



Appeal Decision

Site Visit made on 26 August 2021

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Appeal Ref: APP/C3810/W/21/3277563

Land East of Kingston House, Kingston Lane, Kingston BN16 1RP

- 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 Mr Robert Saunders against the decision of Arun District Council.
 - The application Ref K/54/20/PL, dated 4 November 2020, was refused by notice dated 22 January 2021.
 - The development proposed is single storey four bed dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The Council says that its officer's report and reason for refusal 2 include a typo, and that 'policy ENV DM3' should be 'policy ENV DM1'. As the site is not within a Biodiversity Opportunity Area to which policy ENV DM3 would relate, and as I do not consider anyone's interests would be prejudiced, I shall deal with the appeal on the basis that Policy ENV DM1 is the correct policy.

Main Issues

3. The main issues are the effect that the proposed development would have on:
 - the character of the surrounding rural area, and
 - protected species and/or their habitats on or near the site.

Reasons

Rural character

4. LP Policy SD SP2 aims for development to be focussed within the Built Up Area Boundaries defined for the main towns and villages in the District. As the appeal site is outside any Built Up Area Boundary designated in the Arun Local Plan 2011-2031 (July 2018) (LP) and the Kingston Parish Neighbourhood Plan 2014-2029 (NP), it is, in policy terms, in the countryside. The site is also within the East Preston to Ferring Settlement Gap (the gap), where LP Policy SD SP3 aims to protect the generally open nature of specific gaps between settlements, to prevent coalescence and retain their separate identity. LP Policy C SP1 and NP Policy KPNP 2 aim to recognise the intrinsic character and beauty of the countryside, in line with paragraph 174 of the National Planning Policy Framework (Framework).

5. The irregularly-shaped broadly flat appeal site includes an open field grazed by horses with a hedge by its west boundary and a track about as long as the field is deep from the private road off a bend in Kingston Lane. The 3 existing dwellings including former farm buildings reached from the private road are clustered close to Kingston Lane and are partly screened from the private road and the site. By contrast, the site and the surrounding countryside are mainly open. The grassy field, hedge and the substantial openness at the undeveloped site contribute positively to the rural character of the area.
6. The appellant would live at the proposed dwelling and its grounds would include a field for horses and 2 stables, an orchard, beehives, and an area of land to be 're wilded'. He does not say that the proposal would be for any category of development identified as being acceptable in the rural area in the first 5 criteria (a to e) of LP Policy C SP1. Instead, he relies upon criterion f, which aims to permit development in the countryside where it is in accordance with other policies in the Plan which refer to a specific use or type of development, and he refers to LP Policy SD SP3.
7. LP Policy SD SP3 says that development will only be permitted within the gaps between settlements if they satisfy 4 criteria, or if a subsequent Development Plan Document or Neighbourhood Plan deems it appropriate through an allocation, which is not the case here. In the context of the entire gap, due to its scale and siting, the proposal would not undermine the physical and visual separation of East Preston and Ferring or diminish their separate identities, and it would not have a material impact on the openness of the gap. Also, due to its scale and distance from the coast, the proposal would maintain the character of the undeveloped coast. So, the proposal would satisfy criteria a, b, and d of LP Policy SD SP3.
8. The appellant's marketing evidence considers the space needed to achieve the appellant's objectives for the entire site whereas the Council's reason for refusal 1 raises concern about 'a single residential unit'. As there is no substantive evidence to show that the dwelling would need to be located at the site, and as the Council previously granted permission for stables associated with the grazing of horses, I agree with the Council's stance. Also, the appellant's evidence is just one letter from a local agent, which considers the BN16 postcode and surrounding area and concludes there are no other sites within the area. It is insufficient to provide the comprehensive marketing evidence, including District-wide data from a range of agents and sources, that would be needed to show that the development 'cannot be located elsewhere'. So, the proposal would be contrary to criterion c of LP Policy SD SP3, and NP Policy KPNP 3 criterion i, which reflect that aim. Moreover, as LP Policy SD SP3 does not refer to a specific use or type of development, the proposal would be contrary to LP Policy C SP1 criterion f.
9. Furthermore, the low-pitched roofed single storey dwelling would be sited in the field close to the west boundary by the far end of the track. Leaving room to reach the stables by the field's south boundary, the dwelling would extend up to roughly half the depth of the field. Because the dwelling would be sited well beyond the existing dwellings by the private road, its built form, and associated residential paraphernalia, including parked cars, sheds, washing lines, garden furniture, and so on, would harmfully extend residential development into the open countryside, to the detriment of its rural character.

