



Appeal Decision

Site Visit made on 15 September 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th October 2021

Appeal Ref: APP/C3810/W/21/3271024

Croft Works, 52 Mill Lane, Rustington BN16 3JN

- 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 Ms V Walden against the decision of Arun District Council.
 - The application Ref R/197/20/OUT, dated 9 October 2020, was refused by notice dated 4 February 2021.
 - The development proposed is demolition of existing dilapidated storage buildings and erection of 2 no. detached 3-bedroom chalet bungalows with associated car barns, gardens, car parking & landscaping.
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Decision

1. The appeal is allowed and outline planning permission is granted for demolition of existing dilapidated storage buildings & erection of 2 no. detached 3-bedroom chalet bungalows with associated car barns, gardens, car parking & landscaping at Croft Works, 52 Mill Lane, Rustington, BN16 3JN in accordance with the terms of the application, Ref R/197/20/OUT, dated 9 October 2020, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Ms V Walden against Arun District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The original application was made in outline. Matters of access, scale, layout and appearance are for consideration now, with only landscaping reserved for future consideration. I have determined the appeal on this basis.
4. During the course of the appeal, a revised National Planning Policy Framework (the Framework) was published. The parties have had an opportunity to comment on the implications of the revised Framework during the appeal process. I have had regard to comments received and determined the appeal in accordance with the revised Framework.

Main Issue

5. The main issue is whether or not the proposed use of the access would be safe and suitable having regard to pedestrian safety and emergency vehicles access.

Reasons

6. The appeal site is a plot of land accessed off Mill Lane, a private road. It is positioned at the rear of properties fronting Mill Lane, accessed via a driveway running between Numbers 50 and 54. It has a frontage to Fircroft Crescent but no direct access onto this road. The site is currently used as informal open storage.
7. The proposed development of two three-bedroom houses would be served by the existing driveway which is indicated to be around 40 metres long with a width varying from 3.2 metres to 4.65 metres.

Pedestrian safety

8. The appellant has submitted evidence of vehicle widths and the space required to meet pedestrian needs. These are based on the advice set out in the Manual for Streets (MfS). This sets out that 1.2 metres would be adequate to allow an adult and child to walk hand in hand. A family saloon is indicated to require just over 2 metres width and a van 2.4 metres.
9. Based on the submitted evidence, it appears the driveway would have adequate space along the majority of its length for pedestrians, including an adult and child walking side by side, to safely pass along it at the same time as an average domestic vehicle. With just two houses being served by this driveway, traffic volumes would not be high. In these circumstances, it would not be unacceptable for either pedestrians or drivers to wait whilst the other passes along the driveway where it narrows. For the same reason, I find that there would be sufficient space for future occupants to access the bin enclosure without conflict with vehicles using the access.
10. Future occupants of the proposed dwellings would also be well aware of the nature of the shared space and traffic movements along this driveway when walking along the driveway. In these circumstances, the proposal would not give rise to an unacceptable risk of conflict between users of the driveway. I also note the local highway authority raised no objection to the scheme on highway safety grounds.
11. There is evidence that the site has previously been accessed by commercial vehicles. Whilst I observed vehicles on the site at the time of my visit, I have no firm evidence of the intensity of this use. However, it appears that there would be no restriction on vehicle movements associated with this existing use. Notwithstanding this, as I have set out above, I do not consider the limited amount of residential development on the site and associated vehicle and pedestrian movements arising from this would cause an unacceptable increase in the risk of conflict between users of the driveway.

Emergency access

12. Building Regulations sets out that the minimum access width between kerbs to allow emergency vehicle access should be 3.7 metres. The proposed access would therefore be insufficiently wide along its length to allow access by emergency vehicles.
13. West Sussex Fire and Rescue Service (WSFRS) were consulted on the proposals and have indicated that whilst their preference would be to gain access to the proposed dwellings, if this was unachievable then each property would need to

be fully sprinklered. Where a house is fully sprinklered in accordance with British Standards¹ the distance between the fire appliance and any point within the house can be up to 90 metres. WSFRS have agreed that the distance from the main road to the furthest point is approximately 80 metres and would therefore be within the limits set out in the British Standards. In addition, the Council's Building Control officers have found the use of sprinklers would be acceptable. These could be secured through the imposition of a planning condition.

