
Appeal Decision

Site visit made on 9 March 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2022

Appeal Ref: APP/Z3825/W/21/3281657

Longlands, West Chiltington Road, Pulborough, RH20 2EE

- 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 Sussex Design and Development - Longlands Pulborough Ltd against the decision of Horsham District Council.
 - The application Ref DC/20/2216, dated 10 November 2020, was refused by notice dated 26 February 2021.
 - The development proposed is creation of 4no. dwellings with detached garages, new driveway, parking, landscaping and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - Whether the proposed development would be in a suitable location having regard to the spatial strategy for the District;
 - The effect on the living conditions of the occupiers of White Gables and Longlands with particular reference to noise and disturbance arising from the movement of vehicles; and
 - The effect of the proposed development on the integrity of the Arun Valley Special Protection Area, Special Area of Conservation and Ramsar site.

Reasons

Location

3. The appeal site comprises the dwelling known as Longlands and an area to the rear which is referred to as a "paddock". The four large houses proposed would be located in this area.
4. The proposal would be outside of the built-up area boundary of any settlement. This means that the site is treated as countryside for the purposes of applying relevant development plan policy. Given that the site is surrounded by low density housing development, the term "countryside" is not a particularly apt descriptor. Nevertheless, in this context, it simply denotes that the site is not within a town or village identified as part of the settlement strategy in the Horsham District Planning Framework (HDPF).

5. Policy 2 of the HDPF establishes that development should be focussed in and around Horsham. In the rest of the District, growth can take place in accordance with the settlement hierarchy set out in Policy 3. The growth of settlements outside built-up areas boundaries will only be supported in the particular circumstances within Policy 4. The countryside will be protected against inappropriate development according to Policy 26. Any proposal there must be essential to its countryside location and also meet one of four criteria.
6. Marehill is not one of the settlements classified by Policy 3. Therefore, development here would not accord with the broad overall strategy for the location of development in the District. The four proposed houses are not justified by Policy 26 and therefore their location would be at odds with the spatial strategy.
7. Facilities and services are available at Pulborough which is classified as a 'small town and large village' in the HDPF. This is said to be a 2 minute drive from the appeal site. Indeed, almost all of the services and facilities highlighted by the appellant are referred to by drive time. Whilst journeys to shops and schools might be short, there is no indication that they are likely to be undertaken on foot or by bicycle. A farm shop and pub are within easy walking distance but these could not be expected to provide for all day-to-day needs.
8. There are four bus stops within a 0.3 km radius of the site which are served by three routes. The information provided is that these run regularly throughout the day and at weekends. This might, at times, enable access to be gained to nearby restaurants, schools, nurseries, shopping and employment. However, there is insufficient detail about the frequency of these services or their destinations to conclude that using the bus would be more convenient to future residents than using their own cars. Pulborough station is a 5 minute drive away and is well connected to various destinations but it is also not clear that it can be readily accessed by means other than private vehicles. Indeed, a resident comments that local public transport is "poor".
9. As part of the Local Plan Review, consideration was given to designating secondary settlements where infilling might be permitted. However, that assessment excluded Marehill because of its limited service provision and the likely reliance on the private car. The appeal site was also too remote to be allocated as part of the emerging Pulborough Neighbourhood Plan. Whilst neither of these plans are part of the development plan, the potential for development in this area has recently been rejected during their preparation. This finding is not conclusive given the stage they have reached but it does not support the contention that the proposed houses would be sustainably located.
10. The local plan is over five years old and the Council is unable to demonstrate a five year supply of deliverable housing sites. The proposed houses would be surrounded by existing development. However, the policies in the HDPF set out an overall strategy for the pattern and scale of places in line with the National Planning Policy Framework. This also expects that as much use as possible is made of previously-developed land. Paragraph 69 indicates that great weight should be given to the benefits of the development of windfall sites within existing settlements for homes. However, the appeal site is not within a settlement.
11. Consequently the broad strategic approach of the HDPF is not inconsistent with the Framework and the conflict with relevant policies is a matter that weighs

significantly against the proposal. Indeed, the spatial strategy of the District would be undermined if it was allowed, bearing in mind that the planning system should be genuinely plan-led.

