



Appeal Decision

Site visit made on 22 September 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2020

Appeal Ref: APP/Y9507/W/20/3250333

The Grange, Farnham Road, Liss, GU33 6JE

- 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 Omega (After Alpha) Ltd against the decision of the South Downs National Park Authority.
 - The application SDNP/19/05544/OUT, dated 19 November 2019, was refused by notice dated 11 February 2020.
 - The development proposed is the erection of 5 dwellings with access, car parking and other associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Omega (After Alpha) Ltd against the South Downs National Park Authority. This application is the subject of a separate decision.

Procedural Matters

3. The application is made in outline with matters of appearance and landscaping reserved for later approval. Matters relating to access, layout and scale of development are for determination as part of the appeal.
4. The appeal is accompanied by a unilateral undertaking which would secure one unit of affordable housing and a covenant to construct an access road from Farnham Road to the boundary of the site adjacent to the drive to The Grange.
5. The Authority is satisfied that the unilateral undertaking would secure suitable affordable housing provision on the site and no longer contests this reason for refusal. I have dealt with the appeal on this basis and return to the unilateral undertaking in my reasoning on the main issues and under Other Matters below.

Main Issues

6. The main issues are:
 - Whether the development would prejudice delivery of housing land allocated in the Liss Neighbourhood Plan
 - The effect on the character and appearance of the area

Reasons

Delivery of housing land

7. The appeal site is allocated in the Liss Neighbourhood Plan for housing under reference Site 4a. To the north west is another allocated housing site referenced Site 4. The sites are in separate ownership as is The Grange, a residential care home, which lies between them.
8. At the time of the inclusion of these two sites in the Liss Neighbourhood Plan, it was anticipated that both Site 4 and 4a would use the access to The Grange, which lies adjacent to the southern boundary of the appeal site. All parties were aware that the northern sightline at the junction of the access to The Grange with Farnham Road would need to be improved to enable an increase in traffic to use it safely. The sightline improvement would need land forming part of Site 4a. During the examination of the Liss Neighbourhood Plan, it was indicated that terms had been agreed subject to contract to provide a suitable access and the examiner took this and other evidence into account in concluding that sites 4 and 4a were deliverable.
9. After the Neighbourhood Plan was made, the appellant withdrew from the provisional contract, and obtained permission for a new access to the appeal site (Site 4a) from Farnham Road¹ to the north of the access to The Grange. Notwithstanding the extant consent for the new access, permission was refused and subsequently dismissed on appeal for residential development of the appeal site (Site 4a), in part because it was likely to constrain improvement of the access to The Grange and thereby prejudice delivery of Site 4, which appears to be otherwise landlocked².
10. The appellant has responded to this sequence of events by submitting the current appeal scheme, which includes an estate road that would utilise the new access and which extends to the boundary adjacent to the drive to The Grange, which could be used to provide future access to Site 4. The appeal is accompanied by a unilateral undertaking in which the appellant covenants to construct the estate road to an adoptable standard prior to first occupation of the development, and to maintain and permit public access over it until such time as it is adopted as public highway.
11. The Authority and the owner of Site 4 dispute that the appeal scheme and unilateral undertaking would provide sufficient safeguards to achieve an alternative access to Site 4. The Authority makes the point that the access would be dependent on Site 4a being developed, and the owner of Site 4 raises concerns that as drafted the undertaking would not bind future successors in title. Both parties are concerned that access rights are not clearly enough defined to avoid a potential ransom situation being created.
12. Access to Site 4 would be dependent on Site 4a being developed, but that is little different to the current situation whereby land forming part of Site 4a is needed to improve the access to Site 4, and that is unlikely to happen, if at all, until Site 4a is developed. In so far as the other points are concerned, I share the misgivings of the Authority and owner of Site 4. It seems to me that the wording of the unilateral undertaking is insufficient to ensure that the access

¹ SDNP/18/00117/FUL

² APP/Y9507/W/19/3221909

would remain in perpetuity and it does not explicitly rule out the imposition of a ransom strip.

13. These matters could potentially be overcome through a revised form of wording in the unilateral undertaking. However, given my findings on other grounds I have not pursued this matter further with the main parties. As it stands, and for the reasons given in the previous paragraph, I am not satisfied that the obligation submitted in the unilateral undertaking to provide an alternative means of access to Site 4 would achieve that end. It would therefore fail to make the development acceptable in planning terms, contrary to one of the requirements of Regulation 122 of the Community Infrastructure Levy Regulations and the tests set out in paragraph 56 of the National Planning Policy Framework (the 'Framework').
14. Irrespective of whether the alternative access arrangement for Site 4 as proposed in the appeal scheme could be made to work, it remains the case that it would not prevent vehicles from using the existing access to The Grange from Farnham Road. Even if there were an estate road between the appeal site (Site 4a) and the drive to The Grange, the current access to The Grange would remain. There would be nothing to stop vehicles from either Site 4 or 4a from using this access point, which is agreed as being unsuitable for additional traffic. Such a use would be harmful to highway safety and therefore unsatisfactory.
15. The appellant has suggested that vehicle movements from Site 4a using The Grange access could be overcome by a condition requiring a traffic management scheme but has given no suggested draft wording or details as to how that would work. I cannot envisage how a traffic management scheme could prevent occupants of Site 4a using The Grange access, nor how it could apply to vehicle movements from Site 4. I therefore give this suggestion little weight. I consider that, on this point alone, the scheme as submitted would fail to achieve a suitable alternative means of access to Site 4. The concerns of the previous Inspector in this regard have not been adequately addressed³.
16. The appellant argues that it is not their responsibility to ensure that a different development site, in separate ownership, can be developed. While that may be so, I place greater weight on the need to ensure that development of the appeal site does not prevent the potential for another allocated site with a greater housing capacity to be developed, as envisaged in the Neighbourhood Plan, in the interests of the proper planning of the area.
17. I conclude that, for the reasons set out above, the appeal scheme would not achieve a suitable alternative means of access to Site 4. Furthermore, the proposed development would constrain the ability to improve visibility from the existing access to The Grange from Farnham Road, which appears to be the only other means of accessing Site 4. This would prejudice delivery of allocated housing on Site 4, and as such would conflict with Policy Liss 8 of the Liss Neighbourhood Plan and Policy SD26 of the South Downs Local Plan, which seek to meet the future housing needs of Liss and the wider National Park.

³ APP/Y9507/W/19/3321909

Character and appearance

18. The appeal site is located within the South Downs National Park. Paragraph 172 of the Framework advises that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.
19. The site lies on the outskirts of Liss, with open farmland to the south, low density housing immediately surrounding the site, and denser development fronting Station Road to the east. The boundaries of the site are well vegetated other than for the permitted access point, where the hedging fronting Farnham Road has been removed. The area has a semi-rural character.
20. Liss Neighbourhood Plan includes a development brief for the site. This notes that the site is a gateway to the village and development needs to be of a high quality in design and materials in a style and layout that retains the feeling of openness and is appropriate to its setting and to a village. It includes criteria relating to access through The Grange, which has been superseded to some extent by the grant of permission for a separate access from Farnham Road. It also includes criteria relating to landscaping, which in this appeal is a matter reserved for later approval.
21. The proposed development would be low density and the buildings would be of a similar scale to those in the vicinity. The Authority is concerned that there would be an excessive amount of hard surfacing and over-engineered road and pavement features. While the extent of the highway works would have a somewhat suburban appearance, as an allocated housing site it is inevitable that a more built up character would ensue, including hard surfacing. I do not find the amount of hard surfacing to be so great as to be harmful to the character and appearance of the area once the site is developed.
22. I am more sympathetic with the Authority's concerns over the layout. The development is inward looking with the nearest dwellings all turning their backs to Farnham Road. This has the potential to put boundary treatments and domestic paraphernalia as the public face of the development, rather than creating a high quality gateway to the village as envisaged in the Neighbourhood Plan. However, I am also mindful of the observations of the previous Inspector⁴ who noted that this form of layout is not untypical of the area with examples of such arrangements close by, such as The Green and Bishearne Gardens, and who concluded that it would not cause undue harm to the character and appearance of the area.
23. Given the similarities between the two layouts, I have reached a similar conclusion. Good landscaping, particularly of the boundaries fronting Farnham Road, would be crucial to ensuring an acceptable development, although that is a matter reserved for later approval.
24. I conclude that the proposed development would not harm the character and appearance of the area, and would therefore comply with Policies SD4, SD5 and SD21 of the South Downs Local Plan and Policy Liss 9 of the Liss Neighbourhood Plan, which seek a high standard of design and that new development makes a positive contribution to the character of Liss. For the

⁴ APP/Y9507/W/19/3321909

same reasons, it would also conserve the scenic beauty of the South Downs National Park.

Other Matters

25. One of the obligations contained in the submitted unilateral undertaking is the provision of one unit of affordable housing on the site. I consider this obligation is necessary, directly related to the development and fairly related in scale and kind. As such, it would accord with Regulation 122 of the Community Infrastructure Levy Regulations and the tests for planning obligations set out in the Framework and carries weight as a planning benefit.
26. The site lies within the zone of influence of the Wealden Heath Special Protection Area. Neither the appellant nor the Authority considers that the development would have a significant adverse effect on the Special Protection Area either alone or in combination with other plans and projects and have concluded that appropriate assessment is not required in this instance. I consider there is no need for me to carry out a similar screening exercise because I have concluded that the development is unacceptable for other reasons.
27. The Authority and third parties have questioned the safety of the access to Farnham Road on the basis that a previous speed survey may have been incorrect. This includes a representation by Voyage Care, the owners of The Grange, who commissioned their own highway assessment associated with an application to improve their access to Farnham Road, now withdrawn⁵. The appellant points out that the speed survey was accepted by the Highway Authority, who have subsequently approved a road safety audit and s278 highway agreement for the access to the appeal site.
28. While there is conflicting data on vehicle speeds, the surveys were carried out in relation to different access points, which may in part explain the difference between them. In any event, I place greater weight on the assessment of the Highway Authority, which has raised no objection to the use of the new access to the appeal site. I am also satisfied that the appeal access and the access to The Grange could operate together without causing a highway hazard. However, this does not alter my conclusions on the main issues or the adequacy of the access to The Grange to accommodate additional traffic movements.

Conclusion

29. I have found no adverse impact would be caused to the character and appearance of the area, including the landscape of the South Downs National Park. This is a neutral matter in so far as it does not result in harm.
30. The proposed development would provide five additional dwellings, which would be of modest benefit in addressing housing need in Liss. Having regard to the obligation contained in the unilateral undertaking, one of these dwellings would also contribute towards meeting affordable housing need, which would also be of modest benefit.
31. Weighed against these modest benefits, I have found that the development would prejudice the delivery of another allocated housing site with a

⁵ SDNP/19/04422/FUL

significantly higher potential housing capacity. Prejudicing the delivery of this larger site would conflict with the Liss Neighbourhood Plan and the South Downs Local Plan. I find that the harm caused by the conflict with the Development Plan taken as a whole is greater than the modest benefits that would otherwise flow from the proposed development.

32. I conclude that the appeal is dismissed.

Guy Davies

INSPECTOR