10. Moreover, due to its substantial scale, mass, and siting, edged by a garden and fields, the comparatively isolated dwelling would be harmfully prominent in nearby views from the public right of way to roughly south. Thus, the proposal would detrimentally encroach into the undeveloped countryside, it would harmfully erode the important openness at the site, and it would unacceptably harm the character of the surrounding rural area.
11. In reaching my findings I have had regard to my colleague's appeal decision ref APP/C3810/W/19/3242255, which dealt with a similar 4 bed dwelling at part of the site. The proposed beech hedge by the site's north boundary and other planting could partially screen the dwelling in the short term, but as it could not reasonably be controlled by condition for more than a few years, it could not be relied upon to screen the proposal in the longer term. As the 3 stables permitted by the Council could be used for agriculture or another acceptable rural use, they provide little support for the damaging proposal in this appeal. Also, as the retail and Glenbarrie Way developments referred to by the appellant included an existing retail use and adjoined built up area boundaries and a railway line respectively, their site specific circumstances differ materially from those of this proposal. Materials were not a concern of the Council in its reasons for refusal, and as external materials could be controlled by condition if the development were to be otherwise acceptable, I agree.
12. Therefore, I consider that the proposal would harm the character of the surrounding rural area, which is within the East Preston to Ferring Settlement Gap. It would be contrary to LP Policy C SP1 and NP Policy KPNP 2, LP Policy SD SP3, NP Policy KPNP 3, and LP Policy D DM1 which seeks good design and respect for context. It would also be contrary to Framework paragraph 174.

Protected species

13. LP Policy ENV DM1 states that proposed development likely to have an adverse effect on land with the designated features of any Site of Biodiversity or Geological Importance as listed in LP Tables 17.1 to 17.17 will not normally be permitted. The site lies within the Ferring Rife & Meadows Site of Nature Conservation Importance, which is listed as a locally important site in table 17.6. As the site is presently an undeveloped open field, there is a reasonable likelihood that protected species and/or their habitats are present on or near the site. Whilst the proposal seeks to improve biodiversity, no ecological assessment has been put to me.
14. The appellant says that an ecological assessment could be dealt with by condition if the proposal were to be otherwise acceptable. However, this would be contrary to ODPM Circular 06/2005 Biodiversity and Geological conservation – Statutory obligations and their impact in the planning system (the Circular), which states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. As no exceptional circumstances have been put to me, this is not a matter that could be dealt with by the imposition of a planning condition.
15. I consider that there is insufficient evidence to show that there is no reasonable likelihood that protected species, or their habitats, on or near the site would not be adversely affected by the proposal. As it has not been shown that the

proposal would not harm biodiversity interests on or near the site, it is contrary to LP Policy ENV DM1, the Circular, and Framework paragraph 174 which aims to protect and enhance sites of biodiversity value.

Other matters

16. As the Council cannot demonstrate a 5 year supply of land for housing, the presumption in favour of sustainable development in Framework paragraph 11 d) is engaged. However, as the harm that the proposal would cause to the character of the surrounding rural area, within the gap, and the harm that the failure to provide a Phase 1 ecological assessment could cause to biodiversity interests on or near the site, would significantly and demonstrably outweigh the benefits, including the environmental, social, and economic gains of the new dwelling, planning permission should be refused.
17. The appellant's personal circumstances have also been considered. However, as the proposal would be likely to remain long after they have ceased to be material, they would not outweigh the harm that the proposal would cause.

Conclusion

18. I have found that the proposed development would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
19. For the reasons given above, the appeal should be dismissed.

J Reid

INSPECTOR