



Appeal Decision

Site visit made on 6 October 2020

by Jan Hebblethwaite MA, Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 18 November 2020

Appeal Ref: APP/C3810/W/20/3246969

Springfields, Chichester Road, Bersted PO21 5EE.

- 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 C Thorne against Arun District Council.
 - The application Ref BE/100/19/PL is dated 19 August 2019.
 - The development proposed is two dwellings.
-

Procedural Matter

1. I note that the Council did issue a decision notice after the appeal had been lodged with the Planning Inspectorate but before notification had been given that the appeal had been accepted as valid. Although this appeal is validated as an appeal against the non-determination of the application, I have taken into account the reasons for refusal issued by the Council, together with the case submitted by the Council which is consistent with those reasons. I have also taken account of the case submitted by the Appellant and the response to the Council's case.

Decision

2. The appeal is dismissed and planning permission for two dwellings is refused.

Main Issue(s)

3. The main issues in this appeal are:
 - (i) the effect of the proposed development on the character and appearance of the countryside (including the Strategic Gap) and the locality; and
 - (ii) whether there are any other material considerations, including the housing land supply position and the benefits of the proposed development which would mean that the proposal should be determined otherwise than in accordance with the development plan.

Character and appearance

4. The proposed development would provide two detached houses on a plot of land to the north west of a site which has previously received planning permission for one detached house. Both sites lie to the north west of a strong boundary formed by a group of Holm Oaks, protected by a tree preservation

order¹. Further to the north west is agricultural land. To the south east is the host property, Springfields which is a single storey dwelling, and other detached dwellings served by the private access. Further to the south east are detached dwellings fronting Babsham Lane. The A259 is straight for some distance when approaching the appeal site from the north west. A few hundred yards before the turn to the appeal site, the speed limit reduces to 40 mph. Between the appeal site and the A259 is a metalled cycle path and footway bordered by a thick hedge for a part of the length of the appeal site. The remainder of the boundary has a low fence and gates. I noted that there are bus stops on each side of the A259 within easy walking distance of the appeal site.

5. The character of the area is described in the Landscape Character Assessment of West Sussex (Nov 2003), Sheet SC9 ("SC9"). The appeal site lies at the southern edge of the area described, at the point where the A259 enters Bersted. One of the key characteristics is the *"relatively open character of much of the area allows long views so that village church towers are important landmarks in views."*
6. The development plan consists of the Arun Local Plan 2011-2031 (July 2018) ("the LP") and the Bersted Neighbourhood Plan 2014-29 ("BNP"). I note that the Appellant is of the opinion that the appeal site is *"adjacent to but outside of the area controlled by the [BNP]"* but the BNP boundary is north of the appeal site. The appeal site is however outside of the "built-up area boundary". Policy C SP1 of the LP lists the limited development which would be permitted in the countryside, as defined in the LP. The Policy states that *"in the countryside the Council will take into account cumulative impact of development in the consideration of planning applications."*
7. The appeal site is within the Bognor Regis to Chichester Strategic Gap. Under LP Policy SD SP3, strategic gaps are protected in order to prevent coalescence and to retain their separate identity. Policy ES3 of the BNP states that development in the strategic gap will not be supported. Policy ES7 of the BNP confirms that development outside the Built-Up Area will not be supported.
8. Policy ES1 of the BNP requires that new development would contribute to local character by creating a sense of place appropriate to its location.
9. On my site visit I saw that the appeal site lies beyond the line of houses along the north side of the A259 from the village of Bersted. Views across the appeal site from the footway are entirely consistent with the characteristics identified in SC9. I did note that there is a significant hedge on the boundary between the cycle path/footway and the appeal site for a good part of its length. Views across the landscape would be limited along that part of the boundary whilst the hedge remains as it is now.
10. Taking the development plan as a whole, I consider that the proposed development would directly conflict with the policies which seek to protect the strategic gap, the character of the area and the appearance of the countryside. This is because the proposed development would create an extension of the built-up frontage along the A259 into the open land beyond Bersted. For that reason, I attach considerable weight to the conflict with the development plan.

¹ TPO/BE/1/14

11. These LP policies are consistent with the NPPF². Paragraph 170 which deals with conserving and enhancing the natural environment places emphasis on the protection and enhancement of valued landscapes. Paragraph 127 requires that developments be sympathetic to local character and history, including the surrounding built environment and landscape setting.
12. I have considered the extant planning permission for a single dwelling to the north west of the preserved tree boundary. I do not consider that permission to create a precedent for development of the appeal site because the new dwelling would relate to the host property rather than the open land beyond. The appeal proposal would by contrast, block the views which the LP policies seek to protect and create a cumulative impact on the countryside which would be harmful. The loss of the appeal site would extend the line of dwellings along the A259, creating a further loss of land in the strategic gap.
13. I have noted that the Appellant has submitted a unilateral planning obligation which was intended to provide for the payment of an Access Management Contribution under Policy ENV DM2. However, the applicant for planning permission as stated on the application form was Mr C Thorne and Certificate A was completed by the agent, confirming that Mr C Thorne was the landowner at the date of the application. The undertaking was given by Mrs Linda Thorne and Mr John Paige who are stated in the document to be the Owner. I have no evidence that there was a transfer of the property in the six weeks between the application and the completion of the unilateral undertaking. On the face of the application and the unilateral undertaking, I am unable to accept the document as a valid planning obligation which discharges the requirement to make a developer contribution under Policy ENV DM2.

Other considerations

14. It is common ground that the Council has a shortfall in its housing land supply which is significant and likely to continue for some time. Paragraph 11 of the NPPF provides a presumption in favour of sustainable development. Where the relevant local plan policies are out-of-date or considered to be out of date under footnote 7, Paragraph 11(d) requires that permission should be granted unless NPPF policies which protect a specified list of assets of importance provide a clear reason for refusal (Paragraph 11(d)(i)), or in other cases, any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the [NPPF] (Paragraph 11(d)(ii)).
15. The appeal site is not within the specified Paragraph 11(d)(i) assets, so that the test in Paragraph 11(d)(ii) applies. The adverse impacts and the benefits of the proposed development should be balanced, taking the NPPF as a whole.
16. Paragraph 127 of the NPPF (referred to above) requires that decision should be sympathetic to landscape setting, *while not preventing or discouraging appropriate...change...*. The addition of two houses would go a small way to addressing the shortfall in the housing land supply (and would therefore have a social and economic benefit) but would cause harm to policies in the development plan and the NPPF which seek to protect the countryside and landscape settings. I consider that the harm to the Strategic Gap and to the

² National Planning Policy Framework

character of the countryside in this area significantly and demonstrably outweighs the limited benefit of providing two dwellings.

Planning Balance

17. The proposed development is contrary to the development plan taken as a whole in that it would create built development in a strategic gap and would adversely impact the character of the countryside. The determination of the appeal should be in accordance with the development plan unless material considerations indicate otherwise.
18. NPPF Paragraph 11 indicates that as the Council has a housing land supply shortfall, local plan policies as applied to proposed housing development are to be considered out of date. However, the harm caused to the strategic gap and to the character of the countryside is such that the limited benefits of the proposed development are significantly and demonstrably outweighed when taking the NPPF as a whole.

Other Matters

19. The Appellant has confirmed that drawing no. 0520-03/02 is the latest drawing which shows the parking and turning arrangements for the proposed dwellings. In that respect, I am satisfied that it would be possible to enter and leave the dwellings in a forward gear. I am less satisfied that the visibility splays as required by the Manual for Streets can be provided on land within the application site. The gates on the boundary follow the line of the boundary with the cycle path but the boundary shown on the plan referred to above does not appear to reflect the position of the gates on the ground. I accept that the extant permission for one dwelling on the adjacent site would use the same access as proposed, but the cumulative effect of three detached dwellings accessing the main road from this one point means that adequate visibility splays are important. This is particularly the case when traffic joining/leaving the main road will have to cross the cycle path/footway.
20. I have taken into account the appeal decisions referred to me by both the Council and the Appellant. None of those appeals involved the issues raised by the present appeal. I have applied the "tilted balance" as required by NPPF Paragraph 11 in reaching my decision.

Conclusion

21. For the reasons set out above, I conclude that the appeal should be dismissed.

Jan Hebblethwaite

INSPECTOR