
Appeal Decision

Site visit made on 7 July 2020

by D.R McCreery MA BA (Hons) MRTPI

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

Decision date: 03 November 2020

Appeal Ref: APP/M3645/W/19/3243231

Dowlands Park, Plough Road, Smallfield RH6 9SD

- 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 outline planning permission.
 - The appeal is made by Mr L Duffett (Keevil McIntosh Gibson Ltd) against Tandridge District Council.
 - The application Ref 2019/1115 is dated 18 June 2019.
 - The development proposed is outline planning application for the construction of 88 affordable dwellings with associated access and car parking.
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Decision

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

Procedural Matters

2. This appeal is made as no notice of a decision on the application for planning permission for the proposed development was given within the statutory period (or within an extended period agreed in writing). The appeal will therefore consider whether planning permission for the proposal should be granted or refused.
3. In their Statement of Case the Council indicates that the issues on which they would like to contest the appeal are green belt and housing location policy, and character and appearance (including trees and heritage). As such, I will consider these matters first.
4. The application is in outline form with approval sought for access and layout. Appearance, landscaping, and scale are reserved matters. For the purposes of this appeal I am treating the submitted drawings as only indicative of the reserved matters.

Main Issues

5. The main issues are:
 - Whether the proposed development constitutes inappropriate development in the Green Belt and the effect on the openness of the Green Belt.
 - The suitability of the site as a location for housing when consideration is given to local and national policy regarding the location of development.

- The effect of the proposed development on the character and appearance of the surrounding area, including the effect on trees and the setting of nearby Listed Buildings.
- Whether any harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations that weigh in favour of the development.

Reasons

Whether inappropriate development in the Green Belt

6. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Policy DP10 of the Tandridge District Local Plan Part 2: Detailed Policies (Local Plan Part 2) is consistent with this approach.
7. The Framework confirms that the construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to the exceptions as set out in Paragraph 145.
8. The Appellant submits that the proposed development should not be regarded as inappropriate development as it would comply with the rural exceptions site policy under Policy CSP5 of the Tandridge District Core Strategy (Core Strategy) and related policy on buildings in the Green Belt, including Policy DP13 of the Local Plan Part 2. As such, the proposal would amount to limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites) and would therefore fall within the exception set out in Paragraph 145(f) of the Framework.
9. In order to fall within the requirements of Policy CSP5 the development should be on land adjoining or closely related to a defined rural settlement. The appeal site lies to the east of Smallfield, which is identified as a Larger Rural Settlement in Policy CSP1 of the Core Strategy. The site falls outside the settlement boundary that accompanies the policy and does not adjoin it.
10. Policy CSP1 sets the strategic policy for the location of development (including housing targets). The policy is of some age and is therefore considered out of date in relation to specific housing targets. I find it generally appropriate as a starting point for understanding the settlement hierarchy in the area, but also conclude that the precise settlement boundaries associated with it may also be out of date and warrant an assessment of the present situation on the ground. This approach is consistent with that set out in the case of Wood¹ which confirmed that a settlement boundary in a Local Plan is a relevant consideration, but not necessarily determinative, particularly if it does not accord an assessment on the ground.

¹ Wood v SoS Communities and Local Government and Gravesham Borough Council (EWCA) Civ 195

