

Appeal Decision

Site visit made on 24 April 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 23 May 2017

Appeal Ref: APP/L3815/W/16/3164723

Land at Mill Lane, Westbourne, Emsworth West Sussex PO10 8RT.

- 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 WYG against the decision of Chichester District Council.
 - The application Ref WE/16/01218/OUT, dated 1 April 2016, was refused by notice dated 8 June 2016.
 - The development proposed is the construction of 3no. self build dwellings in the garden of 4 Brook Cottages, Mill Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters reserved for future approval. I have dealt with the appeal on that basis, treating the site plan and sections as illustrative.
3. I have taken the site address from the Council's Decision Notice and note the appellant's agreement to the same.
4. The appellant submitted a Unilateral Undertaking to the Council dated 19 April 2017. This establishes that the development would only be made available as self-build dwellings. It also seeks to mitigate the impact of the development on the Chichester and Langstone Harbours Special Protection Area by making the necessary financial contribution to the Council. Consequently, the Council has confirmed the withdrawal of its second reason for refusal.

Main Issues

5. In light of the above, the main issues are whether the development is acceptable in light of local planning policy and its effect on the character and appearance of the countryside.

Reasons

Principle of development outside the settlement boundary

6. Paragraph 11 of the "*National Planning Policy Framework*" (the Framework) states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
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7. The appeal site lies adjacent but outside the Settlement Boundary for Westbourne as defined in the "*Chichester Local Plan: Key Policies 2014-2029*" (the LP). The LP was adopted by the Council in July 2015 following an examination process. It thus post-dates the Framework. There is no dispute between the parties that the Council has a 5 year supply of housing. Consequently, the LP and policies therein must carry full statutory weight.
8. In order to protect the landscape, character, quality and tranquillity of the countryside Policy 45 of the LP strictly controls new residential development. It is not part of the appellant's case that the proposal accords with the exceptions set out in this policy. Therefore the location of the development would conflict with the spatial strategy of the development plan and specifically Policy 45 of the LP.

Character and appearance

9. The appeal site is a rectangular plot of garden land on the south side of Mill Lane, a private unmade road on the edge of Westbourne. To the north, east and west are existing residential dwellings of varying age and style. The site has an extensive frontage to Mill Lane which is demarked by an established band of landscaping. Despite a small number of ancillary structures on the land, it is an intrinsically open space which affords views of the open countryside beyond. The low-density and generous spacing between plots combined with the proximity of open countryside lend the area a semi-rural quality. In my view the site contributes to an open and undeveloped setting to the south of Mill Lane at a point where a marked transition from village fringe to open countryside begins.
10. The submitted plans show how the site might be developed with three detached dwellings with individual driveways facing Mill Lane. Whatever form the development takes, it is likely that it would be a more formal, close-knit layout than that which prevails in the locality. Although views of the development from the wider landscape would be filtered by existing planting on the site boundaries which could be strengthened, there would still be a significant localised effect from Mill Lane. From here the dwellings, vehicle parking/manoeuvring areas and domestic boundary treatments would all be clearly visible through the entrances. Whatever the level of inter-visibility between the development and public vantage points, the argument that a development would be out of sight, is not a good one in principle as it could be oft-repeated to the overall detriment of the countryside.
11. The development would completely change the open character of the land thus giving the area a more built-up character. The open setting, albeit contained behind landscaping currently, as well as those glimpses of the open countryside to the south would be permanently lost. I therefore conclude from the evidence before me and from my site visit that the appeal scheme would be a visually intrusive development on the periphery of a settlement which is outside the main built up part of Westbourne. Consequently, there would be conflict with Policies 33 and 48 of the LP which seek to protect local landscape character.

Other Matters

12. In accessibility terms, the appellant argues that the site's location is undeniably sustainable. I disagree. Whilst there are basic services and facilities in

Westbourne which would provide for some day-to-day essentials, future occupants of the proposed development would still be dependent on longer distance car journeys to access supermarkets, employment areas and the like. Even if I am wrong about that, the nearest facilities in the village centre would be approximately 0.5km away. The local primary school is located on the far side of the village nearly 1km away. Whilst the distances involved might not be overly excessive, they would not be particularly convenient either. Of more significance is that a meaningful section of the route is unlit, narrow and without the benefit of footways meaning that pedestrians including children would have to walk in the carriageway. In my view therefore journeys on foot to local services would be the reserve of the most intrepid pedestrians. There are bus stops close to the site. However, as no timetables have been submitted I have no information before me as to the frequency and timing of bus services which might run from these stops. Overall, for the majority of future residents, the balance of probability is that for most journeys, for most purposes, the transport mode of choice, and in most cases necessity, would be the private car. Accordingly, I do not consider the development would be sustainable in locational terms.

13. The application seeks permission for 3 self-build plots. According to the appellant, there are 18 people on the Council's self-build register at the present time. By any reasonable estimation that is a small number and it is unclear how many of those have an interest in this particular area.
14. The "*Self-Build and Custom Housebuilding Act 2015*" (the Act) requires local planning authorities to keep a register of people who wish to acquire land for self-build purposes and that regard is had to this register when exercising planning functions. I have carefully considered the appellant's submissions that the LP cannot be considered '*up to date*' because it pre-dates the Act and makes no specific provision for self-build housing. Whilst I agree with the appellant that the promotion of self build housing is a legitimate aim of government planning policy and therefore a material consideration in this appeal, it would be quite perverse for me to conclude that the failure of the LP to have foreseen the requirements of the Act in advance should render it '*out of date*'.
15. As the LP does not contain a specific policy or allocations in relation to self-build, a more reasonable approach is to default to advice in the Framework. This qualifies that the Government's support for self-build is on the basis that such homes should be sustainably located as part of inclusive and mixed communities. This reflects the Act itself which makes clear that only suitable (my emphasis) planning permissions should be granted. For the reasons set out above, I have found the site to be inherently unsuited to the proposed residential development. Moreover, I can find nothing to suggest the intention of the Act is to make self-build schemes which would otherwise be in an unacceptable location acceptable.
16. Therefore, whilst I accept that demand exists within the district for self-build housing, the weight to be attached to this benefit is limited by virtue of the development's unacceptability in other key areas.
17. Various parties have referred to the forthcoming neighbourhood plan¹. However, as the plan has not been subject to consultation or a local

¹ The Westbourne Neighbourhood Plan, 2017 to 2029

referendum it is at too early a stage of preparation to attract any significant weight. In any case, the neighbourhood plan does not alter my findings in respect of the main issues.

Conclusions

18. The starting point in weighing the various factors is that the principle of housing in the countryside conflicts with a recently adopted development plan.
19. The development would result in the need to travel by car for basic day-to-day services and facilities which would not support the transition to a low carbon future nor would it be consistent with the Framework's aims to make the fullest use of non-car modes of transport. I have also identified harm to the character and appearance of the countryside and conflict with Policies 33 and 48 of the LP in that regard. Collectively these considerations carry significant weight.
20. As to whether material considerations indicate that the permission should be allowed, I have identified that 3 custom/self-build houses would deliver some social and economic benefits consistent with the Framework and the development plan and would go some way towards meeting an identified need in the district. However, the appeal site is not in a sustainable location and the development would result in significant environmental harm. In these circumstances and with regard to advice in the Framework, the self-build credentials of the scheme add limited weight in favour of the proposal.
21. Having considered all the matters raised, given the harm that would be caused, the collective benefits of the proposed development are of insufficient weight to indicate that the proposal should be determined other than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be dismissed.

D. M. Young

Inspector