

Appeal Decision

Hearing held on 19 January 2017

Site visit made on 19 January 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 17 March 2017

Appeal Ref: APP/Z3825/W/16/3159519

**Blackthorne Barn, Marringdean Road, Billingshurst, West Sussex
RH14 9HD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Scandia Hus against the decision of Horsham District Council.
 - The application Ref DC/16/0291, dated 5 February 2016, was refused by notice dated 22 June 2016.
 - The development proposed is demolition of existing family dwelling and barns and redevelopment to provide 8 custom build dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on that basis, treating the site layout plans and access plans as illustrative. The access, appearance, layout, scale and landscaping (the reserved matters) are reserved for consideration at a later stage.
3. An executed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 was provided following the Hearing, which seeks to overcome the reason for refusal relating to contributions toward provision of affordable housing off site and infrastructure improvements within the local area.

Main Issues

4. The main issues are:
 - whether the location of the proposed development would be consistent with the strategy for development set out within the Horsham District Planning Framework, or if there are any material circumstances sufficient to override any conflict with policy; and
 - whether contributions toward affordable housing and infrastructure improvements or provision are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
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Reasons

Strategy for development

5. The National Planning Policy Framework (NPPF) seeks to boost significantly the supply of housing, including through local planning authorities identifying the objectively assessed needs for housing and identifying sites to provide five years' worth of housing against their requirements. In this case, it is not disputed that the Council are able to demonstrate a 5 year housing land supply so that, in accordance with paragraph 49 of the NPPF, full weight can be attached to policies within the development plan, comprising the Horsham District Planning Framework (HDPF).
6. Policies 1, 2, 3 and 4 of the HDPF seek to direct development toward the key settlement of Horsham, with additional growth in the rest of the District in accordance with the identified settlement hierarchy. Policy 2 of the HDPF provides for strategic development, including bringing forward "around 150 dwellings" to the south of Billingshurst in accordance with Policy SD11 of the HDPF, which is identified as a small town or larger village with a good range of services and facilities that acts as a hub for smaller villages to meet their daily needs. In addition, it seeks to manage development around the edges of existing settlements to protect the rural character and landscape.
7. Policy 4 of the HDPF provides a number of criteria for the expansion of settlements outside their built-up area boundaries, such as the expansion being appropriate to the scale and function of the settlement and being contained within a defensible boundary, with landscape and townscape character features maintained and enhanced. The proposed development would comply with that policy, with the exception of the first criterion in that the site is not allocated in the Local Plan (including HDPF) or a Neighbourhood Plan (NP). The Billingshurst NP is at an early stage of preparation and it is unclear what, if any, sites would be allocated for development through it.
8. The Glossary to the HDPF confirms that "around" means a guide figure that is plus or minus ten per cent of the figure quoted, i.e. at least 135 dwellings to the south of Billingshurst. The Council has approved, or resolved to approve subject to completion of a legal agreement, a total of 138 dwellings on two sites to the south of Billingshurst¹ that were allocated for development within the HDPF. I understand that discussions regarding the legal agreement are expected to be concluded shortly such that the decision can be issued. As such, it can carry significant weight such that I can conclude those sites would meet the housing requirement for the land south of Billingshurst and I accept that the appeal site is not required in order to meet housing requirements in this location.
9. Policy 15 of the HDPF confirms that, in addition to allocated sites, 1,500 homes will be allocated through Neighbourhood Planning and 750 windfall units will be provided. Windfall development would normally be located within development boundaries on sites that are not allocated for development. I note reference by the Council to discussions regarding an outline application for 2,750 dwellings to the north of Horsham that is allocated for 2,500 dwellings. Given that this is currently subject of negotiation and it is possible that the number of dwellings

¹ Planning application references DC/15/0896 (87 dwellings approved on 9 September 2016) and DC/16/0274 (resolution to approve 51 dwellings).

will be reduced, it can attract very limited weight, but it does suggest that additional dwellings are likely to come forward to meet the Council requirements in the short term.

