
Appeal Decision

Site visit made on 21 November 2016

by Grahame Gould BA MPhil MRTPI

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

Decision date: 9th February 2017

Appeal Ref: APP/C3810/W/16/3154760

West Barn, Old Dairy Lane, Norton, Aldingbourne PO20 3AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr A Cozens of Harmen Homes Limited against Arun District Council.
 - The application Ref AL/59/16/PL, is dated 20 May 2016.
 - The development proposed is a mews of 6 No. two storey low rise live work studios.
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Decision

1. The appeal is dismissed and planning permission for a mews of 6 No. two storey low rise live work studios at West Barn, Old Dairy Lane, Norton, Aldingbourne PO20 3AF is refused.

Application for costs

2. An application for costs was made by Arun District Council against Mr A Cozens of Harmen Homes Limited. This application is the subject of a separate Decision.

Procedural Matters

3. The Council has advised that had it been in the position to determine the application it would have refused planning permission because of concerns relating to (1) the effect of extending a parking area on the character and appearance of the area and (2) the location of the development outside the defined settlement boundary and its distance from local shops and the limitations on the accessibility to modes of transport other than cars.
 4. Further to the submission of the appeal the Aldingbourne Neighbourhood Development Plan 2014 to 2034 (the ANDP) was made on 9 November 2016 and it has become part of the Development Plan. The appellant has had the opportunity to comment on the making of the ANDP and I have taken account of the observations made in this respect. In commenting on the ANDP the appellant has made reference to Planning Policy Statement 7 (PPS7). However, that national policy was cancelled with the publication of the National Planning Policy Framework (the Framework) in 2012 and I have therefore disregarded the references to PPS7.
 5. On 12 December 2016 the Minister of State for Housing and Planning and Minister for London published a Written Ministerial Statement (WMS) on Neighbourhood Planning. The WMS sets out the Government's policy on the
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circumstances when policies for the supply of housing contained in Neighbourhood Plans may be considered to be out of date when a five year supply of deliverable housing sites (HLS) is unavailable in the relevant local planning authority area. As the WMS has possible implications for this appeal the appellant and the Council have been given the opportunity to comment on the WMS and I have taken account of their responses in my reasoning below.

6. Having regard to the nature of the development I have also sought the views of the appellant and the Council on the relevance of paragraph 55 of the Framework to the development. I have taken account of the comments received from the parties in this respect in my reasoning below.
7. Reference has been made to the Council's emerging replacement Local Plan, however, its examination has been suspended. The emerging Local Plan remains subject to change and I therefore find that limited weight can be attached to its policies, when regard is paid to paragraph 216 of the Framework. I have therefore treated the emerging Local Plan's policies as not being determinative and shall make no further reference to them.
8. The name of the appellant's company has variously been spelt as 'Harmen Homes Limited' and 'Harmen Homes Limited ' and as the former appears on the application form, I have used that in the banner heading to this decision.

Main Issues

9. The main issues are:
 - whether the development's location would provide acceptable access to everyday local facilities by a range of modes of transport and, if not, would any dependency on private motor vehicle usage, in particular, be harmful to the environment; and
 - the effect of the development on the character and appearance of the area, with particular regard to the car park extension.

Reasons

10. The development would involve the provision of six live work units within a single two storey building as a replacement for a tennis court. The development would share some of the existing parking and access arrangement that have been provided in association with the provision of six commercial units in the building known as West Barn and would also include a car park extension.

The approach to this decision

11. There is agreement that the Council cannot currently demonstrate the availability of an HLS.
12. For the purposes of saved Policies GEN2 and GEN3 of the Arun District Local Plan of 2003 (the Local Plan) the site is within the countryside and is therefore in a location where development is discouraged. However, the Council accepts, given the current HLS position and the implications that Policies GEN2 and GEN3 can have on the location and quantity of housing, that they are policies for the supply of housing and should therefore be treated as being out of date for the purposes of the Framework. Policies GEN2 and GEN3 are therefore development plan policies to which limited

weight should be attached for the purposes of the determination of this appeal.

