



Appeal Decision

Site visit made on 23 March 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 02 April 2020

Appeal Ref: APP/C3810/W/19/3243619

Ryefields Farmhouse, Oak Tree Lane, Woodgate PO20 3GU

- 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 Robert Turner, Turnbull Land against Arun District Council.
 - The application Ref AL/72/19/PL, is dated 23 August 2019.
 - The development proposed is the demolition of existing buildings and the erection of ten houses, comprising 1 x three bedroom detached, 6 x three bedroom semi-detached, and 3 x four bedroom detached houses, with associated access and parking.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The Council issued a refusal notice on 24 December 2019, but this post-dates the lodging of the appeal. Therefore, I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. However, the Council's refusal notice and appeal statement outlines what decision it would have made had it been able to do so within the statutory timescale. Such reasons have formed the basis of the main issues as detailed below.
3. Since the appeal was lodged, the appellant has submitted a planning obligation by way of a Unilateral Undertaking dated 13 March 2020 pursuant to section 106 of the Act¹. This provides for financial contributions towards education, fire and rescue, healthcare infrastructure, highways and libraries. I shall return to this matter later.

Background and Main Issues

4. It is not disputed that the local planning authority cannot presently demonstrate a deliverable 5-year supply of housing sites. Indeed, the Council states that its most up-to-date figures show a housing land supply of 3.7 years. Moreover, the appellant cites a recent appeal decision² where the Inspector concluded that the Council's deliverable supply of housing sites is approximately 2.9 years. Therefore, the presumption in favour of sustainable development contained in paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged. Permission should therefore be

¹ Town and Country Planning Act 1990.

² Appeal Reference: APP/C3810/W/19/3236911

granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

5. In the context of the above, the main issues are:

- whether the proposed development would prejudice the comprehensive delivery of development in respect of the Barnham/Eastergate/Westergate strategic allocation;
- the effect of the proposal on highway and pedestrian safety;
- whether there would be satisfactory arrangements for the collection of refuse;
- whether the proposal would be capable of providing satisfactory foul and surface water drainage; and
- whether the proposal makes adequate provision for any necessary infrastructure, services and facilities arising from the proposed development.

Reasons

Site and proposal

6. The appeal site forms part of the wider garden area of Ryefields Farmhouse. It is generally a flat grassed area with a few small recreational buildings and some trees at the eastern end and along the boundary with Oak Tree Lane which, at this point, is an unmade private track. The track is a cul-de-sac which serves Ryefields Farmhouse and a complex of buildings east of the appeal site. To the west of the site Oak Tree Lane serves residential properties before it joins Lidsey Road (the A29).
7. The proposal is for the demolition of the existing buildings and the erection of ten houses, with associated access and parking. The houses would be arranged along a new service road and set back from Oak Tree Lane. The design of the properties would be traditional in form and style and would be a mix of semi-detached and detached. Thus, would generally reflect the character and appearance of existing residential development in Oak Tree Lane west of the appeal site.

Strategic Allocation

8. Policy H SP1 of the Arun Local Plan 2011-2031 (2018) (LP) sets out that within the plan period at least 20,000 new homes will be accommodated in the District. The policy allocates 2,300 units to the strategic housing site (SD5) Barnham/Eastergate/Westergate (BEW). The appeal site forms a small part of the BEW strategic allocation and the proposed 10 dwellings would contribute towards the 2,300 units within the plan period.
9. Policy H SP2 of the LP states that development proposals within the strategic site allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas which incorporates high quality imaginative design giving a sense of place and a permeable layout. It goes on to explain that the comprehensive development of each strategic allocation will need to meet a number of key requirements.

Policy H SP2c of the LP sets out the key design and infrastructure requirements for the BEW strategic allocation. Amongst other things, they include the delivery of green infrastructure to preserve the separate identities and avoid any further physical coalescence of the three villages of Barnham, Eastergate and Westergate, a layout to take account of the location of the railway line crossing the strategic allocation, housing designed around a linear park which follows along the Lidsey Rife, and a new A29 route through the strategic allocation.