11. The appeal site is a relatively flat area of grassland at the junction of Plough Road and Dowlands Lane with mature hedgerow, trees and other planting at its boundary. It is separated from the settlement boundary of Smallfield by a number of fields that are mostly agricultural in appearance but also includes a playing field close to the site that serves as recreation space.
12. Built forms, including small groups of dwellings, in this area beyond the settlement boundary are generally scattered. As such, there are breaks between buildings and the views between them are mostly open or to greenery, giving the area around the site a rural character that is distinct from the denser, more urban character of Smallfield. Given the distance from the built up part of the settlement and the rural characteristics of the immediate area I find that, in relation to its physical aspects, in my opinion the site falls somewhat short of being regarded as closely related to the settlement of Smallfield.
13. In relation to its functional aspects, residents of the proposed development are likely to be dependant on the services available in Smallfield which appear suitable to serve a development of this scale, with more extensive facilities available in the larger settlement of Horley. The main pedestrian route between the site and Smallfield would likely be along Plough Lane, which in key parts has no footway and is unlit, and may include passing through the playing fields. Despite the slower speed limits along this stretch of road, I observed faster moving vehicular traffic transitioning between the different speed limits. As such, whilst within walking distance for some, the pedestrian access between the site and Smallfield does not appear well suited to more extensive pedestrian movement in its present condition.
14. Considering the physical and functional aspects above and the other evidence put forward, an on the ground assessment indicates that the appeal site is not on land adjoining or closely related to the defined settlement of Smallfield. As such, the proposed development does not meet a key requirement of policy in CSP5.
15. Furthermore, for reasons explained in the character and appearance section of this decision, the proposed development would not meet the detailed requirements in CSP5 for the development to respect the setting, form and character of the settlement and the surrounding landscape. In addition, given number of homes proposed and the nature of the site and its surroundings, the development is not small in scale.
16. In light of the above, and considering the evidence on this matter, the proposed development constitutes inappropriate development in the Green Belt within the meaning given to it in the Framework.

Effect on the openness of the Green Belt.

17. In Green Belt terms 'openness' has both a spatial aspect as well as a visual aspect. The proposed development would permanently occupy the majority of the site and introduce an urban pattern of development that would be in stark contrast to the open, rural grassland character of the site and the surroundings.

18. Whilst the layout would accommodate areas of green space, because of its relationship with the development and the greater degree of enclosure from dwellings and other built forms, the character of this space would be perceived as urban. Given the nature of the development, there is not a reasonable prospect that landscaping approved as part of reserved matters would lessen the impacts to an acceptable degree.
19. In terms of visual aspects, the site and surroundings are relatively flat with limited scope for longer views from higher ground. Notwithstanding this, it is located on a prominent corner and is open to extensive closer views from both public and private spaces. Although trees, hedges, and other planting along the boundaries of the site would be retained, providing an element of screening, the height of dwellings and the gaps in planting would limit the effectiveness of this screening.
20. I therefore consider that in both spatial and visual terms the proposed development would have a greater impact on the openness of the Green Belt than the existing circumstances. The result would be contrary to the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open.

Location of development

21. The accessibility factors relating to the site and policy basis for considering the location of new development are discussed above. I would add to this that, in terms of public transport, I note that there are no fixed bus stops on this part of Plough Lane. As such, access to bus services is either from Smallfield itself or a hail and ride service some 60 metres from the site.
22. As a consequence of the accessibility of the site, occupiers of the proposed development are likely to be reliant on the private motor car to access many local services. I accept that existing residents nearby may already be reliant on cars, but this does not in itself justify greater intensification of residential development in this location.
23. The Appellant makes reference to a number of measures designed to improve the accessibility of the site, including provision of a new footpath with lighting and changes to ditching, speed limit reduction, and bus stop improvements.
24. Given the accessibility issues with the site, if other aspects of the development were to be acceptable, improvements of this nature would be fundamental to ensuring that the site is accessible and connected to local services. Based on the evidence presented, and accepting that the planning application is in outline form, I find the level of detail of these wider improvements to be lacking. Some of these improvements rely on works being carried out on land beyond the Appellants control with limited detail on how or whether they would be delivered in practice. Based on the evidence available, I cannot conclude that there is a reasonably likelihood that these measures will be delivered and can therefore give them limited weight.

25. The Appellant draws my attention to emerging Local Plan policy which may include alterations to the settlement boundary and the policy context of the site. As emerging policy is still subject to the outcome of the examination I give a potential change to the policy context limited weight.
26. The Appellant makes reference to the Court of Appeal judgement in Braintree² and whether the appeal site is isolated in the sense given in paragraph 79 of the Framework. On this matter, I agree that the site is not isolated when the term is given its ordinary meaning. Notwithstanding this, paragraph 79 does not imply that a dwelling must be isolated in order for restrictive policies and considerations around the location of development to apply. In the case of the proposed development, in addition to policy seeking to protect the Green Belt, there are also accessibility factors that lead me to conclude that the site is an unsuitable location for the proposed development.
27. For the reasons above, I conclude that the appeal site is not a suitable location for housing when consideration is given to local and national policy regarding the location of development. Consequently, I find conflict with policy designed to guide the location of new development, including housing, in CSP1 of the Core Strategy and Policy DP13 of the Local Plan Part 2

Character and appearance

28. Presently, existing dwellings close to the site are scattered either individually or in small groups. They mostly sit in larger plots, and have distinct configurations that reinforce the organic nature of their development and are of an overall scale that contrasts favourably with the open countryside in which they sit.
29. As discussed above, whilst by no means very high density, the proposal would introduce a denser pattern of development to an area that is fundamentally more rural in character. The proposed layout would predominantly feature dwellings arranged in small groups around gardens and other green spaces. The layout indicated appears formal and is of an arrangement more associated with a suburban pattern. There is little within the evidence to demonstrate that the Appellant's design aspiration of having regard to the layout of a traditional farmstead/farmyard style would be achieved. The larger scale, suburban nature of the scheme would be reinforced by the roads, parking areas, and other domestic elements. As such, I conclude that the proposed layout would be inconsistent with the prevailing rural character of the locality and would have a harmful effect on the character and appearance of the area.
30. Whilst reserved for later consideration, detailed proposals relating to the appearance and landscaping of the development would not overcome my fundamental concerns about the layout and its effect on the character and appearance of the area. The conclusions of the Appellant's Landscape Visual Impact Assessment are noted, however I find that proposals to strengthen the existing hedgerows and provide additional screening would not go far enough to lessen the impact of the proposed development.

² Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610.

31. In relation to impact on trees, the Pin Oak tree identified as T7 on the plans would be retained as part of the proposed development. This tree is assessed as being in good health and having good future growth potential. Given the proximity of the tree to some of the proposed dwellings, its future growth may impact on the living conditions of occupants of the dwellings and lead to pressure for works which might undermine the health of the tree. I see little in the Appellant's evidence to demonstrate how future growth of T7 would be successfully managed within the proposed layout.
32. Whilst landscaping would be reserved for future consideration, taking a precautionary approach to this issue, and paying regard to the statutory duty³ on decision makers in relation to trees, based on the evidence available I conclude that the proposed development would have a harmful effect on T7.
33. The appeal site is located close to a number of Listed Buildings. In deciding this appeal I have therefore paid special regard to the desirability of preserving the setting of Listed Buildings⁴.
34. In relation to the setting of the Grade II* 17th century manor house Smallfield Place, the site, along with other nearby fields, was historically common land before being enclosed in the 19th century. The open nature of the common land served to reinforce the prominence of the imposing manor house and its role in the wider landscape.
35. The relationship between the manor house and the wider landscape appears to have been disrupted by the enclosure of the surrounding fields (mostly with trees and hedging). As a result of these features, along with Plough Road itself providing a physical divide, I do not consider the site to be particularly important to the historic understanding of Smallfield Place as a heritage asset.
36. Notwithstanding this, as acknowledged by the Appellants Heritage Statement, the character of the setting of Smallfield Place is defined by its rural nature with the residences being separated by open land. I would extend this statement to the Grade II listed Cullings which is adjacent to Smallfield Place. Given the proximity of the site to these listed properties, the denser, more formal, suburban nature of the proposed development would have a harmful effect on their settings, in particular when seen in closer views from the street and private spaces, including from within the Listed Buildings themselves.
37. The effect on the setting of these Listed Buildings would be lessened to a degree by the existing screening at their boundaries, and the retained and new planting proposed on the boundary of the appeal site. The proposed location of green space on the north side would also improve the relationship with nearby Listed Buildings to a small degree. In light of these factors, and paying regard to national policy on heritage assets in Chapter 16 of the Framework, I conclude that the harm identified would be less than substantial.