13. The Council's intended reasons for refusal allege conflict with Policy GEN7 of the Local Plan. Policy GEN7 addresses matters of detailed design relating to the form of new development and as such it is not a policy for the supply of housing. I have therefore afforded full weight to Policy GEN7 in my consideration of this appeal.
14. The ANDP covers the Parish of Aldingbourne which includes the settlements of Norton, Aldingbourne and Westergate and the Site Context Plan contained within the ANDP identifies the settlement boundaries for each of those settlements. Westergate is the largest of the settlements and its settlement boundary is shown on Map E (the 'Built up Boundary Map') of the ANDP. Policy EH1 of the ANDP states that development within Westergate's built up area boundary (BUAB), as shown on Map E, will generally be permitted, while development outside the BUAB that does not accord with other policies of the development plan will be resisted. Norton lies outside Westergate's BUAB and for the purposes of the ANDP is therefore within an area of development restraint.
15. However, as Policy EH1 can affect the location and quantity of new housing I find it to be a policy for the supply of housing. The WMS states that in instances where there is no HLS Neighbourhood Plan policies '... should not be deemed to be out of date ...' where all three of the following circumstances are met: the Neighbourhood Plan has been part of the development plan for two years or less; the Neighbourhood Plan allocates sites for housing; and the local planning authority can demonstrate the availability of a three year supply of deliverable housing sites. The ANDP does not allocate any sites for housing and the Council has advised that currently the HLS is equivalent to 2.15 years. The WMS's second and third circumstances are not met and I therefore consider that Policy EH1 can be considered as being out of date. I have therefore afforded Policy EH1 limited weight in my consideration of this appeal, notwithstanding the ANDP's very recent making.
16. Taking the above considerations into account, and in accordance with paragraph 14 of the Framework, I have approached this appeal on the basis that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework, taken as a whole or specific policies within the Framework indicate that development should be restricted.

Whether a suitable location for the development

17. The site lies behind Norton Lane, a street that is characterised by ribbon residential development. As the development would be in quite close proximity to some other dwellings and the commercial units at West Barn, it would not be physically isolated. However there would be limited access to every day local facilities, with the shops and other commercial premises, schools and other community facilities in Westergate being between 1.9 and 3.2 Km away¹. I recognise that there would be some access to public transport with bus stops being between 0.8 and 2.0 Km from the site and Barnham railway station being around 3.9 Km away, albeit that the bus

¹ Distances taken from table in the appellant's Transport Statement

services are not particularly frequent². However accessing those public transport facilities would involve walking or cycling along Norton Lane, a road with no pavements or street lighting, albeit that it is subject to a 20 mph speed limit and is classified as a 'quiet lane'. I consider that the development would not be particularly accessible to public transport.

18. Having regard to the limited accessibility there would be to every day local facilities within Norton, Westergate or the other settlements in the area, I find it likely that there would be a high level of private vehicle dependency amongst occupiers of the development. Accordingly in accessibility terms I find that the accommodation would be in an isolated location. A consequence of this being an isolated location for residential accommodation would be the making of unduly long and frequent motor vehicle trips by the occupiers of or visitors to the units. The making of those trips would be inconsistent with protecting the environment by minimising the need to travel by motor vehicle.
19. I am mindful of the fact that each of the units would have space within them from which their occupiers could either run their own businesses or work from home as employees of another business or organisation. However, the 'office/studio' (workspace) shown for each unit would occupy a comparatively small area, perhaps comparable with studies found in houses not classed as live work units. I therefore consider it likely that the primary occupation of these units would be as houses with the potential for their occupiers to establish home workspace for regular or occasional use. I find some support for my finding in this regard in the letter from Hobdens Estate Agents, which refers to purchasers of properties in villages working from home on a part time basis. Even though each property would have access to the internet, which would assist with the undertaking of work related activities, I still consider that these properties would be likely to generate motor vehicle trip rates that would be comparable with non-live work units.
20. As part of the Government's promotion of sustainable development Paragraph 55 of the Framework advises that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities, with development in one village in some instances having the potential to support services in others nearby. Paragraph 55 further advises that isolated homes in the countryside should be avoided unless special circumstances apply, such as providing accommodation for rural workers, making use of heritage assets, re-using redundant or disused buildings or a scheme would be of an exceptional or innovative design. The provisions of paragraph 55 are underpinned by the social role of sustainability referred to in paragraph 7 of the Framework. Paragraph 7 states, amongst other things, that new housing should be provided so as to be accessible to local services that reflect the community's needs and supports its health, social and cultural well-being.
21. With respect to the applicability of paragraph 55 of the Framework to this case, I am mindful of the comments received from the appellant and the Council. However, given the amount of living space that would be available in each property and their rural location I am of the view that paragraph 55 is of relevance. Given the provisions of paragraph 55 I consider the aim of Policy EN1 of the ANDP to direct new development towards Westergate to be consistent with the Framework. That is because Westergate is the largest of

² As referred to in the ANDP at paragraph 3.7.2

the settlements covered by the ANDP and is the one that is most accessible to everyday local facilities.