14. The Council has subsequently argued that there is no guarantee that the sprinklers would not malfunction. However, this is an accepted form of mitigation where direct vehicular access cannot be provided as noted by both the WSFRS and Building Control officers. I have no substantive evidence of such systems malfunctioning. It therefore seems reasonable to assume such devices would function as expected.
15. With the fire appliance able to access the property from the main road as indicated in the WSFRC response, concerns about large emergency vehicles entering the private access road are addressed.
16. I conclude that the proposed use of the access would be safe and suitable having regard to pedestrian safety and emergency vehicles access. It would therefore accord with Policy T SP1 of the Arun Local Plan 2018 (ALP) which requires development to be designed to give priority to pedestrians and provide safe and secure layouts for traffic and pedestrians. It would also comply with the Framework which sets out development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

17. The private section of Mill Lane currently serves seven dwellings and the existing use occupying the appeal site. The junction of this section of Mill Lane with the adopted highway comprises a sharp turn with limited visibility to the right. The local highway authority confirmed that the existing use of the site could generate vehicular trips of a similar quantity to that of the proposed two dwellings and as such concluded that the proposal would not result in a material intensification of the use of this junction. They consequently concluded that the proposal would not generate a highway safety concern at this existing junction. I have been presented with no substantive evidence to disagree with this conclusion.
18. There appears to be a matter of dispute between the appellant and a neighbouring land owner regarding property boundaries. However, any ownership issues are a private matter between the relevant parties and not within my jurisdiction.
19. There are concerns about large vehicles using the private road both during construction and once the proposed houses are occupied. This is on the basis that they may cause damage to both the road itself and an adjacent property due to this area providing a wider turning point. However, such vehicles could enter the road currently and in connection with the existing use of the site. Nonetheless, in view of the constraints of the site, it would be reasonable to impose a condition requiring a construction management plan to manage

¹ BS9251:2014 – Fire sprinkler systems for domestic and residential occupancies. Code of Practice

vehicle movements and to restrict hours of construction to protect nearby occupants from disturbance and inconvenience arising during construction works. Any damage to property during construction are matters for the relevant landowners to resolve.

20. Concerns have been raised about the impact of the proposed development on property values. However, as set out in the PPG², the courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property could not be a material consideration.
21. It has been suggested that the proposed development would be better accessed via Fircroft Crescent. However, the appeal site does not have a direct access onto this road due to land ownership matters. In any event, that is not part of the proposal before me.
22. The appeal site is located within a residential area. The proposed development of this site would result in a more compatible use with surrounding development than the existing commercial use as storage. It would therefore not be out of character with the area.

Conditions

23. The Council has proposed a number of conditions should the appeal be allowed in addition to those which I have already referred to earlier in my decision. I have considered these and imposed them where they meet the tests set out in Paragraph 56 of the Framework, amending where necessary for the sake of simplicity, clarity and precision.
24. In addition to the standard conditions relating to the submission of reserved matters it is necessary to identify the plans to which the decision relates, but only insofar as they relate to reserved matters for consideration at this stage, as this provides certainty.
25. I have imposed conditions requiring investigation and remediation of any contaminated land. This is both reasonable and necessary due to the current use of the site for storage. A condition requiring details of surface water drainage to be agreed and implemented is reasonable to ensure the site is adequately drained. In the interests of the long term health of trees and their contribution to the character of the area, a condition seeking management of tree works and compliance with the submitted method statement is necessary and reasonable.
26. In the interests of the character and appearance of the development, a condition requiring details of materials and screening and fencing is necessary. This is also reasonable to protect the amenity of neighbours.
27. A condition requiring space for car parking and vehicle turning areas is necessary in the interests of highway safety. To encourage sustainable transport choices, a condition requiring the provision of cycle parking is reasonable. To future proof the development and reduce harmful local air quality impacts, a condition to require electric charging points is reasonable.

² Paragraph: 008 Reference ID: 21b-008-20140306

28. I have imposed a condition requiring ecological enhancements in the interests of biodiversity and in accordance with Policy ENV DM5 of the ALP.
29. A condition restricting permitted development rights to prevent the insertion of additional windows including dormer windows, enlargement of the building or roof alterations, is reasonable to protect the amenities of neighbouring occupiers and in the interests of the appearance of the development and the site constraints.

Conclusion

30. For the reasons set out above, I conclude the appeal should be allowed.

Rachael Pipkin

INSPECTOR

Schedule of Conditions

- 1) Details of the landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the reserved matter to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: CW/ML 010B, CW/ML 011A, CW/ML 012A and LLD2098-ARB-DWG-001.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - wheel washing facilities;
 - measures to minimise noise generated by the construction process;
 - measures to control the emission of dust and dirt during construction;
 - and
 - a scheme for recycling/disposing of waste resulting from demolition and construction works

The approved Construction Method Statement shall be adhered to throughout the construction period for the development

- 6) No demolition or construction activities or related deliveries shall take place, other than between 0800 and 1800 hours on Mondays to Fridays and 0800 and 1300 hours on Saturdays with no work on Sunday or Bank/Public holidays.
- 7) Prior to the commencement of the development the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the local planning authority:
 - (1) 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.
 - (2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - (3) The site investigation results and the detailed risk assessment (2) 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.
 - (4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Where demolition is required (1) and (2) above should be submitted prior to demolition. Parts (3) and (4) can take place post demolition if necessary.

- 8) The scheme for risk of contamination approved in condition 7 shall be implemented as approved above and prior to commencement of any construction work, (or such other date or stage in development as may be agreed in writing with the local planning authority), a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.
- 9) Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. No buildings shall be occupied until the complete surface water drainage system serving the properties has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.
- 10) The development shall proceed in accordance with the submitted Arboricultural Impact Assessment and Method Statement reference LLD2098-ARB-REP-001 and Tree Retention Protection Plan, ref. LLD2098-ARB-DWG-001.

If there is deemed to be a need for any Utility Service Route connections to bisect retained tree Root Protection Areas/Zones, then prior to their installation a Method Statement prepared by an Arboricultural Expert must be submitted that stipulates how this can be achieved without adverse impact on tree roots. Written approval and confirmation of acceptance of this Methodology must be issued before any works are commenced out on site.

Any tree pruning proposed or subsequently considered essential to enable the agreed development must meet the requirements of BS3998:2010 Tree work. Recommendation.
- 11) No development above damp proof course (DPC) level shall take place unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the local planning authority and the materials so approved shall be used in the construction of the buildings

- 12) No development above damp proof course (DPC) level shall take place until details of screen walls and/or fences have been submitted to and approved by the local planning authority and no dwellings shall be occupied until such screen walls and/or fences associated with them have been erected.
- 13) No dwelling shall be occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted and approved by the local planning authority. The spaces shall thereafter be kept available for the parking of bicycles.
- 14) No dwelling shall be occupied until the car parking and vehicle turning areas have been constructed in accordance with the approved plan Ref CW/ML 010B. These spaces shall thereafter be retained at all times for their designated purpose.
- 15) No dwelling shall be occupied until a scheme for the provision of facilities to enable the charging of electric vehicles to serve the approved dwellings shall be submitted to and approved by the local planning authority. The scheme shall be implemented in accordance with the approved details and the charge points shall thereafter be permanently retained and maintained in good working order.
- 16) No dwelling shall be occupied until the ecological enhancements identified in the Preliminary Bat Roost Assessment together with additional enhancements have been provided on site in accordance with details to be submitted to and approved by the local planning authority. The additional enhancements comprise:
 - a bird box installed on each property or within a tree in the garden
 - two hedgehog nesting boxes included on the site
 - gaps are included at the bottom of the fences to allow movement of small mammals across the site.
- 17) No dwelling shall be occupied until a sprinkler system shall be provided in accordance with details to be submitted to and approved by the Local Planning Authority. The sprinkler system so provided shall be retained in perpetuity.
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement or roof alterations and no windows/dormer windows [other than those expressly authorised by this permission] shall be constructed or installed in the dwellings hereby permitted unless permission is granted by the local planning authority on an application in that behalf.

End of Schedule