
Appeal Decision

Site visit made on 11 December 2020

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th January 2021

Appeal Ref: APP/Z3825/W/20/3248730

Land north of Tisserland Farm, Stane Street, Five Oaks RH14 9AE

- 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 Paul Quickenden against the decision of Horsham District Council.
 - The application Ref DC/19/1770, dated 28 August 2019, was refused by notice dated 15 January 2020.
 - The development proposed is an outline planning application for a change of use to provide a retirement community park development with associated tennis courts and facilities.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is applied for with all matters of detail reserved for subsequent approval. As a result, I have treated the submitted appeal plan information as indicative only.
3. An Environmental Impact Assessment (EIA) Screening Assessment has been undertaken and submitted by the Council. It concludes that an EIA is not required. I have no reason to take a different view.
4. I note the Council's Decision Notice contains some reasons for refusal where interrelated matters are apparent. I have condensed my reasoning accordingly.

Main Issues

5. The main issues are:-
 - The appropriateness of the location for development in the open countryside having regard to accessibility to local services and facilities.
 - Whether the proposed affordable housing provision is acceptable;
 - Whether need is demonstrated;
 - The impact on the character and appearance of the local landscape;
 - Whether mineral extraction would be sterilised;
 - Whether ecological impacts; safe access; noise levels from road traffic and other sources; and site drainage would be acceptable.

Reasons

Accessibility to services and facilities

6. The Horsham District Planning Framework 2015 (HDPF) has an overarching aim to focus new development towards locations where access to services and facilities is the greatest.
7. I acknowledge the appellant has referred to the settlement of Five Oaks which lies approximately 500-550 metres to the south of the appeal site; and the larger settlement of Billingshurst also to the south around 1-2km's away. However, Five Oaks is not a defined settlement and has limited services. It is not recognised by the HDPF in the settlement hierarchy for the area unlike Billingshurst which contains a significant number of services including public transport and facilities.
8. Despite the proximity of those two settlements potential future occupants of the scheme would need to cross a busy road in order to use the existing pedestrian footway leading to them. The road is unlit, and the footway is narrow. This would make options to walk or cycle to local services further away less desirable also considering future occupiers of the retirement home scheme may have varying degrees of mobility.
9. There is no ready access to public transport in the immediate vicinity of the appeal site. Local bus stop provision is referred to but there are no details provided of any nearby stops close to the site or the frequency of any service. I note that the appellant has also referred to negotiations with bus transportation companies to install new bus stops. However, there are no guarantees this would be able to be secured and delivered.
10. Whilst it is proposed there would be provision made within the site for a shop there is nothing to secure that. In any event it is still likely that residents would need to travel further afield in order to reach additional day to day services. I note that the appellant suggests that it is possible for retirement parks to provide other such services but there is no evidence that would be the case in relation to the appeal scheme.
11. I find that the location of the development would not have adequate levels of accessibility to local services and facilities. As a result it would be contrary to Policies 1, 2, 3, 4, 26 and 40 of the HDPF, which in combination: seek that new development is sustainable; with access to services reflecting the settlement hierarchy of the area; that the countryside is protected; and that there is adequate choice to use sustainable modes of transport.

Affordable Housing

12. The appellant refers to the Council's housing register of needing to provide affordable homes of around 240 units per year and that the scheme could provide 100% affordable housing provision. During the determination period of the planning application 40% of the total number of units is referenced. Both figures exceed the HDPF Policy 16 requirement of 35%. However, there is no submitted legal agreement which secures the affordable housing provision referred to. Therefore, I can give the benefits of securing affordable housing no significant weight in my decision. Without such provision the development would be harmful to local housing strategy.

13. As a result, I find that adequate levels of affordable housing provision would not be provided. This would conflict with Policy 16 of the HDPF and the Council's Planning Obligations and Affordable Housing SPD (2017) which combined seek that development should provide an appropriate proportion of affordable homes to meet the needs of the district's communities.

Need

14. The appellant refers to scope for: the appeal development to provide niche housing for an aging population; as well as specialist care accommodation; and the provision of park homes. Based on the appeal documentation the precise nature of the retirement accommodation to be provided is open ended. Whilst there is some support in the HDPF for retirement, special care and park homes this is subject to demonstrating a local need as well as several other criteria including the proximity to services.
15. There is no substantive evidence to confirm that the appeal scheme would meet an identified specialist housing or park home need. I recognise that the development has the capacity to increase local housing options and that park homes have the potential to provide low cost housing within the district. However, the appellant's case is ambiguous as to how the niche retirement accommodation referred to would be delivered. Planning conditions would not overcome this matter (given the broadness of living accommodation alluded to) or the issue of demonstrating need.
16. Thus, I find it is not demonstrated there is an identified need for the development. This would conflict with Policies 18 and 19 of the HDPF which in combination only support retirement, special care housing, park homes and residential caravan sites in the district where it is sufficiently evidenced and accessibility to local services evident.

Character and appearance

17. The appeal site is an undeveloped field lined by hedgerow and trees. Open fields and greenery dominate views and are attractive components of the open countryside location.
18. The introduction of a retirement park on the appeal site would reduce the level of open greenery in the locality. During the application process it was suggested a range of up to 46 units would be provided. A suggested figure of 56 units is also referred to in the appeal documents. Even when taking the lower maximum amount as the correct figure this would lead to a prominent and incongruous impact where the number of buildings in the vicinity is otherwise infrequent.
19. The units would erode the area's attractive open undeveloped characteristics resulting in an urbanising effect. I appreciate that different unit designs could be considered at reserved matters stage. However, the openness and attractiveness of the open countryside would not be protected for the quantum of development involved in a prominent roadside position. The development would be incongruous and insensitive to local surroundings.
20. I find that the effect would be harmful to the character and appearance of the area contrary to Policies 25(1), 26, 32 and 33 of the HDPF which seek to: conserve and enhance the landscape; protect the rural character and

undeveloped nature of the countryside; and complement locally distinctive characters of the district.

Mineral resource

21. The site is in a location where mineral extraction is safeguarded from non-mineral development. Development of the land for retirement homes would sterilise it from future potential mineral extraction.
22. I therefore conclude that the development would prevent mineral extraction from occurring which would be harmful to resource planning in the conurbation. This would be contrary to the strategic aims of Policy M9 of the West Sussex Joint Minerals Local Plan (2018) which seeks that existing minerals extraction sites will be safeguarded against non-mineral development that prejudices their ability to supply minerals in the manner associated with permitted activities.

Ecological impact

23. I note a Preliminary Ecological Appraisal (PEA) dated November 2019 has been undertaken. The document does not identify major risks to local wildlife and the site is stated to be of limited ecological value. Nevertheless, it acknowledges that the southern boundary hedge and treeline is likely to support foraging and commuting by numerous bat species. The document also advises that further survey work is required to allow suitable mitigation to be formulated.
24. I am conscious that bats are a protected species and there may be other wildlife (protected or otherwise) using the site as a habitat. The evidence suggests there is a likelihood that birds also use the site for foraging, and I do not discount there could be other wildlife affected given the sizable area of land involved. The survey does not provide convincing information to conclude what the impact would be or whether suitable mitigation is achievable. As a result, it is not sufficiently evidenced that the protection of biodiversity interests is properly understood and can be successfully safeguarded.
25. Accordingly, in the absence of information to conclude otherwise I find that the development is likely to be harmful to local ecology. This would conflict with Policy 31 of the HDPF which requires that development maintains or enhances existing green infrastructure and that ecosystems in the area are protected.

Access

26. Whilst I acknowledge that the proposal is for outline planning permission there needs to be reasonable prospect of securing safe access to inform a reserved matters application. Access to and from the highway network for the number of units proposed would undoubtedly have safety implications which need to be properly understood in order to inform a decision.
27. There is insufficient information before me to demonstrate that there is realistic scope for the site to be accessed safely from the A29 by pedestrians and vehicles without any means of mitigation or confirmation it can be secured. I appreciate the appellant's point that future occupants may not use or be reliant on a car but there is nothing to control individual car ownership.
28. I find there is insufficient information to conclude that the scheme would not be harmful to highway safety. Accordingly, I find that the appeal scheme would be

contrary to Policy 40 of the HDPF which seeks a sustainable transport system and development which provides safe and suitable access.

Noise levels

29. Traffic on the A29 has the potential to generate noise disturbance. As does the established commercial use adjacent to the site. There is insufficient information to demonstrate that occupiers of the development would not be exposed to unacceptable levels of noise and disturbance from traffic on the A29 as well as the adjacent contractor's site. Based on the information before me I am not persuaded a planning condition could overcome this issue.
30. Therefore, I find that the scheme fails to demonstrate that noise disturbance will not harm the living conditions of future occupants of the scheme. This would be contrary to Policies 24 and 33 of the HDPF which seek that development will limit exposure to noise; and that it is designed to avoid unacceptable harm to the amenity of occupiers.

Site drainage

31. There is insufficient information to conclude that the site can be adequately drained for the quantum of development proposed. This applies to both surface and foul water drainage. There are also concerns the absence of an agreed approach may cause flooding problems elsewhere. It is entirely appropriate for local drainage issues to be sufficiently explored and potential risks acknowledged at outline stage. In the absence of information to conclude otherwise I am therefore unconvinced that it would be appropriate to allow the matter to be resolved by planning condition.
32. Accordingly, it is not demonstrated that adequate site drainage can be provided, and the development is likely to be harmful to managing local flood risk concerns. The scheme would be contrary to Policy 38 of the HDPF which seeks to encourage sustainable drainage systems and to manage flood risks.

Other matters

33. There is no evidence to suggest the Council does not have a 5-year housing land supply. Other appeal decisions are referred to by the appellant in relation to housing supply issues, but I have not been provided the full details. I have considered the scheme on its own merits in any event.
34. I note that the Decision Notice in contention states that the development would be contrary to Paragraphs 2, 11, 12, and 47 of the National Planning Policy Framework (the Framework). The appellant has referred to elements of the Framework as supporting his case in terms of further boosting housing land supply and choice generally which could amount to a benefit.
35. Furthermore, I acknowledge the appellant refers to other benefits of the scheme in relation to providing tennis courts and a recreation ground to serve the local community; as well scope to undertake a sustainable construction. However, there are no details of how proposed on-site facilities would be delivered to serve the wider public as opposed to solely residents of the scheme. Nor are there any details of the nature of the construction involved. As a result, I give those alleged benefits no significant weight. In addition, the appellant has referred to previous discussions with the Council in relation to

using the appeal site for gypsy and traveller accommodation, but such discussions have no bearing on the appeal proposal before me.

Planning Balance and Conclusion

36. I have found that there would be clear conflict with the Council's development plan arising from the appeal scheme which would result in substantial harm. Whilst there may be some notional benefit in further boosting housing supply and choice in the area generally there are considerable factors which outweigh that with respect to: deficient levels of accessibility; inadequate affordable housing provision; lack of evidenced need; harm to the character of the area; inadequate demonstration of noise mitigation; likely harm to ecology; insufficient drainage and safe access provision; as well as future minerals extraction sterilisation.
37. Planning law requires that applications for planning permission be determined in accordance with the development plan for the area, unless material considerations indicate otherwise. When applying the content of the Framework there are no material considerations in this case which indicate that the plan should not be followed.
38. For the above reasons therefore, the appeal does not succeed.

M Shrigley

INSPECTOR