10. For these reasons, although the housing requirements are not a cap on delivery of sustainable residential development, the proposed development is not necessary to contribute toward the Council's housing figures and, for that reason, it would be contrary to the development strategy contained within Policies 1, 2, 3 and 4 of the HDPF.
11. It is clear from the examination of the HDPF that an early review of that development plan is required. This would be in order to meet housing needs during the later part of the plan period and to relieve some of the pressure for new housing in some coastal authorities. The Inspector suggested that additional housing could be accommodated within Billingshurst in order to meet those needs. It is possible that this site would be considered in addition to the land to the east of the town identified by that Inspector at that stage, or through the NP. I note that the site was put forward for consideration alongside the surrounding allocations during development of the HDPF but was not, for whatever reason, included within those allocations. However, at this stage, this site is not required to meet the housing requirements of this District.
12. The appeal site is located outside the boundaries of Billingshurst as defined on the HDPF Proposals Map. National Planning Policy Guidance (PPG) confirms that a policies map must illustrate geographically the application of policies in a development plan. Consequently, the map does not, itself, have the status of policy, but should be understood within the context of the relevant policies.
13. The Council suggests that the settlement includes the recent residential development to the north as well as the allocations proposed by Policy SD11 of the HDPF within the settlement, such that the settlement edge runs immediately to the west, north and east of the appeal site and neighbouring Great Gillmans Farmhouse to the south. Great Gillmans Farmhouse comprises a listed dwelling set within a large open garden, also with stables and ménage and with a planted earth bund along much of the boundary between the appeal site and that property. The existing site comprises a residential dwelling with paddock on which sheep graze, a stable block and ménage.
14. The existing development to the north of the site comprises two storey dwellings to part of the northern boundary separated by a footpath and small amount of landscaping with bungalows adjacent to the remainder of the boundary. A wider landscaped strip and access road is located between the west boundary of the appeal site and the two storey dwellings and bungalows beyond, which step down in height toward the fields to the south in order to provide a transition from the urban to the rural area. The small landscaped gap between the boundary of the appeal site and closest houses within this new development does not provide the same transition between built development within the town and the appeal site as it does where that development adjoins the surrounding countryside to the south.
15. The recently approved development to the east includes landscaped boundaries to provide an appropriate transition between the proposed dwellings and the surrounding countryside. This extends along the boundary with Great Gillmans Farmhouse and the appeal site to where the access drive divides to the two properties. Consequently, the layout of recent development, both constructed

and approved, would ensure a gradual change from the settlement to the rural surrounds to the south. The appeal site is located within this transition and the illustrative site plan suggests a less dense form of development on the site than within the adjacent housing estates. This would result in a gradual transition from that urban development to the surrounding countryside, albeit in a different manner to how it has been achieved with building heights and open areas surrounding the neighbouring development.

16. For these reasons, I accept that the site is located within the transition from the edge of the town to the countryside beyond and the proposed development could be accommodated whilst protecting the rural character and landscape surrounding Billingshurst, but that would not overcome the lack of need for this development to meet housing supply at the present time.
17. The NPPF confirms a presumption in favour of sustainable development that means approving development proposals that accord with the development plan without delay. It suggests that sustainable development has three dimensions that must be considered together, being economic, social and environmental.
18. The proposed development would provide eight serviced self-build dwellings, which would contribute toward the demand for self-build or custom build dwellings within the District, that would have a positive social benefit. Although Policy SD4 of the HDPF requires this form of development to be accommodated to the north of Horsham in accordance with local demand, there is no equivalent policy relating to Billingshurst. The site has good transport links to services and facilities within Billingshurst and surrounding towns. There would be limited economic benefits during the construction of the dwellings and residents would support local services and facilities once they are occupied. Subject to detailed consideration of the reserved matters, particularly with regard to the layout, scale and landscaping of development, I conclude that the proposed development would not have an adverse environmental effect on the character and appearance of the area, especially in relation to the transition from the urban development of Billingshurst to the surrounding countryside.
19. For these reasons, I accept that there are benefits to the proposed development and there would not be harm to the rural character and landscape of the countryside surrounding Billingshurst from the proposed development. However, the proposed development would not be consistent with the strategy for development as set out within Policies 1, 2, 3 and 4 of the HDPF insofar as it is not allocated for development and is not required to meet the need for development in the locality at the present time and, as such, it would not comprise sustainable development as defined by the NPPF. I do not consider that the material circumstances put forward would be sufficient to outweigh that policy conflict.

Affordable housing and infrastructure contributions

20. A signed Unilateral Undertaking was submitted following the hearing that had been subject of discussion during the course of the appeal and had been agreed with the Council. This sets out a number of contributions that the appellants would expect to make prior to commencement of the development toward the provision of affordable housing and other infrastructure. The Unilateral Undertaking confirms what the contributions would be spent on and this was discussed at the Hearing.