22. As I have indicated above this scheme would not be physically isolated from other development in Norton. However, I consider that the comparatively modest amount of housing that would be provided would mean that this would do little to enhance or maintain the vitality of Norton or any of the other settlements in the area, in terms of supporting local services and businesses. In coming to this view I recognise that there would be potential for some business activity to be associated with the occupation of the development and that might give rise to some employment opportunities and other economic activity in the area. However, as I have indicated above, I consider that the workspace would be no more likely to be occupied by residents running their own businesses from home than by occupiers who might be employees of another business or organisation, with main places of work elsewhere.
23. No evidence has been provided quantifying the scale of the direct local economic benefits that might arise from the workspace's use. On the available evidence I am therefore unable to conclude that the workspace's occupation would make a significant contribution to the vitality of Norton or the other settlements in the area.
24. In terms of the special circumstances referred to in paragraph 55 of the Framework, there is no identified need to accommodate rural workers, nor would this scheme result in the reuse of a heritage asset. While the architectural design of the development would be unobjectionable, I consider that it would be neither of an exceptional quality nor particularly innovative.
25. A marketing exercise has been undertaken on the appellant's behalf, with the purpose of establishing what interest there might be for live work units in Norton. The submitted marketing report advises that the internet based marketing campaign yielded 26,393 views of the advertisement that was placed, with seven people going as far as making direct enquiries of the marketing agent.
26. I accept that the marketing exercise shows that there is some interest for live work units in Norton. However, the agent's advertisement only refers to live work units being provided in Norton and had the question raised in the advertisement not been location specific, then expressions of interest might have been received from people seeking live work units in locations other than Norton. I am therefore not persuaded that the marketing exercise offers compelling evidence that Norton would be the only or most suitable location for meeting an unquantified demand for live work units in the Council's area.
27. Having regard to the abovementioned factors I consider that no special circumstances weighing in favour of this development under paragraph 55 of the Framework have been demonstrated.
28. I note that the Inspector, who determined the very recent appeal³ for a virtually identical development at this site, also concluded that while there would be an absence of physical isolation, there would be poor accessibility to

³ APP/C3810/W/15/3134557

everyday local facilities. He also found that the development would do little to enhance or maintain the vitality of rural communities in the area.

29. For the reasons given above I conclude that the location of the development would provide unacceptable access to everyday local facilities by a range of modes of transport and that the resulting dependency on private motor vehicle usage would be harmful to the environment. As such there would be conflict with Policy GEN7 of the Local Plan and Policy GA1 of the ANDP in that the need to travel would not be reduced and there would be poor accessibility to public and community transport. As the development would in part involve the provision of isolated homes within the countryside, with poor accessibility to every day local facilities and an undue reliance on private motor vehicle usage, there would also be conflict with paragraphs 7, 17 (the eleventh core planning principle '... actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling ...') and 55 of the Framework.
30. The development's location outside the settlement boundary defined by the Local Plan and Westergate's BUAB means there is also some conflict respectively with Policies GEN2 and GEN3 of the Local Plan and Policy EH1 of the ANDP. However, as I have outlined above, the absence of an HLS means that limited weight can be attached to Policies GEN2, GEN3 and EH1 and accordingly the conflict with those policies is not determinative.