10. I have been presented with an 'Illustrative Masterplan' for the BEW strategic allocation (Drawing Number 00605B_SK_008 Revision C). The evidence before me indicates that the masterplan is a draft version that was subject to a public consultation exercise in February 2019. Furthermore, the Council say that the masterplan for the BEW allocation is still in draft form and a revised version is expected to be available in spring 2020.
11. Although the masterplan before me is indicative in nature and therefore subject to change, it nonetheless indicates that the proposed development would conform to the land use and development pattern within this part of the BEW allocation. I have not been presented with any compelling evidence to demonstrate that the site would not form part of a wider parcel of land proposed for housing as part of a revised masterplan. Indeed, the evidence indicates that there is no dispute between the main parties that the principle of residential development on the site is acceptable.
12. The site is located approximately 750 metres west of the proposed realigned A29 and around 50 metres south of the existing railway line. It is also approximately 350 metres west of the Lidsey Rife river corridor where the proposed 'Rife Valley Park', a linear park with sustainable drainage elements, open space and amongst other things walking and cycling routes would be located.
13. Thus, within this context, and taking into account the peripheral location of the site within the BEW strategic allocation area, its relative small-scale and proximity to existing residential development, the proposal would not impede any future highway, lead to a further physical coalescence of the aforementioned villages, or affect the ability to deliver green infrastructure in the form of the proposed linear park. Moreover, the proposal would not block any existing pedestrian or vehicular routes or impede the proposed buffer zone and screening planting alongside the railway line. Taking into account the size of the site, which is around 0.33 hectares, and its location some distance from the more central parts of the strategic allocation, in my judgement, the development would neither offer any realistic possibility of accommodating, nor compromising, the delivery of the other infrastructure required by Policy H SP2c of the LP, such as a new local centre, schools and potential employment development.
14. An agreed masterplan would show the location of the site in the context of future surrounding streets. It would also show the wider network of movement by foot, cycle and public transport. However, taking into account that the location of the site is within an area proposed for housing, I have not been presented with any substantive evidence to demonstrate that the proposal would not be capable of functioning as part of the wider neighbourhood within the BEW strategic allocation, including in regards to accessibility to non-car

modes of transport. This is within the context that the draft masterplan which indicates that the development would include improved infrastructure in the form of walking and cycling routes and east-west connections to Barnham railway station, and the proximity of the site to Lidsey Road where a bus service operates between Bognor Regis, Barnham railway station and other settlements in the surrounding area.

15. For the reasons outlined above, I conclude that the proposed development would not prejudice the comprehensive delivery of development in respect of the BEW strategic allocation. Consequently, it would not conflict with Policies H SP2 and H SP2c of the LP which, amongst other things, seek to ensure development proposals within strategic allocations are comprehensively planned to ensure a sense of place and a permeable layout, and incorporate key design and infrastructure requirements. Furthermore, it would not conflict with the National Planning Policy Framework (the Framework) in so far as it seeks to promote development that provides access to a network of open spaces for the health and well-being of communities; functions well and adds to the overall quality of an area; and establishes a strong sense of place.

Highway and Pedestrian Safety

16. The appellant asserts that given the location of the site and the relatively small scale of the proposal, the development could be built out independently of the BEW strategic allocation; thus, before the implementation of wider infrastructure including new roads, cycleways and footways.
17. Access to the development would be over a relatively short section (around 20 metres in length) of unmade track, before joining the surfaced section of Oak Tree Lane. Notwithstanding its relatively short length there are no continuous kerbs and there are no footways alongside the track. I saw at the time of my site visit that the track surface was uneven and there were potholes of varying size and depth along the section of track between the location of the proposed entrance to the site and the surfaced section of Oak Tree Lane.
18. My attention has been drawn to the National Design Guide (NDG)³, which states *'in well-designed places, streets are public spaces that are open to all. They encourage people to walk and cycle rather than to depend upon cars, particularly for short, local journeys. They are accessible to all and designed to meet the needs of their most vulnerable users'*.
19. The appellant says that the track is extensively used by pedestrians and cyclists to access other properties without incidents. I have taken into account the representation from the Highway Authority and acknowledge that the short section of unmade track would not present any significant difficulties for vehicles, pedestrians and cyclists.
20. However, by virtue of its aforementioned condition, notwithstanding its relatively short length, the uneven surface of the track would not be suitable for wheelchair users. Nor would it be suitable for blind or partially sighted people due to the lack of a conventional kerb, because this is a feature that blind and partially sighted people often rely on to find their way around. Moreover, the existing condition of the track, in my judgement, would represent a significant trip hazard for blind and partially sighted people.