³ Section 197 Town and Country Planning Act 1990

⁴ S66(1) and S72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

38. In these circumstances, Paragraph 196 of the Framework requires me to consider whether the harm identified should be weighed against any public benefits. Considerations weighing in favour of the development are discussed in more detail below. I consider that the public benefits discussed do not attract the level of weight required to justify the harm identified to the setting of the Listed Buildings.
39. I have also considered the effect of the proposed development on the Grade II Listed Buildings Rough Beech and Green Farm House. Given the degree of separation between these buildings and the site, I conclude that their settings would not be materially affected by the proposed development. As such, no harm would result to these buildings.
40. For the reasons set out above, I conclude that the proposed development would have a harmful effect on the character and appearance of the surrounding area, trees, and the setting of nearby Listed Buildings. Consequently I find conflict with policies in the Local Plan, including Policy DP20 of the Local Plan Part 2 in relation to protection of heritage assets and Policies CSP18 and CSP21 of the Core Strategy and Policy DP7 of the Local Plan Part 2 which requires development to be of a high standard of design, and in particular that respects the character and local context of the area, and makes suitable provision for natural assets such as trees.

Other considerations – housing delivery

41. It is common ground that there is a need for affordable housing in the area. I also pay regard to the appeal decision at Frith Manor Farm⁵ which, although decided on its own merits, includes discussion about the need for affordable housing.
42. The 88 affordable homes proposed has the potential to make a contribution to meeting this need on a site that is confirmed as being available now. It is noted that the application was submitted on behalf of a not for profit charitable foundation created to deliver affordable homes. Notwithstanding this, the application does not include a legal agreement to ensure that the 100% affordable housing proposed would be delivered in that form and would remain so in perpetuity.
43. As such, whilst provision of affordable housing is capable of being a factor weighing in favour of the proposed development, in the context of this planning application it is not something that can be ensured in perpetuity such that weight may be attached.

Planning Balance and Conclusion

44. In conclusion, a number of benefits would flow from this development. There would be economic investment, and therefore benefits, resulting from both the construction and subsequent occupation of the proposed development, to which I attribute some weight. I also attribute some weight to the general provision of housing, which is consistent with the Government's ambitions to boost housing supply.

⁵ APP/M3645/W/19/3237774

- 45.Environmental benefits in terms of biodiversity and sustainable construction and renewable energy would be necessary to mitigate the impact of the development and are therefore neutral issues.
- 46.I have identified harm to the openness of the Green Belt, heritage assets and the character and appearance of the area, in addition to the suitability of the site as a location for housing and the accessibility issues linked to that.
- 47.In acknowledging the benefits of the proposal, I conclude that they do not outweigh the harm identified or provide the very special circumstances necessary to justify inappropriate development which is, by definition, harmful to the Green Belt.
- 48.As the Council do not contest that they cannot demonstrate a 5-year supply of deliverable housing sites at present I have considered footnote 7 to paragraph 11(d) of the Framework. Green Belt and designated heritage assets are identified in the Framework as assets and areas of particular importance. The proposed development has been assessed against the policies in the Framework, including those in Part 13 (in respect of Green Belt) and Part 16 (relating to heritage assets). Given the harm identified in both cases, it is considered that this provides clear reasons for refusing the proposed development. As such, the presumption in favour of sustainable development directs me towards refusing planning permission.
- 49.For the avoidance of doubt, even if the proposal had included a delivery mechanism to ensure 100% affordable housing in perpetuity, this would not have outweighed the harm identified.
- 50.For the above reasons, and having regard to all other matters raised I conclude that the appeal should be dismissed.

D.R. McCreery

INSPECTOR