Character and Appearance

31. The car park extension would be to the north and west of West Barn and its formation would involve the laying of some gravel and tarmacadam in substitution for grass. This extension would involve the use of land solely within the grounds of the West Barn development.
32. In my opinion the car park extension would read as a natural addition to the existing parking area and its appearance would in part be softened by the additional landscaping to be provided. I therefore find that the car park extension would not detract from the character and appearance of the area given its immediate proximity to the West Barn development.
33. I recognise that my finding with respect to the car park extension's effect on the character and appearance of the area is different to that of the Inspector who determined the previous appeal. However, it is apparent from an exchange of post decision correspondence between the appellant and the Planning Inspectorate that there may have been some misunderstanding about the siting of the car park extension relative to the adjoining paddock and this may explain the difference in the approaches taken by the previous Inspector and myself.
34. The terrace of live work units (the terrace) would in part occupy the site of the existing tennis court and when the application drawings are compared with the boundary for the Norton Conservation Area (the CA)⁴, part of the open garden area to the rear (east) of the new terrace would appear to be within the CA. The terrace would form part of the setting to the CA. While the modern design and external appearance of the terrace would be different to that of the older properties that adjoin the site, the terrace's design is

⁴ The boundary to the CA being taken from the CA designation plan provided by the Council

unobjectionable and the siting of the building would relate well to West Barn and would create a part courtyard form of development, not uncommon in a rural location such as this.

35. I therefore consider that the development would preserve the character and appearance of both the CA and its setting. While the appellant is of the view that the site has a 'degrading' appearance, I did not find that to be the case. I am therefore of the opinion that there would be no particular visual benefit to the area arising from the redevelopment of the site.
36. For the reasons given above I conclude that the development would not be harmful to the character and appearance of the area, including that of the CA. Accordingly there would be no conflict with Policy GEN7 of the Local Plan and paragraphs 7 and 17 and section 12 of the Framework because the new development would be of a high quality of design that would respect its surroundings. While there would be some conflict with Policy EN1 of the ANDP in that this scheme would involve development outside the built up boundary of Westergate, that conflict attracts limited weight because of the current HLS position.

Other Matters

37. I accept that the construction of six dwellings would make a useful contribution to the supply and mix of housing in the Council's area and that this would be a social benefit of the development. There would be some economic benefits to the area arising from the employment of locally based construction advisors and labour. I also recognise that there would be some enhancement of the site's biodiversity arising from the landscaping works and that there are no objections from the highway authority in terms of the level of on-site parking provision and the capacity of the local highway network to accommodate the development's traffic. I also accept that each of the units would provide their occupiers with acceptable levels of internal and external space. While all of the foregoing matters weigh in favour of the development I consider them to be outweighed by the harm that I have identified.
38. The appellant considers that Policy H6 of the ANDP provides encouragement for the development because this policy is supportive of residential infilling on windfall sites. However, I have found this development would have poor accessibility to every day local facilities, resulting in conflict with the Framework, and I therefore consider that this shortcoming of the development outweighs any support conferred by Policy H6.
39. As I have set out in my reasoning above I consider that this development would make a modest contribution to employment within the area. I therefore consider that the promotion of economic growth, including that within rural areas, and the use of technology referred to in paragraphs 19, 20, 21, 28 and 29 of the Framework only provide limited support for the development.
40. The appellant contends that two allowed appeals concerning sites at Nyton Road and Northfields Lane, Westergate and west of Westergate Street, Westergate provide a justification for the development before me. However, these other appeals concern significantly larger developments adjoining Westergate and Eastergate. On the available information I am not persuaded

that those developments are directly comparable and I therefore consider that they have a limited bearing on the case before me.

Planning Balance

41. I have found that the development would not be harmful to the character and appearance of the area. I also recognise that the development would make contributions to the supply of housing and the economic well-being of the area, particularly during the construction phase. However, I consider that those social, environmental and economic benefits of this scheme would be modest ones, weighing to a limited degree in favour of the development.
42. I have found that this would be an unsuitable location for dwellings because they would provide their occupiers with poor accessibility to everyday local facilities and this factor weighs significantly against the previously mentioned social, environmental and economic benefits of the development. I consider that the harm that I have identified could not be overcome by the imposition of reasonable planning conditions.
43. Having regard to my reasoning above, I conclude that the proposal does not comply with the development plan taken as a whole nor does it represent sustainable development in the terms of the Framework. The adverse impacts I consider that granting permission would cause would significantly and demonstrably outweigh the benefits, taking account of all the benefits the development would have.
44. I conclude, therefore, that the adverse impacts of the proposed development, associated with its poor accessibility to everyday local facilities, that I have identified above, would significantly and demonstrably outweigh the benefits of the scheme. As such the proposal would not represent a sustainable development in terms of the Framework and would not comply with the development plan taken as a whole.

Conclusion

45. For the reasons given above I conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR