



Appeal Decision

Site visit made on 11 May 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd June 2021

Appeal Ref: APP/Z3825/W/20/3265681

Land north of Slinfold Cricket Club, Lyons Road, Slinfold, RH13 0RY

- 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 Kevin Morley and Slinfold Developments Ltd against the decision of Horsham District Council.
 - The application Ref DC/19/1386, dated 1 July 2019, was refused by notice dated 4 November 2020.
 - The development proposed is outline application for erection of 24 dwellings (inc. eight affordable units) with access from Lyons Road, landscaping and associated works, and demolition of the existing cricket pavilion and replacement with new two storey cricket pavilion and provision for 25 car parking spaces. All matters reserved except for access.
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Decision

1. The appeal is allowed and outline planning permission is granted for erection of 24 dwellings (inc. eight affordable units) with access from Lyons Road, landscaping and associated works, and demolition of the existing cricket pavilion and replacement with new two storey cricket pavilion and provision for 25 car parking spaces. All matters reserved except for access. On Land north of Slinfold Cricket Club, Lyons Road, Slinfold, RH13 0RY, in accordance with the terms of the application, Ref. DC/19/1386, dated 1 July 2019, and subject to the conditions listed in the Annex to this decision.

Procedural Matters

2. The description of the proposed development on the application form is slightly different to that in the Council's decision notice. I have adopted the latter as it more accurately describes the development.
3. The application seeks outline planning permission with all matters reserved for future determination other than access. Even though it is in outline, the application is accompanied by an indicative layout and seeks planning permission for 24 new dwellings (inc. eight affordable units) as well as the erection of a new cricket pavilion and associated car parking. I have determined the appeal on this basis.
4. The Appellant submitted, with their appeal, five amended plans and requested that these be substituted for those listed in the Council's decision notice. These plans relate to the removal of the ditch to the west of the proposed access, which would be replaced by extending the existing culvert under the highway westwards to a new outlet. I understand that, due to an oversight, not all of the updated drainage plans were submitted at the same time. I also

understand that the Council's Drainage Officer raised no objections to the removal of the ditch and that it was on this basis that the Council determined the application (as is reaffirmed in the Council's Addendum to their 3 November 2020 Planning Committee Report). These amended plans were submitted with the appeal, providing a further opportunity for the Council and interested parties to comment on the changes. In view of the above and having regard to the Wheatcroft Principles I have accepted these substituted plans and proceeded to determine the appeal on this basis. For clarity, these plans are drawings No. FC2703/13F, FC2703/10F, FC2703/04H, FC2703/08B and FC2703/09B.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the impact of the proposed access on the rural character of Lyons Road

Reasons

6. Policy 8 of the Slinfold Neighbourhood Plan (2018) (SNP) allocates the appeal site, referred to as 'Crosby Farm', for residential development. The policy states that development will be supported where specific development requirements (listed under the policy) are met. In relation to the issue raised by this appeal, the principal requirements are that: the design of the development responds positively to the prevailing character of the surrounding area; that the proposal allows for the retention of existing mature trees and hedges; and that the proposal creates Public Rights of Way (PRW) to link the site to existing Public Rights of Way (criteria 1, 3 and 4 to policy 8).
7. Policy 8 must be read in conjunction with policies 32 and 33 of the Horsham District Planning Framework (2015) (HDPF). Amongst other requirements, these policies seek to ensure that new development creates an attractive and safe environment; that it secures a high quality layout that relates well to its surrounds; that it is sympathetic to the local landscape; and that it justifies and mitigates for the loss of natural features such as trees, hedges and banks.
8. All of these policies are consistent with the National Planning Policy Framework (February 2019) (Framework). In view of this and as, in particular, the residential allocation forms part of a made neighbourhood plan, in line with the HDPF, I accord these policies significant weight.
9. Within the above context, the main area of dispute between the parties is whether the design of the proposed access would result in an unacceptable hard urbanising impact on the character and appearance of Lyons Road.
10. It is clear from the evidence before me that the proposed design of the access has been the subject of extensive discussions with Council Officers, and has also been the subject of a number of amendments to address concerns, amongst others, in relation to highway safety, the retention of existing trees/hedging and drainage. These amendments have secured the retention of five trees that were originally shown to be removed, including a memorial tree and Oak tree at the junction with Lyons Road, new replacement hedging and the planting of 11 new trees along the internal access road. The Appellant contends that these amendments work well with the proposed access design,

- which would involve widening the existing access, of approximately 3 metres, to 5.5 metres, with 6 metre radii, 2 metre footways and visibility splays.
11. In my judgement, the retention of the mature trees and replacement hedging allow the proposed access to be assimilated within the existing character and appearance of Lyons Road. Whilst I accept that the enlarged access would result in change, it would not be significant and would not, in my view, result in a hard urbanising effect. On the contrary, the combination of the replacement hedging, retained trees and new tree planting would soften the appearance of the proposed access and enable it to assimilate well with the existing landscaped character of Lyons Road.
 12. The above findings also relate to the proposed new footways. Whilst these would result in the loss of some of the existing grass verge on Lyons Road, that loss would be small and would not, in my view, be harmful to the overall character of the road.
 13. Whilst I accept that Lyons Road has a pleasant feel to it, it is located within the built up part of the village and at the time of my site visit was busy. The road contains various highway signage and other street furniture. There are also, within the immediate vicinity of the appeal site, existing accesses from Lyons Road to housing developments at Mitchell Gardens, opposite, and Lyons Close, to the south west. All of these features and structures form part of the existing character and appearance of this part of the road and within that context, the proposed access would not, in my view, be out of keeping or harmful.
 14. I appreciate that the replacement hedging will take time to establish, but once it matures it would, in my view, make a positive contribution to the appearance of the enlarged access and assist in ensuring that the rural quality of the road is not materially eroded. Equally, the proposed planting of 11 new trees along the internal access road would make a positive contribution to the character and appearance of the area, including the backdrop to the cricket club and to views from Lyons Road.
 15. As I observed on site, the proposed access design would also improve the safety of the existing access, for both vehicles and pedestrians, as well as enhancing pedestrian linkages between the appeal site and surrounds.
 16. Given the above, I am satisfied that the appeal proposal would comply with the requirements of criteria 1, 3 and 4 to policy 8 of the SNP, and, in these respects, that the proposal is policy compliant.
 17. The Council accept that the existing access to the appeal site will require improvement and that this would lead to alterations to the existing junction with Lyons Road, but argue that the proposed design is substantial and is over engineered. For the reasons I set out above, I do not agree.
 18. The Council suggest that the Highway Authority have indicated that the proposed width and bell mouth to the proposed access could be narrowed, securing a less intrusive arrangement. As I have found above, the proposed design would not, in my judgement, be intrusive or harmful. Even so, there is no written evidence before me from the Highway Authority to substantiate that statement. Indeed, the only written evidence from the Highway Authority is their consultation response in the Council's 3 November 2020 Planning Committee Report (Committee Report). As well as raising no objection to the

appeal proposal, the Committee Report does not include any comment from the Highway Authority that they considered the proposed access to be over-engineered.

19. The Council have also referred to the submission of a revised application on the appeal site, which I understand includes an amended access design, and at the time of the submission of the Council's Appeal Statement was undetermined. However, that application is not before me. In terms of alternative designs, I can only determine the proposal that is the subject of this appeal and I have done so, as is required, on its individual merits.
20. Accordingly, I find that the appeal proposal and specifically the proposed access works would meet and satisfy the requirements of policy 8 of the SNP. The appeal proposal would also accord with policies 32 and 33 of the HDPF.

Other Matters

21. The Appellant has submitted a completed Unilateral Undertaking (UU), dated 26 April 2021, to secure the provision of affordable housing. The Agreement obligates the owner or successors in title to secure the provision of eight (8) affordable housing units (a mixture of rented and shared ownership) on the appeal site, as well as an affordable housing contribution to meet any shortfall in relation to the requirement of Policy 16 of the HDPF for 35% of the proposed units to be affordable. Having reviewed the UU, I am satisfied that its obligations are reasonable and effective, and would meet the requirements of Policy 16 of the HDPF.
22. The obligations within the UU are also: necessary so as to make the appeal proposal acceptable in planning terms; they are directly related to the proposed development; and, fairly and reasonably related in scale and kind to the development. As such, all three tests set out in paragraph 56 of the Framework are met, and all the three statutory tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 are similarly met.
23. The appeal site lies within the setting of various Grade II Listed Buildings as well as within the setting of the Slinfold Conservation Area (SCA). Sections 66 and 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 require, therefore, that special regard must be had to the desirability of preserving the setting of these heritage assets. Similar advice is to be found in the Framework. The Council concluded, in their Committee Report, that any harm to these heritage assets from the appeal proposal would be outweighed by the public benefits of the development. This followed extensive consultations with the Council's Conservation Officer and amendments to the indicative layout.
24. Whilst the scale, appearance, layout and landscaping of the proposed development are all matters reserved for future approval, the appeal is accompanied by an indicative layout. Having had regard to this, as well as the advice in paragraph 196 of the Framework and observed on my site visit the relationship of the appeal site to the listed buildings and SCA, the proposed development would result in less than substantial harm to these heritage assets. The level of harm would be low and would be outweighed by the public benefits of the proposal, which include, amongst others, the provision of market and affordable housing within a sustainable location, the delivery of a

housing allocation that would contribute towards the districts housing requirements, improvements to PRW's and the provision of open space.

25. Other concerns have been raised by interested parties regarding traffic and road safety, precedent, density, built form and local infrastructure. There is no detailed evidence before me to suggest that any of these concerns would result in material harm and I note they are not issues that the Council have raised in relation to this appeal.
26. The Appellant has questioned the ability of the Council to identify a 5-year supply of housing land, contending that, in their view, the failure to do so triggers the tilted balance in paragraph 11 d) of the Framework. The evidence before me on this issue is, however, inconclusive and I have, therefore, been unable to make a determination on this matter. Even so, as I have found above, the appeal proposal is acceptable and would secure a number of benefits, including making full use of an allocated housing site, securing affordable housing, boosting the supply of housing and contributing towards the delivery of the districts identified housing needs within a sustainable location. These benefits are supported by various up to date policies in the development plan and by the policies of the Framework, including paragraph 59. I attach significant weight to these benefits, which add further support to the findings I have reached above.

Conditions

27. The Council has suggested a number of conditions which I have considered against the advice in the Framework and the Planning Practice Guidance on the use of planning conditions. I have also had regard to the Appellant's Final Comments, dated 26 April 2021, which confirmed that the conditions set out in section 5 of the Council's Appeal Statement were considered to be acceptable, other than the amended plan reference in condition 7.
28. Conditions relating to compliance with the approved plans, tree retention, protection and removal, construction works, drainage, biodiversity, ecology, water consumption and contamination, are reasonable and necessary in the interests of securing a high quality development, highway safety and local amenities, to minimise the risks to the public from contamination, to mitigate the effects of climate change, to ensure a satisfactory drainage system and that the site is suitably drained, and to safeguard ecological and biodiversity interests and enhancements.
29. Conditions relating to compliance with the approved highway works, the submission and approval of works to the public rights of way, a travel plan and telecommunications, are also necessary in the interests of highway safety, to promote alternative modes of transport, improve pedestrian accessibility and to ensure that the new dwelling has a satisfactory broadband connection. Conditions requiring the submission and approval of a noise assessment and customer management plan for the proposed cricket pavilion, are also necessary to protect the living conditions of existing and future neighbouring occupiers.
30. I have combined the construction conditions and made some minor amendments to other conditions to be consistent with the submitted proposal. Whilst there are a large number of conditions, these are, in my opinion,

necessary and reasonable, not only for the reasons given above, but also to ensure that the detailed requirements of policy 8 of the SNP are met.

Conclusion

31. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR

Annex – Conditions

- 1) The development hereby permitted shall be carried out strictly in accordance with the approved plans.
- 2) (a) Approval of the details of the layout of the development, the scale of each building, the appearance of each building hereby approved (including the new cricket pavilion), and the landscaping of the development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(b) Plans and particulars of the reserved matters referred to above, relating to the layout of the development, the scale of each building hereby approved (including the new cricket pavilion), the appearance of each building, and the landscaping of the development, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

(c) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.

(d) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 3) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:
 - the method of access and routing of vehicles during construction
 - the parking of vehicles by site operatives and visitors
 - the loading and unloading of plant, materials and waste
 - the storage of plant and materials used in construction of the development
 - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders)

- an indicative programme for carrying out of the works
- the arrangements for public consultation and liaison during the construction works, details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination
- the measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works

No works for the implementation of the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays.

- 4) No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local planning Authority. The development shall be carried out in accordance with the approved scheme.
- 5) No development shall commence until a detailed surface water drainage scheme including a Surface Water Drainage Statement, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be fully coordinated with the landscape scheme. The development shall subsequently be implemented prior to first occupation in accordance with the approved details and thereafter retained as such.
- 6) Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination, including asbestos contamination, of the site and extant structures shall each be submitted to and approved, in writing, by the Local Planning Authority:
 - a) A preliminary risk assessment which has identified:
 - all previous uses and potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
 - b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) The site investigation results and the detailed risk assessment (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

- 7) No part of the development shall commence until such time as the highway works including vehicular access, footway and dropped kerb pedestrian tactile points serving the development has been constructed in accordance with the

details shown on the drawing titled RESIDENTIAL DEVELOPMENT & CRICKET PAVILION HIGHWAY JUNCTION LAYOUT HIGHWAY INDENTED SOUTH and numbered FC2703/13F.

- 8) No part of the development shall commence until visibility splays of 2.4 metres by 56 metres have been provided at the proposed site vehicular access onto Lyons Road in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.
- 9) The common oak tree (identified as tree T41 in the submitted Arboricultural Impact Assessment, prepared by Broad Oak Tree Consultants Ltd, received 08.07.2019), shall not be felled or otherwise removed unless and until details have been submitted to and approved in writing by the Local Planning Authority to demonstrate whether an alternate arrangement to the proposed drainage ditch to the southern boundary of the site is reasonably achievable to facilitate the tree's retention. In the event the Local Planning Authority determine that an alternative arrangement is reasonably achievable, that arrangement shall be implemented in accordance with the agreed details and T41 shall be retained and suitably protected during works in full accordance with section 6 of BS 5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (2012).
- 10) The following works shall not in in any circumstances commence unless the Local Planning Authority has been provided with either:
 - a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
 - b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.
- 11) No development shall commence, including demolition pursuant to the permission granted, ground clearance, or bringing equipment, machinery or materials onto the site, until the following preliminaries have been completed in the sequence set out below:
 - All trees on the site shown for retention on drawing number J54.03|02 (as per the submitted Arboricultural Impact Assessment, prepared by Broad Oak Tree Consultants Ltd, received 08.07.2019), to include for the avoidance of doubt trees T33 , T35 and T36, as well as those offsite whose root protection areas ingress into the site, shall be fully protected throughout all construction works by tree protective fencing affixed to the ground in full accordance with section 6 of BS 5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (2012).
 - Once installed, the fencing shall be maintained during the course of the development works and until all machinery and surplus materials have been removed from the site.
 - Areas so fenced off shall be treated as zones of prohibited access, and shall not be used for the storage of materials, equipment or machinery

in any circumstances. No mixing of cement, concrete, or use of other materials or substances shall take place within any tree protective zone, or close enough to such a zone that seepage or displacement of those materials and substances could cause them to enter a zone.

Any trees or hedges on the site which die or become damaged during the construction process shall be replaced with trees or hedging plants of a type, size and in positions agreed by the Local Planning Authority.

- 12) Prior to the installation of any external lighting, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The scheme must also be designed by a suitably qualified person in accordance with the recommendations for environmental zone E2 in the Institute of Lighting Professional's Guidance Document Guidance Notes for the Reduction of Obtrusive Light GN01:2011.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

- 13) Prior to development commencing above ground floor slab level, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) Detailed designs to achieve stated objectives;
 - c) Locations of proposed enhancement measures by appropriate maps and plans;
 - d) Persons responsible for implementing the enhancement measures;
 - e) Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 14) Prior to the commencement of the development above slab level, details of the proposed improvement works to the Public Right of Way (ROW 1440.-3) along the northern boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. This shall include, but not be limited to:
- A layout plan of the pathway at a scale of at least 1:500;
 - Horizontal sections of the proposed pathway at a scale of at least 1:20;
 - Details and construction of the proposed surfacing materials;
 - Details of any planting adjacent to the pathway (in accordance with landscape detail, to be submitted);

- Details of the long-term management and maintenance of the pathways, and;
- Details of (if any) street furnishings.

The works shall be undertaken in strict accordance with the approved details and completed prior to the occupation of the twentieth dwelling, and shall thereafter be maintained as such, unless otherwise agreed to and approved in writing by the Local Planning Authority.

- 15) Prior to the first occupation of each dwelling, the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabits per second through full fibre broadband connection shall be provided to each dwelling.
- 16) No part of the development shall be first occupied until such time as a Travel Plan Statement has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan Statement shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.
- 17) Prior to the first occupation (or use) of any part of the development hereby permitted, a verification report demonstrating that the SuDS drainage system has been constructed in accordance with the approved design drawings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be maintained in accordance with the approved report.
- 18) Prior to the first occupation (or use) of any part of the development hereby permitted, a contamination verification plan shall be submitted to and approved, in writing, by the Local Planning Authority. The verification plan shall provide details of the data collected in order to demonstrate that the works set out in Condition (6) are complete, and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.
- 19) Prior to the occupation of the cricket pavilion, an assessment of the acoustic impact arising from the operation of all internally and externally located plant to be installed at the sports pavilion shall be undertaken in accordance with BS 4142:2014 or superseding equivalent. The assessment shall be submitted to the Local Planning Authority together with a scheme of attenuation measures to mitigate any adverse impacts identified in the acoustic assessment. The scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved by the Local Planning Authority shall be fully installed before the use hereby permitted commences and shall be operated for as long as the use is continued.
- 20) The use of the cricket pavilion hereby permitted shall not commence until a Customer Management Plan has been submitted and approved in writing by the Local Planning Authority. This should include but not be limited to, hours of operation, management responsibilities during all operating hours, measures to control noise from live and amplified music (including the screening of sporting events and public address systems) and minimising the effects of patrons coming and going from site and demonstrating how

customers leaving the building will be prevented from causing nuisance for people in the area. The use hereby permitted shall thereafter be operated in accordance with the approved details.

- 21) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Updated Ecological Assessment (Ecosupport Ltd, October 2020) already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
- 22) All works shall be executed in full accordance with the submitted Arboricultural Impact Assessment (prepared by Broad Oak Tree Consultants Ltd, received 08.07.2019), with the exception of the removal of the trees identified as T33, T35, T36 detailed in Appendix 6 of the report which for the avoidance of doubt shall be retained at all times, and all works to the proposed access to the site from Lyons Road shall consist of a no-dig construction when within the Root Protection Zone of all trees to be retained.
- 23) The dwellings hereby permitted shall meet the optional requirement of building regulation G2 to limit the water usage of each dwelling to 110 litres per person per day. The subsequently approved water limiting measures shall thereafter be retained.
- 24) No soils shall be imported or re-used within the development site until the developer has submitted details of the chemical testing and assessment of the soils which demonstrates the suitability of the soils for the proposed use. The assessment shall be undertaken by a suitably qualified and competent person and full details shall be submitted to and approved in writing by the Local Planning Authority

End of Annex.