21. Policy 16 of the HDPF requires provision of 20% of dwellings to be affordable, or a financial contribution equivalent to the costs of the developer providing the units on site, where on-site provision is not achievable. In this case, the Council accept that on-site provision is not achievable. The Council has confirmed that the contribution toward affordable housing as set out in the Unilateral Undertaking would comply with their policy, and I see no reason to disagree with their conclusions in this regard. The Written Ministerial Statement of 28 November 2014 (WMS) restricts contributions toward affordable housing and tariff-style planning obligations from small scale development, including development of a maximum combined gross floor space of 1,000sq.m. I understand that the quantum of development proposed would be in excess of 1,000sq.m such that the WMS would not apply and such contributions can be sought in this instance.
22. I understand that the Community Facilities contribution would be put toward improvements to public toilets. The education contributions would be put toward further equipment at primary level, the national curriculum at secondary level and equipment at sixth form level in order to reflect the effects of increased pupil numbers as a result of the proposed development. The fire and rescue contribution would be put toward fire safety equipment to homes of vulnerable persons that would take pressure off the fire service for attendance at fires equivalent to the additional demand on the service from the proposed development. The library contribution would be put toward additional stock and the open space contribution would be put toward access improvements including a footbridge, part of which would be improvements and part new, in order to meet the demands placed by the increase in population arising from the development. Transport contributions would be put toward pedestrian and cycle improvements to services and facilities within the village in order to improve and promote sustainable movement between the development and local infrastructure.
23. Regulation 123(3) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) restricts the use of pooled contributions toward items that may be funded via CIL. If five or more obligations for a project or type of infrastructure have been entered into since 6 April 2010 and it is a type of infrastructure that is capable of being funded by CIL, no more contributions may be collected toward that project. The Council confirmed during the course of the Hearing that, where those contributions relate to the provision of infrastructure, there would be less than five contributions including these.
24. I conclude that the contents of the Unilateral Undertaking relating to affordable housing and other infrastructure are necessary, directly related to the development, and fairly and reasonably related in scale and kind as required by Regulation 122(2) of the CIL Regulations. However, this would not overcome the harm that I have found to the strategy for development set out within the HDPF.

Other matters

25. Great Gillmans Farmhouse is listed Grade II and comprises a house within a substantial garden, stables and ménage. Historically, it has been set within the surrounding countryside, with access along the long shared drive from Marringdean Road. However, recent and approved development have altered that setting, with residential development surrounding the shared drive and

encroaching onto the open countryside, toward the listed building. The proposed development would be located within its setting, but divided from the listed building by a planted bund that minimises any visual effect. Surrounding development that has recently been completed or granted planning permission to the west, north and east of the building has reduced the rural setting of the listed building substantially. Consequently, whilst the proposed development would be closer to the listed building, the bund and surrounding development limits the amount of harm caused by the proposed development to the countryside setting of the listed building, and this could be further reduced with appropriate landscaping and lighting to the proposed development.

26. The Framework advises at Paragraph 132 that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Accordingly, while less than the 'substantial harm' referred to in Paragraph 133 of the Framework, the harm to the listed building is nevertheless a matter of considerable importance in this case.
27. Paragraph 134 of the Framework establishes that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Whilst that attracts considerable weight and importance, it was argued that would have been outweighed by the public benefits of the provision of custom build housing had that been justified against the policy. I have already concluded that is not justified.
28. I note reference to appeal decision reference APP/P1425/W/15/3140780 that refers to a development of two houses within Lewes District Council area. That decision relates to a smaller development assessed against a different policy background, where the issues were different, such that it does not directly relate to the circumstances within this case. As such, I do not consider it to be directly comparable and I have assessed the scheme before me on its own merits.
29. An updated ecology survey was submitted to the Council during the course of the application and I understand that this was considered satisfactory by the Council, subject to mitigation measures contained within the report. However, this would not outweigh the harm that I have found to the strategy for development set out within the HDPF.

Conclusion

30. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gavin Pearson	Scandia Hus
Dale Mayhew	dowsettmayhew Planning Partnership Ltd
Laura Bourke	dowsettmayhew Planning Partnership Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Nicola Mason	Senior Planning Officer, Horsham District Council
James Webster	Senior Planning Officer Policy, Horsham District Council

DOCUMENTS SUBMITTED AT OR FOLLOWING THE HEARING:

Document 1: Executed Unilateral Undertaking dated 19 January 2017

Document 2: Policies 15, 16, SD1, SD4, SD5, SD11 and Glossary of the Horsham District Planning Framework

Document 3: Drawing Number 01AD titled Access Drive

Document 4: Decision notice relating to planning permission reference DC/15/0896 for residential development of 87 dwellings, including 30 affordable units, together with associated open space, landscaping and the creation of a new vehicular access from Marringdean Road at Kingslea Farm, Marringdean Road, Billingshurst, West Sussex

Document 5: titled Custom/Self Build opportunity at Blackthorne Barn, Marringdean Road, Billingshurst published by Horsham District Council

DRAWINGS:

Drawings submitted with the planning application (Location Plan, Site Plan, SP01 rev. C Layout Plan, AC01 Appliance and Refuse Vehicles Turning and 01AD Access Drive)