpath, would make it apparent that new residential development had been undertaken. This would be so even with glimpsed views from passing traffic. The intensification of development along the road frontage would result in a fairly significant intrusion of new housing in the countryside to the detriment of the character and appearance of the AONB.
20. Alongside part of the western boundary of the appeal site runs an access road to a group of house is known as Pinetops. On the western boundary of the appeal site adjacent to the Pinetops access runs a tall hedge/tree screen. If this screen remained in place it would screen the proposed houses from views along this road. However, the proximity of the proposed house to this boundary could well lead to future occupiers trimming back the boundary vegetation to reduce its visual impact on their properties. This would lessen to some degree the current level of screening and potentially open up some of the new housing, in part, to view from the Pinetops access.
21. At the first of the Pinetops houses an unmade footpath continues down the side boundary of the appeal site to the woodland to the south. Hedgrows and trees run along this boundary. However, from one point in particular, identified in the appellant's landscape survey, views would clearly be obtained to the new

housing. This would detract from the rural character and appearance of this attractive undulating and wooded landscape. The fact that some of the Pinetops houses are visible from lengths of this path does not justify this further incursion of residential development into this area. New tree planting is proposed to screen the proposed houses from this path. However, they would take a long time to provide a substantial screen and there is no guarantee that the new planting would grow to become as effective as suggested.

22. There are footpaths in the woodland to the south of the site running roughly parallel to its southern boundary. The woodland in this area is so dense that in the summer months it is unlikely that the proposed houses would be seen at all. However, in the winter months it is possible that some views, albeit highly fragmented and partially screened, would be glimpsed of the rear elevations of nearest houses. This would detract, albeit to a minor degree, from the rural quality of this woodland area.
23. The location and orientation of neighbouring houses is such that views from them are unlikely to be affected by the proposed development to any great degree. However, that does not make the proposed development more acceptable on this issue given the harm identified above.
24. Drawing together my views on this issue I consider that the proposed development would be an unacceptable incursion into this rural area. There are viewpoints from which it would be seen and from which the harm to the character and appearance of the area would be clearly apparent. In itself this would be harmful. Moreover, arguments used on the screening of the proposed development could all too readily be used to justify new housing in the AONB to the further cumulative harm of its character and appearance.
25. It is concluded that the proposed development would harm the character and appearance of the area and thus fail to conserve the landscape and scenic beauty of this part of the High Weald AONB. It would be contrary to HDPF Policies 25 and 30 which seek to protect and conserve landscapes including the High Weald AONB.
26. In arriving at this view, along with my conclusion on the first issue, I have taken into account the fact that the appeal site was identified in the Council's Strategic Housing and Economic Land Availability Assessment (SHELAA). I note what the appellant says about the SHELAA and the Council's identification of the site within it. However, important caveats to this document are that it only identifies opportunities for development and that the identification of potential sites does not imply that planning permission would be granted.

Other matters

27. Some third party concerns go beyond those raised by the Council. However, turning to the major concerns I am satisfied from what I saw that adequate visibility splays would be provided at the access points to ensure a safe means of access from the site and that the proposed footpath would ensure a safe pedestrian access. Nothing that I saw suggested that there would be unacceptable harm to wildlife and there is no professional evidence to the contrary.
28. Turning to advantages put forward by the appellant The Unilateral Undertaking provides, amongst other things, for the transfer to the Council of the area of

woodland to the south in the appellant's ownership and which abuts the wider woodland. It also provides for financial contributions towards various improvement works to this area. This could be of some benefit in limiting the potential harm to the ecology of this land and improving its current condition. Observations from the Council's Community and Leisure Officer suggest that a transfer on these terms might be acceptable to the Council. However, even if this was the case the potential benefits would be relatively small compared to the harm identified on the main issues.

29. The proposal would provide additional housing, albeit relatively small in number, and the Framework seeks to boost significantly the supply of housing. It would also provide affordable housing for which there is a need. And in terms of its location to facilities the site is reasonably sustainably located.

Conclusion

30. I have found that there may potentially be some advantage in term of improvement to the woodland in the appellant's ownership. And there would be some modest, in light of the number of dwellings proposed, benefits in providing additional housing in a reasonably sustainable location. To this extent some of the aspects of sustainable development referred to in the Framework would be met. And not all third party concerns are justified. However, these considerations would be greatly outweighed by the harm to the AONB and the Policy conflict in terms of the location of new housing. Seen in the round this would not be sustainable development.
31. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR