



Appeal Decision

Site visit made on 16 June 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2020

Appeal Ref: APP/Z3825/W/20/3246901

Greenacres, Hurston Lane, Storrington, Pulborough RH20 4HH

- 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 Mr Simon Patience, Simon Patience New Homes against the decision of Horsham District Council.
 - The application Ref DC/18/2744, dated 21 December 2018, was refused by notice dated 14 August 2019.
 - The development proposed is demolition of the existing dwelling and redevelopment to provide six residential dwellings with detached garages.
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Decision

1. The appeal is allowed and outline planning permission is granted for demolition of the existing dwelling and redevelopment to provide six residential dwellings with detached garages at Greenacres, Hurston Lane, Storrington, Pulborough RH20 4HH in accordance with the terms of the application, Ref DC/18/2744 dated 21 December 2018 subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal seeks outline planning permission. Approval is sought for matters of access and layout and I have considered the appeal on this basis. While I have had regard to the plans submitted as part of the application, I have considered details relating to the reserved matters of appearance, landscaping and scale as illustrative.
3. Since the application was determined, the Storrington, Sullington and Washington Neighbourhood Plan (SSWNP) was 'made' on 4 September 2019. As a result, the SSWNP now forms part of the development plan for the area, and its policies carry full weight in my consideration of the appeal proposal.

Main Issue

4. The main issue is whether or not the location of the development would be appropriate having regard to the position of the site, partly within the countryside.

Reasons

5. Greenacres is a detached dwelling fronting Hurston Lane on the outskirts of the settlement of Storrington. There is a garden to the rear which is enclosed by fencing and vegetation to the sides and a detached garage. A low gate to the side of the garage provides access from the garden to the rear part of the appeal site. This more extensive area is mostly maintained as grass, and

- accommodates a tennis court and small outbuildings, together with domestic paraphernalia including seating, tables and play equipment.
6. For the most part, dwellings on this side of Hurston Lane are positioned on a similar building line fronting the street. However, the appeal site includes an existing vehicular access between Greenacres and April Cottage which serves Maple Cottage to the rear. Beyond these neighbours are 4 detached dwellings which are arranged along a private access extending further from Hurston Lane than the rear boundary of the appeal site. As a result, there is more variety in the layout of development close to the site.
 7. Policies 2, 3 and 4 of the Horsham District Planning Framework 2015 (HDPF) provide the Council's overarching approach towards new development. They define a settlement hierarchy which guides development in order to maintain and protect the district's rural character and distinctive settlement pattern, while meeting local needs, ensuring access to services and reducing the need to travel by preventing inappropriate development.
 8. The HDPF also defines built-up areas. Under HDPF Policy 3, Storrington is identified together with Sullington as a 'small town and larger village' which are characterised as having a good range of services and facilities and reasonable rail and/or bus services. Policy 3 additionally advises that development of an appropriate nature and scale to maintain the characteristics and function of the settlements will be acceptable within the built-up area.
 9. Alongside the policies of the HDPF, the more recent SSWNP also steers new development to existing built-up areas. Outside of the built-up area, SSWNP Policy 1 indicates that proposals may be supported in certain specified locations around Washington or if it results in the reuse of previously developed land outside of the South Downs National Park provided the development accords with other policies in the development plan. It continues that outside of these definitions, development will be required to conform with policies in respect of the management of development in the countryside.
 10. The built-up area boundary of Storrington and Sullington as defined by the HDPF and modified by the SSWNP includes Greenacres and the garage to its rear, along with neighbouring dwellings on and accessed from Hurston Lane. The Council have raised no objection to the replacement dwelling fronting Hurston Lane which would be within the built-up area. However, the rear part of the site is outside of the built-up area boundary, and the 5 dwellings proposed here would be within the countryside in policy terms.
 11. With reference to a judgement by the Court of Appeal¹, the appellant suggests that the location of the site partly outside of the built-up area does not mean that it is not part of the village. That case relates to the interpretation of paragraph 89 (now paragraph 145) of the National Planning Policy Framework (the Framework) concerning proposals within the Green Belt. In contrast, the appeal site is not within the Green Belt, and even if I were to find that the site was closely related to the village, relevant policies of the HDPF and the SSWNP refer in specific terms to 'built-up area boundaries' which are defined within the development plan.

¹ Julian Wood v The Secretary of State for Communities and Local Government and Gravesham Borough Council [2015] EWCA Civ 195

12. Outside of built-up area boundaries, HDPF Policy 4 supports the expansion of settlements subject to certain criteria which include a requirement that a site is allocated in the Local Plan or a Neighbourhood Plan and adjoins an existing settlement edge. As the appeal site is not allocated for development within the HDPF or SSWNP, the 5 dwellings at the rear of the site would conflict with this requirement of Policy 4.
13. Policy 26 of the HDPF is also relevant to development within the countryside. This policy seeks to protect the rural character and undeveloped nature of the countryside against inappropriate development, and includes a requirement that any proposal must be essential to its countryside location. The information before me does not demonstrate that the development is essential to a countryside location. There would also therefore be conflict with this aspect of HDPF Policy 26.
14. There is dispute between the main parties as to whether the rear part of the site should be considered as previously developed land. However, from the evidence before me, I am unable to reach a firm conclusion on whether greenhouses formerly located on the rear part of the site were in retail use², or agricultural use³.
15. In any event, the definition of previously developed land set out at Annex 2 of the Framework excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. It is only the foundations of the former structures which remain on the site. Although they can currently be seen, the appellant advised that these had been uncovered prior to my visit. I saw that they were in poor condition and visible only within trenches some way below the level of the surrounding turf. Accordingly, the foundations are not a generally discernible feature on the site, and I find that the former structures have effectively blended into the landscape.
16. Given this, the rear part of the site would not fall within the definition of previously developed land by virtue of the former use. As a consequence of the separation from Greenacres and scale of this part of the site, it also does not appear closely related so as to form part and parcel of the dwelling, and from the information before me I do not consider the land would fall within the curtilage of Greenacres. Development here would not therefore benefit from encouragement within the SSWNP and at HDPF Policy 2 for the effective use of previously developed land.
17. Nevertheless, HDPF Policy 15 seeks provision for at least 16,000 homes over the plan period, including provision of 750 homes through windfalls. In that light, I have considered an appeal decision at Haglands Lane⁴ where a discrepancy was identified between this provision for windfalls and HDPF Policy 4 which requires that sites outside of the built-up area are allocated. However, I see no reason that windfalls could not come forward within existing settlements, or on sites beyond built-up area boundaries in accordance with HDPF Policy 26 for example. I therefore find no fundamental conflict between

² Under Class A of the Town and Country Planning (Use Classes Order) 1987 (as amended)

³ Under the definition at Section 336 of the Town and Country Planning Act 1990 which includes horticultural and nursery grounds activities

⁴ Appeal reference APP/Z3825/W/15/3022944

these policies. My findings in this regard would also be consistent with more recent decisions on appeals at Sandgate Nurseries⁵ and at Sandy Lane⁶ referred to by the Council.

18. Insofar as the proposal would include development partly within the countryside outside of the built-up area boundary, the location of the development would conflict with aspects of HDPF Policies 2, 3, 4 and 26 and Policy 1 of the SSWNP which direct development towards the built-up area.
19. Whilst I have not found that the rear part of the site comprises previously developed land, it is currently enclosed and used as domestic garden in association with a dwelling within the built-up area boundary. As a result, the rear part of the site does not possess the particular rural character or undeveloped nature which can be generally expected of the countryside, and which HDPF Policy 26 seeks to protect.
20. The development would utilise an existing access from Hurston Lane which already serves buildings set behind dwellings fronting the street, reducing the impact on the street scene. To the rear part of the site, the layout would be similar to nearby development to the south of the site where dwellings are set around an access, and the spacious arrangement proposed would retain a significant degree of openness. Vegetation to the boundaries of the site would provide for enclosure of the development, and I am satisfied that defensible boundaries could be provided at reserved matters stage. I also see no reason why it would not be possible, at reserved matters stage, for the detailed design to respond sympathetically to the surrounding character and appearance or townscape features. Given these factors, I see no reason to disagree with the Council that there would be no harm to the countryside or the wider character and appearance of the area.
21. In addition, there would be no encroachment into the green gap or upon countryside protection views identified within the SSWNP. The site does not spread further to the west from Hurston Lane than existing development within the built-up area immediately to the south of the site. Furthermore, given the scale of the site and the sense of openness that would be retained, I am satisfied that the development would not significantly erode any gap between settlements so as to result in coalescence, nor would it diminish the identity of the settlement.
22. There is no substantive evidence before me suggesting that the proposal would prejudice comprehensive long-term development, be inappropriate to the scale or function of Storrington and Sullington, or result in unacceptable intensification of activity in the countryside.
23. Accordingly, I find no further conflict with the criteria for development which are outlined within Policies 2, 3, 4 and 26 of the HDPF.
24. Moreover, although the evidence before me indicates that the Council can demonstrate a five-year supply of deliverable housing sites (5YHLS), this is not a ceiling on development. The Framework identifies an objective to significantly boost the supply of homes, and the proposal would contribute 5 additional dwellings to the supply of housing to meet needs within the SSWNP area, and