³ Paragraphs 102 and 104

21. For the reasons outlined above, I conclude that the proposed development would not be accessible to all users other than by vehicle and would not meet the needs of vulnerable users. Consequently, it would not accord with Policy T SP1 of the LP which, amongst other things, seeks to ensure that development proposals provide safe access on to the highway network and consider the needs of people with disabilities by all modes of transport. Furthermore, it would also fail to meet the Framework's requirement, as set out in paragraph 108 b), that development proposals ensure that safe and suitable access to the site can be achieved for all users.

Collection of refuse

22. The proposed development includes two bin collection points positioned either side of the site entrance off Oak Tree Lane. The appellant says that refuse collection vehicles would be able to collect refuse from these collection points. However, such an arrangement would require future occupants of the proposed development to move their waste bins, up to around 60 metres in the case of plots 7 and 10, from their properties to the bin collection points in readiness for collection by the waste collection authority. Taking into account the distance involved, and as a matter of fact and degree, I do not consider the location of the proposed bin collection points are sited to enable all future residents to conveniently manoeuvre waste bins to the proposed collection points.
23. Therefore, the waste collection authority would need to access the site to collect waste from the kerbside. The appellant's evidence demonstrates that a refuse collection vehicle of approximately 10 metres in length would be able to safely manoeuvre and turn within the site. However, the Council has drawn my attention to their guidance⁴ which sets out that collection of bins from private roads may be possible as long as certain criteria can be fulfilled. It states, amongst other things, that when a through road does not exist (as in this case), a turning area must exist and a 12 metre long vehicle must be able to turn around in three manoeuvres or less.
24. The road layout of the proposed development would include a turning area. However, I have not been presented with any compelling evidence to demonstrate that the turning area would enable a 12 metre long vehicle to turn around in three manoeuvres or less.
25. Therefore, notwithstanding the size of any other waste collection vehicles which may currently be in operation in the vicinity of the site, for the reasons outlined above, I conclude that the proposal fails to demonstrate that kerbside collection of waste bins from the proposed residential development would be possible for waste collection vehicles of 12 metres in length.
26. Consequently, in this regard, the proposed development would not accord with Policy WM DM1 of the LP which states that new residential development will be permitted provided that it is designed to ensure that kerbside collection is possible for municipal waste vehicles. It would also conflict with the Framework which seeks to achieve well-designed places that function well, not just for the short term but over the lifetime of the development.

⁴ <https://www.arun.gov.uk/rubbish>

Foul and surface water drainage

27. Notwithstanding that the site lies within Flood Zone 1 the evidence before me indicates the area of the proposed development is at high risk from groundwater flooding. The planning application form states that disposal of foul water would be to mains sewer and disposal of surface water run-off from the site would be to a sustainable drainage system (SuDS).
28. Policy W DM1 states, in criteria (3), that within the Lidsey Wastewater Treatment Works Catchment Area (in which the site lies) proposals for major development must be accompanied by a full Drainage Impact Assessment which must take account of surface water and foul water disposal.
29. Whilst I have not been presented with a full Drainage Impact Assessment the appellant has submitted a 'Flood Risk / Drainage Management Statement'. However, it only sets out a strategy for the disposal of surface water run-off from the site; it does not include a strategy for the disposal of foul water. Thus, I have not been presented with any substantive evidence to demonstrate that the impact of the proposed development, both individually and cumulatively, upon foul water disposal within the Lidsey Wastewater Treatment Works Catchment Area would be acceptable.
30. Turning to surface water drainage, the 'Flood Risk / Drainage Management Statement' confirms the intention to dispose of surface water run-off to a new SuDS system within the site in accordance with current good practice and guidance⁵.
31. However, taking into account the site lies within an area at high risk of groundwater flooding, the statement does not include evidence of winter groundwater monitoring and winter infiltration testing to determine the area take up required for the SuDS system. Thus, without this information, it is unclear whether there would be adequate space within the layout of the proposed development to accommodate a SuDS system, or indeed whether such a system would have enough capacity thereby ensuring that the proposed development would not increase flood risk elsewhere.
32. I have not been presented with any compelling evidence to demonstrate that should a SuDS system not prove a practical solution for the disposal of surface water run-off, for example due to there being inadequate space within the layout of the proposed development to accommodate such a system, that an alternative arrangement would be capable of being implemented. The evidence indicates that there are no watercourses in proximity of the site which would be capable of receiving surface water run-off discharged from the proposed development and Southern Water, as the sewerage undertaker, has not indicated that it would be acceptable to discharge surface water run-off to the foul water drainage network.
33. For the reasons outlined above, I conclude that inadequate information has been provided to demonstrate that the proposed development would be capable of providing satisfactory foul and surface water drainage. Consequently, in this regard, it would conflict with Policies W DM1, W DM2 and W DM3 of the LP which, amongst other things, seek to ensure that development proposals take account of both the individual and cumulative

