
Appeal Decisions

Site visit made on 15 December 2020

by Martin Small BA (Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th January 2021

Appeal A Ref: APP/C3810/W/20/3256210 Springfield, Hook Lane, Aldingbourne, PO20 3TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Domusea Developments Ltd against the decision of Arun District Council.
 - The application Ref AL/27/20/PL, dated 19 March 2020, was refused by notice dated 26 June 2020.
 - The development proposed is demolition of the existing dwelling and construction of 2 no. 2-bed, 3 no. 3-bed and 4 no. 4-bed houses, access, landscaping and associated works.
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Appeal B Ref: APP/C3810/W/20/3249051 Springfield, Hook Lane, Aldingbourne, PO20 3TE

- 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 Domusea Developments Ltd against Arun District Council.
 - The application, Ref AL/51/19/PL, is dated 25 April 2019.
 - The development proposed is demolition of the existing dwelling and construction of 3 no. 2-bed, 3 no. 3-bed and 4 no. 4-bed dwellings, access, landscaping and associated works.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed and planning permission is refused for the demolition of the existing dwelling and construction of 3 no. 2-bed, 3 no. 3-bed and 4 no. 4-bed dwellings, access, landscaping and associated works at Springfield, Hook Lane, Aldingbourne, PO20 3TE in accordance with the terms of the application, Ref AL/51/19/PL, dated 25 April 2019 and the plans submitted with it.

Procedural Matters

3. These appeals relate to two separate proposals for residential development on the appeal site. For simplicity, both appeals have been included in the same decision letter.
4. Subsequent to the lodging of Appeal B, the Council issued a decision notice for that application with two reasons for refusal. I have had regard to these reasons which relate to the effect of the proposed development on existing trees on the site and the adequacy of the proposed parking provision.

5. From the evidence before me, the new Aldingbourne Neighbourhood Development Plan, intended to supersede the existing 2016 Plan, has been subject to an initial round of public consultation. In accordance with paragraph 48 of the National Planning Policy Framework (the Framework) I have given the new Plan only limited weight in my decision.
6. The appellant refers to an alternative layout showing additional parking in respect of the Appeal B scheme (1186/SK04 Rev05). However, the only copy of a plan with this reference that has been provided to me is incorporated in the appellant's Statement for Appeal A. Although it shows 28 parking spaces, the layout only shows 9 dwellings and has been superseded by Revision 06. I do not have a revised layout plan showing the 10 dwellings in the Appeal B scheme with additional parking before me. I have therefore determined Appeal B on the basis of the plans submitted with or during the course of the application and which were before the Council.
7. During the appeal process, the Council has granted planning permission for the demolition of the existing dwelling and construction of 2 no. 2-bed. 3 no. 3-bed, 4 no. 4-bed houses including access, landscaping & associated works (resubmission following AL/27/20/PL) on the appeal site (the approved scheme). The approved scheme is of a different layout to those before me in that the access road in the approved scheme runs to the south of the site. I have taken this approval into account in my decision.

Main Issues

8. The main issues are the effect of the proposed development on:
 - i) in respect of Appeal A and Appeal B, the character and appearance of the area, with particular regard to the trees on the northern boundary of the site;
 - ii) in respect of Appeal A and Appeal B, biodiversity; and
 - iii) in respect of Appeal B, the safe and convenient use of the highway, with particular regard to parking.

Reasons

Character and appearance

9. The appeal site comprises an existing dwelling, Springfield, fronting Hook Lane and a small field to the rear of the dwelling. The field has trees of mixed species, principally to its northern and eastern boundaries, including several substantial Monterey cypresses, a substantial ash and a large oak. These trees are visible from Hook Lane and from Ide Crescent to the north and contribute positively to the character and appearance of the site and the area due to their size and form, particularly the evergreen cypresses. The trees help define the site and those on the northern boundary provide a buffer to the recent development to the north. With the exception of the large oak which is subject to a Tree Preservation Order the trees are not protected. Nevertheless, the better quality trees are worthy of retention.
10. The trees are categorised in the Tree Schedules submitted with the applications according to their quality and value, with the majority of the trees being identified as Category B - moderate, and Category C - low. In addition, the

protected oak tree is identified as Category A - high, and several trees are identified as Category U - unviable for retention. From my own assessment of the trees during my site visit I am satisfied that the categorisation is reasonably accurate. The Tree Schedules indicate that the majority of the trees in Categories A, B and C have a remaining lifespan in excess of 10 years, indicating their capacity to continue contributing to the character and appearance of the area.

11. The Appeal A scheme would result in the loss of 2 Category B Monterey cypresses from the eastern and southern boundaries and 4 Category C trees on the northern side of the site. Following a number of revisions during the application process, the Appeal B scheme layout would result in the loss of the same 2 Category B Monterey cypresses and 6 Category C trees. The majority of these trees are located on the northern side of the site, the loss of which would harmfully reduce the effectiveness of the vegetated buffer between the proposed development and the development on Ide Crescent.
12. In addition, the proposed access road for the Appeal A scheme would intrude into the Root Protection Areas (RPAs) of several of the trees to be retained. The appellant's Arboricultural Impact Assessment and Method Statement recognises that, without mitigation, it is likely that the construction of the access road would cause the decline and eventual failure of these trees. Consequently, it is proposed to use 'no-dig cellular construction' and manual excavation of the proposed access road to ensure that tree roots within the proposed construction area are not damaged by deep foundations and to ensure the ground is not compacted.
13. However, BS5837: 2012¹ indicates that existing ground levels should be retained within the RPA with intrusion into the soil generally unacceptable. Limited manual excavation is only acceptable where justified e.g. where alternative design solutions are not available. However, the approved scheme demonstrates that such an alternative solution with a lesser likely effect on the RPAs is possible.
14. The Appeal A scheme would not exceed the design recommendation set out in paragraph 7.4.2.3 of BS5837 that new permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA. However, the scheme would potentially lead to harm to or loss of significant trees along the northern boundary of the appeal site through excavation within their RPAs.
15. The revised Appeal B scheme would result in an increased incursion into the RPAs of retained trees. Furthermore, the scheme would result in a more intensive use of the likely rooting area of trees to be retained and those trees would overhang significant proportions of the gardens to Plots 2, 3 and 4. The extent of the overhang and proximity of these trees to the proposed dwellings on these plots would, in my opinion, be likely to result in pressure from the future occupiers to lop or remove these trees. Notwithstanding ground protection measures and a 'no dig' construction method, the Appeal B scheme would thus also threaten the survival of these retained trees.
16. New tree planting could be secured through a landscaping condition were planning permission to be granted. However, it would be likely to take many years for the new planting to reach the size of the existing trees and thus make

¹ Trees in relation to design, demolition and construction - Recommendations

an equivalent contribution to the character and appearance of the area. There would therefore be many intervening years without trees that were large enough to contribute significantly to the area's character and appearance.

17. I note that the rear boundary lines within 3 m of the ditch along the northern boundary of the site shown on the submitted layout for the approved scheme are not approved. Consequently, if that scheme was to be implemented, the trees on the northern boundary may be outside private gardens. Even if they are within private gardens, given the depth of the gardens in the approved scheme I do not consider it particularly likely that future occupiers of those dwellings would seek to remove or significantly lop these trees.
18. I therefore conclude that either appeal scheme would harmfully affect the character and appearance of the site and area through the loss and potential loss of significant trees. Accordingly, in this respect both schemes would conflict with Policy ENV DM4 of the Adoption Arun Local Plan 2011-2031 (2018) (the Local Plan) and Policy EH6 of the Aldingbourne Neighbourhood Development Plan (2016) (the ANDP). These policies set out, in summary and amongst other things, that trees that contribute to local amenity should be retained. Furthermore, both appeal schemes would fail to comply with paragraph 170 of the Framework, which sets out that planning decisions should recognise the benefits of trees.

Biodiversity

19. Both the appeal schemes would result in the loss of trees, with consequent potential effects on biodiversity. However, the Preliminary Ecological Appraisal Report (PEAR) submitted with the applications and the Council's Environment Officer set out a number of biodiversity mitigation / enhancement measures. These measures could be secured by planning conditions were the appeal schemes acceptable in all other respects. Therefore, notwithstanding local concerns over the potential effects on wildlife on and using the appeal site, with these measures I am satisfied that both schemes could result in an overall gain in biodiversity in time.
20. Nevertheless, the PEAR notes that the defunct native hedge / tree line to the northern boundary of the site is of local value and recommends that the hedge / tree line should be retained. Consequently, further loss of trees on this northern boundary would be likely to diminish the biodiversity value of the site. Given my conclusions above on the potential for the future loss of trees, I consider that there is a realistic threat to that biodiversity value.
21. I therefore conclude that both appeal schemes would be harmful to the biodiversity interest of the site. Accordingly, they would conflict in this respect with Policy ENV DM5 of the Local Plan and Policy EH6 of the ANDP, which seek to protect biodiversity.

Highways

22. The Council adopted a revised Parking Standards Supplementary Planning Document in January 2020 (the SPD) which sets out the expected level of parking provision for new residential developments. Based on the SPD, the required provision, rounded up, for the Appeal A scheme is 24 spaces and that for the Appeal B scheme 26 spaces.

23. The SPD sets out that garages that measure at least 6 m x 3 m internally should be regarded as 0.5 of a parking space. With this approach, the Appeal A scheme proposes 28.5 spaces and therefore provides the expected level of provision. However, the Appeal B scheme proposes only 23.5 spaces, which represents a shortfall in provision of 2.5 spaces.
24. Whilst the Highway Authority raised no objection to the Appeal B scheme this appears to be based on each garage space representing a full space rather than the SPD approach. Given that the SPD is tailored to local circumstances in Arun district and was adopted relatively recently, I favour its approach. Notwithstanding the proximity of the appeal site to local services, the shortfall in parking provision for the Appeal B scheme could lead to overspill parking on Hook Lane, which is narrow with limited opportunities for safe and convenient parking in the vicinity of the appeal site.
25. I therefore conclude that the Appeal B scheme would be harmful to the safe and convenient use of the highway due to the shortfall in parking provision. Accordingly, in this respect, it would conflict with Policy T SP1 of the Local Plan and Policy GA3 of the ANDP, which require development proposals to incorporate appropriate levels of parking in accordance with adopted standards.

Other Matters

26. The appeal site is within 12 km of the Singleton and Cocking Tunnels Special Area of Conservation (SAC). The Tunnels are designated as a SAC as they support a range of bat species, including significant presences of Barbastelle and Bechstein's bats. Barbastelle and Bechstein's bats are identified as species of principal importance under Section 41 of the Natural Environment and Rural Communities Act 2006. All bat species are protected under Schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) and Schedule 5 of the Wildlife and Countryside Act 1981. Barbastelle bats are known to forage 10 - 15 km from their roosting site.
27. The Habitats Regulations require a decision maker to undertake an appropriate assessment (AA) before giving any permission where there are likely significant effects on the integrity of designated habitats sites from the proposal, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal. I return to this matter below.

Planning Balance

28. The development of the appeal site is acceptable in principle as it is within the Built Up Area Boundary (BUAB) for Aldingbourne as identified in the Local Plan, which post-dates the ANDP and therefore supersedes the BUAB shown in the ANDP. Furthermore, the Council is unable to demonstrate a 5-year supply of deliverable housing land. Although there is a slight discrepancy in the supply figures cited by the appellant and the Council, even with the Council's figure, the shortfall is substantial. Consequently, because of the provisions of footnote 7, paragraph 11 d) ii of the Framework should be applied.
29. However, this does not mean that the policies of the Local Plan and ANDP carry no weight. In accordance with paragraph 213 of the Framework, due weight should be given to existing policies according to their degree of consistency with the Framework. Paragraphs 127 and 170 of the Framework expect development to be sympathetic to local character and to contribute to and

enhance the natural and local environment. Paragraph 109 promotes highway safety. The most important policies of the development plan for the determination of this appeal as I have identified above are therefore entirely consistent with the Framework in relation to character, biodiversity and highway safety matters.

30. The Framework sets out the Government's objective to significantly boost the supply of homes and recognises the contribution of small and medium sized sites to meeting the housing requirement of an area. However, even taking these into account and the Council's housing land supply position, the conflict between the appeal proposals and the most important policies should be given significant weight in these appeals.
31. Set against this identified harm there would be benefits associated with the proposals. However, as permission has already been granted for 9 dwellings on the site, the Appeal A scheme would not result in any additional dwellings and the Appeal B scheme would only result in one additional dwelling. Therefore, the contribution of the Appeal B scheme to the housing supply of the district and the associated social and economic benefits over that of the approved scheme would be minimal.
32. Consequently, the harm to the character and appearance of the site and area, to biodiversity and, from the Appeal B scheme, to the safe and convenient use of the highway would significantly and demonstrably outweigh the limited benefits of one additional dwelling when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
33. Had the proposals been acceptable in all other respects, it would have been necessary for me to consider whether either proposal would have a likely significant effect on the SAC and, if so, undertake an AA. However, as I am dismissing these appeals for other reasons, this has not been necessary.

Conclusion

34. Both appeal schemes would conflict with the provisions of the development plan taken as a whole and there are no other considerations, including the provisions of the Framework, to outweigh this finding. Consequently, the appeals should not succeed and planning permission is refused for the Appeal B scheme.

Martin Small

INSPECTOR