⁵ Appeal reference APP/Z3825/W/14/3001703

⁶ Appeal reference APP/Z3825/W/19/3227192

towards the minimum requirement for housing including provision for windfalls identified within HDPF Policy 15.

25. The reasonably accessible location of the site at the edge of the built-up area would enable future residents to access a range of local services and facilities in Storrington and Sullington on foot or by cycle, as well as bus services. I note comments from interested parties regarding the frequency of bus services, and acknowledge that walking or cycling may not be realistic options for all future occupiers. Be that as it may, there would be potential for travel by modes other than private vehicles which would help to reduce car dependency, and locally accessible services to meet some day to day needs would benefit households.
26. In addition, patronage by future occupiers would offer additional support which could help to sustain local services and facilities, and the proposal would contribute through the Community Infrastructure Levy towards the provision of infrastructure. As well as these economic and social benefits, there would also be some short-term economic benefits through the construction of the development. In these ways, the development would extend some support to the vitality of the settlement as sought by the SSWNP.
27. In addition to considering likely impacts of the development on protected species and mitigation measures, the Preliminary Ecological Appraisal 2018 and Bat Survey Report 2019 also identify potential for biodiversity enhancement as part of the development which, although limited, could be secured by condition.
28. Drawing matters together, the location of development partly outside of the boundary of the built-up area within the countryside results in conflict with some aspects of Policies 2, 3, 4 and 26 of the HDPF and Policy 1 of the SSWNP. Although the conflict is with elements of a number of policies, this reflects the guidance of development towards built-up areas across a number of different policies, rather than multiple areas of non-compliance.
29. I find no harm beyond this particular conflict, and there would be no harm to the landscape, open countryside or to the character or appearance of the area. There is also no compelling evidence before me that the proposal would undermine the Council's ability to manage growth through the plan-led approach advocated at paragraph 15 of the Framework. I therefore find that the very particular circumstances of the site limit the degree of conflict with Policy 1 of the SSWNP and Policies 2, 3, 4 and 26 of the HDPF to a technical contravention.
30. The adopted development plan for the area should be taken as a whole. The development would provide additional housing at the edge of a settlement defined within the HDPF as a small town and larger village with access to services and public transport. There would also be economic and social benefits associated with construction and occupation of the development, and some potential for biodiversity enhancement. Set against the limited conflict arising from the location of the site partly outside of the built-up area within the countryside, I find that the proposal would accord with the overall thrust of the development plan as outlined at HDPF Policy 1 to secure sustainable development that improves the economic, social and environmental conditions in the area. I therefore conclude that the proposal would accord with the development plan when it is read as a whole.

Other Matters

31. I have considered an appeal decision at Sandy Lane⁷ where development outside of the settlement boundary was found to represent a breach of the Council's plan led settlement strategy. However, that related to a much larger proposal for 42 dwellings where harm was also identified in relation to heritage assets and the character and appearance of the area. Accordingly, I do not find that the circumstances are directly comparable to the appeal before me which I have considered according to its merits.
32. I have also taken into account representations by interested parties including the Storrington and Sullington Parish Council.
33. I acknowledge comments that the grant of planning permission could set a precedent for other similar developments to the west of Hurston Lane. However, no directly comparable sites to which this might apply were put forward, and it seems to me that the particular circumstances of the appeal site would be unlikely to be repeated elsewhere. Each application and appeal must be determined on its individual merits, and I do not find that the generalised concerns raised would justify withholding permission in this case.
34. Given the number of houses, the development is unlikely to result in unacceptable levels of traffic, noise or pollution, and the alterations to the access to Hurston Lane are indicated to provide for visibility splays. There is little evidence before me to suggest there would be a significant increase in congestion, or that movements associated with the development would otherwise harm highway safety. In this regard, I note that the Highway Authority has not objected and from the evidence before me, I see no reason to disagree or alter my decision.
35. In some places, the layout would result in buildings or parking set fairly close to the site boundaries. Scale and appearance are reserved matters, but given the relationship of the development with surrounding buildings and gardens, together with the fairly small number of dwellings, I do not consider that there would be an unacceptable impact to the living conditions of neighbouring occupiers, including through loss of light, privacy or unacceptable noise or disturbance.
36. Any effects during the construction period would be short-term, and could be mitigated by careful construction management.
37. The Council have raised no objection in relation to the effect of the development on trees subject to appropriate conditions and measures, and with regard to the evidence before me including the Arboricultural Survey and Development Scope Report 2018, I see no reason to reach an alternative view.
38. I also note concerns regarding pressure on general infrastructure, but there is no substantive evidence before me to demonstrate that existing services and facilities are already under undue pressure, or that they would not have the capacity to accommodate future residents. Details of provision for foul and surface water drainage can be controlled by condition, and there is no firm evidence suggesting that it would not be possible for the development to satisfy building regulation requirements related to fire safety.

⁷ Appeal reference APP/Z3825/W/19/3227192

39. I am satisfied that none of the other matters raised, either individually or collectively, would result in a level of harm that would justify dismissal of the appeal, and the comments by interested parties do not alter my findings on the main issue.

Conditions

40. I have considered all conditions having regard to the tests set out at paragraph 55 of the Framework and in light of comments by the appellant. Where necessary, I have amended conditions for the sake of clarity and to meet the tests.
41. I have attached standard conditions relating to the submission of reserved matters and the time limits associated with this. I have also included a condition specifying the relevant plans for the avoidance of doubt and in the interest of certainty.
42. To safeguard the living conditions of neighbouring or future occupiers as well as highway safety, conditions are required prior to the commencement of development to agree details of construction set-up and the provision of drainage on the site. To protect the character and appearance of the area, a condition is also required to agree details of tree protection works including with regard to the provision of underground services.
43. To ensure highway safety and make adequate provision for vehicles on the site, conditions are needed to secure parking, turning and access, including provision of suitable visibility to the access. To promote the use of sustainable transport, secure cycle parking and electric car charging points are required. In order to comply with the development plan, a condition is necessary to secure compliance with the Building Regulations optional requirements in respect of water consumption. However, I am not persuaded that it would be reasonable or necessary to seek confirmation from the relevant approval body that measures would be required, and I have amended the condition accordingly. It is also necessary to secure broadband access, although I am not satisfied that prescription of specific speeds to be achieved as suggested by the Council would be reasonable.
44. A condition is necessary to ensure adequate storage is provided to manage waste and recycling. Conditions to ensure contamination is dealt with effectively, appropriate lighting and controls on the hours of construction work are necessary to protect the environment, biodiversity and the living conditions of neighbouring occupiers. To further protect biodiversity, conditions relating to a licence issued by Natural England and requiring implementation of ecological mitigation and enhancement measures are also required. The former condition is necessary prior to any works to the existing dwelling on the site to conserve protected species.
45. The Council have additionally suggested conditions to require details of the existing and proposed floor levels of development and external ground levels, and a landscaping scheme. However, as these relate to reserved matters of scale and landscaping, they can be addressed in the consideration of future reserved matters applications for these aspects, or through the imposition of conditions on a reserved matters approval. These conditions are therefore unnecessary, and I have not imposed them.

46. Paragraph 53 of the Framework states planning conditions should only restrict national permitted development rights where there is clear justification to do so. No detailed explanation has been given for the suggested condition to remove householder permitted development rights, and I am not satisfied that such a condition is necessary in this case given the nature of the development.

Conclusion

47. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. The proposal would result in development within the countryside and so would represent a technical breach of certain aspects of those policies within the development plan which together seek to generally direct development to within existing built-up areas. However, there would be no harm to the landscape, open countryside or to the character or appearance of the area, and I find in this case that the proposal accords with the development plan when it is read as a whole.
48. Paragraph 11 of the National Planning Policy Framework sets out a presumption in favour of sustainable development. For decision taking this means, among other things, approving development proposals that accord with the development plan. Accordingly, the Framework further indicates that permission should be granted.
49. The proposal would accord with the development plan when it is read as a whole. Other considerations do not indicate that a decision should be taken other than in accordance with the development plan, and for the reasons given above, I therefore conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and scale of development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Except where matters are reserved for final approval, the development hereby permitted shall be carried out in accordance with the following approved plans: FA-PA18-04-A100A Rev A, FA-PA18-04-A101A Rev A, FA-PA18-04-A102C Rev C, FA-PA18-04-A103F Rev F, FA-PA18-04-A104 Rev A, FA-PA18-04-A105 Rev A.
- 5) No development shall commence, including any works of demolition, until the following construction site set-up details have been submitted to and approved in writing by the Local Planning Authority:
 - i) the location for the loading and unloading of plant and materials, site offices, and storage of plant and materials (including any stripped topsoil); and
 - ii) measures to control the emission of dust and dirt during construction.

The approved details shall be adhered to throughout the construction period.

- 6) No development, including any works of demolition, ground clearance, or bringing equipment, machinery or materials onto the site shall commence until an Arboricultural Method Statement detailing all trees/hedgerows on and adjacent to the site to be retained, and measures to provide for their protection throughout all construction works, has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include full details of underground services, including locations, dimensions and depths of all service facilities and required ground excavations. The development shall be implemented in accordance with the agreed details.

If any retained trees or hedges on the site die or become damaged during the construction process, they shall be replaced by a replacement tree or hedge of a type, size and in a position in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

- 7) No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The dwellings hereby permitted shall not be occupied until the foul and surface water

disposal works have been completed in accordance with the approved details.

- 8) No demolition or other works to the existing detached property at Greenacres shall take place until the Local Planning Authority has been provided with either a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorizing the specified development to go ahead; or a statement in writing from the relevant licensing body to the effect that it does not consider that the specified development will require a licence.
- 9) The dwellings hereby permitted shall not be occupied until optional requirement G2 to the Building Regulations 2010 (as amended) to limit water usage of that dwelling to 110 litres per person per day has been achieved. Water limiting measures to meet this standard shall thereafter be retained.
- 10) Prior to the first occupation of each dwelling hereby permitted, a scheme for in-building and external site-wide infrastructure to enable the delivery of high-speed broadband access and to enable provision of future technologies where available shall be submitted to and approved in writing by the Local Planning Authority. The installation of infrastructure shall be completed in accordance with the approved scheme prior to first occupation of the relevant dwelling.
- 11) Prior to the first occupation of any part of the development hereby permitted, vehicular access to serve the development shall be constructed in accordance with the approved details as shown on plan FA-PA18-04-A103F Rev F.
- 12) Prior to the first occupation of any part of the development hereby permitted, visibility splays of 2.4m by 43m shall be provided at the proposed vehicular access onto Hurston Lane in accordance with the approved details as shown on plan FA-PA18-04-A103F Rev F. The splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6m above the adjoining carriageway.
- 13) Prior to the first occupation of any dwelling hereby permitted, the parking, turning and access facilities necessary to serve that dwelling shall be implemented in accordance with the approved details as shown on plan FA-PA18-04-A103F Rev F and that space shall thereafter be kept available at all times for those purposes.
- 14) Prior to the first occupation of any dwelling hereby permitted, secure and covered cycle parking facilities for the occupants of, and visitors to, the relevant dwelling shall be provided in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The provision for cycle parking shall thereafter be retained for that use at all times.
- 15) Prior to the first occupation of each dwelling hereby permitted, a scheme for a fast charge electric vehicle charging point for that dwelling with a minimum specification of 7kW mode 3 with type 2 connector shall be submitted to and approved in writing by the Local Planning Authority. The means for charging electric vehicles shall be installed in accordance with the approved scheme prior to first occupation of the relevant dwelling and shall be retained as such thereafter.

- 16) Prior to the first occupation of any dwelling hereby permitted, provision for the storage of refuse and recycling shall be made for that dwelling in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The provision for the storage of refuse and recycling shall thereafter be retained for use at all times.
- 17) The development hereby permitted shall be undertaken in strict accordance with the ecological mitigation and enhancement measures set out in the Bat Survey Report dated 16 July 2019 and the Preliminary Ecological Appraisal dated 18 December 2018.
- 18) If during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved by the Local Planning Authority detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.
- 19) No external lighting or floodlighting shall be installed unless details of the lighting have first been submitted to and approved in writing by the Local Planning Authority.
- 20) No works for the implementation of the development hereby approved shall take place outside of the hours of 0800-1800 Monday to Friday and 0800-1300 Saturdays, nor at any time on Sundays or on Bank or Public Holidays.