⁵ CIRIA, The SuDS Manual (C753), 2015

impact upon foul water disposal; demonstrate that they will not increase flood risk elsewhere; and demonstrate that a SuDS system can be incorporated within the private areas of the site and are appropriately sized by carrying out groundwater monitoring within the winter period and winter percolation testing. The proposal would also conflict with Policy EH5 of the Aldingbourne Neighbourhood Development Plan (2016) which seeks to ensure that new development proposals provide clear evidence that they would make appropriate provision for accommodating the surface water and foul water arising from the development.

Planning obligation

34. As noted above, the submitted planning obligation provides for financial contributions towards education, fire and rescue, healthcare infrastructure, highways and libraries. These contributions are in respect of infrastructure and services to meet the needs of occupiers and users of the development and the existing community, and the key infrastructure requirements proposed to be delivered within the BEW strategic allocation.
35. The Council's appeal statement indicates that financial contributions would also be required towards public open space, sport and recreation, a community centre, policing, and a flood alleviation scheme to serve the wider allocation.
36. However, notwithstanding the existence of the planning obligation submitted as part of the appeal and the Council's assertion that the appeal proposal would only be acceptable with further contributions towards the aforementioned infrastructure and services, as I am dismissing the appeal for other reasons it has not been necessary for me to consider this matter in any further detail.

Other Considerations

37. I have taken into account the various benefits of the proposed development identified by the appellant under the headings of economic, social and environmental in line with the three objectives set out in paragraph 8 of the Framework.
38. The proposal would seek to boost the supply of housing in the context that the Council cannot currently demonstrate a deliverable five-year supply of housing land by quite some margin. However, the proposal is only for ten new dwellings and therefore its contribution to future housing provision would be relatively modest. This is not to lessen the contribution that the proposed development would make to the housing shortfall, since as paragraph 68 of the Framework states, small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly.
39. I have no doubt that the occupiers of the proposed dwellings would help to support local facilities and services, although the economic contribution from the occupiers of ten dwellings would not in itself be a very significant benefit. Furthermore, the proposal would lead to some employment through the construction of the dwellings, although this would be a short-term benefit.
40. In determining this appeal, I afford the above considerations positive weight in the overall planning balance.

Planning Balance and Conclusion

41. I have found that the proposed development would not be accessible to all users other than by vehicle and would not meet the needs of vulnerable users. Furthermore, the proposal fails to demonstrate that there would be satisfactory arrangements for the collection of refuse and capable of providing satisfactory foul and surface water drainage. I afford substantial weight to these matters as part of the determination of this appeal noting conflict with both development plan and Framework policies.
42. Although I have found that the proposed development would not prejudice the comprehensive delivery of development in respect of the BEW strategic allocation, this is a matter of neutral consequence in the overall planning balance.
43. In conclusion, I find that the identified adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Consequently, the proposal would not amount to a sustainable form of development and therefore the appeal should be dismissed and planning permission refused.

Andrew Bremford

INSPECTOR