12. Appeals in respect of residential schemes of 7 and 14 dwellings were dismissed in 2007¹. The Inspector concluded that the occupants would be unacceptably reliant on the private car to access schools, employment, leisure facilities and shops. A lot of water has gone under the bridge since then but the Framework promotes sustainable transport with opportunities for walking, cycling and public transport use to be identified and pursued. This would not be achieved by the proposal.
13. An appeal decision from 2017² allowed development at Faygate although the site was outside of any settlement. However, it was for the conversion of an existing building. In addition, the location of that particular site in relation to the existing settlement and its proximity to a station and services associated with a retirement village were factors that weighed significantly in its favour. None of these considerations exist in this appeal which can therefore be distinguished from that case.
14. Allowing four houses here would run counter to the overarching strategy established by the HDPF. This accepts, in principle, development within built-up area boundaries of the main settlements but strictly controls it outside of them. Furthermore, the site is not well placed to encourage the use of transport modes other than the car. Therefore the proposed development would not be in a suitable location having regard to the spatial strategy for the District. It would be contrary to Policies 3, 4 and 26 of the HDPF.

Living conditions

15. The access road into the site would be hard up against a side extension at Longlands and close to an annexe at White Gables. However, there is already a drive to the side of Longlands leading to a rear parking area and a substantial hedge runs along the boundary with White Gables. Moreover, the level of traffic to be generated by four dwellings would be likely to be low and spread across the day. Vehicles are unlikely to be travelling at speed and there would be no obvious reason for drivers to rev their engines or to be starting and stopping. There is no clear evidence that these movements would be intrusive.
16. The proposal would lead to a change in the environment for the properties on either side of the proposed access. A greater amount of vehicular activity than at present would take place in proximity to them. However, the likely scale and level of any associated noise would not be so great as to result in adverse impacts. As there would be no unacceptable harm to the living conditions of the adjoining occupiers there would be no conflict with Policy 33.

Integrity of protected habitats sites

17. The appeal site falls within the Sussex North Water Supply Zone and so the proposed dwellings would draw their water supply from groundwater abstraction at Hardham. Natural England is concerned that this is having a detrimental impact on the protected sites and habitats within the Arun Valley. This includes the Special Protection Area (SPA), Special Area of Conservation

¹ Refs: APP/Z3825/A/06/2026536 and APP/Z3825/A/06/2031390

² Ref: APP/Z3825/W/17/3178734

(SAC) and Ramsar site. It therefore advises that new development should achieve water neutrality such that water use is equal to, or less than, what it was before the development took place.

18. The proposal would increase water demand. Because of its location and based on the available evidence, there would be a likely significant effect on the protected habitats sites either alone or in combination with other plans and projects. Although the appellant is committed to achieving it, no measures are included within the proposal to mitigate the impact or to secure water neutrality. Indeed, there is currently no general mitigation solution. Policy 31 of the HDPF establishes that permission will be refused where development is anticipated to have an adverse impact on biodiversity sites such as SPAs and SACs, unless appropriate mitigation measures are provided.
19. The appellant is very keen to comply with and enter into any available mitigation strategy before development commences and requests that this is addressed by condition or planning obligation. However, no obligation has been submitted. The Planning Practice Guidance on *Appropriate Assessment* advises that mitigation measures should be sufficiently secured and likely to work in practice. At present there is insufficient certainty as to how water neutrality can be achieved and so it would not be reasonable to impose a condition, even if a wording could be devised that met the other tests in paragraph 56 of the Framework.
20. As a result, following an appropriate assessment, the proposal would adversely affect the integrity of the SPA/SAC. There are no imperative reasons of overriding public interest and in these circumstances Regulation 63(5) of the Conservation of Habitats and Species Regulations precludes the proposal from proceeding. It would also conflict with Policy 31.

Other Matters

21. Based on appeal decisions at Old Crawley Road, Horsham and at Shipley Road, Southwater in 2021³, the appellant contends that the supply of deliverable housing sites amounts to between 4.2 and 4.3 years. However, paragraph 182 of the Framework confirms that the presumption in favour of sustainable development does not apply in cases such as this, where an appropriate assessment has been unable to conclude that the project will not adversely affect the integrity of a habitats site. Paragraph 11 d) of the Framework is therefore not engaged.
22. The Council has no objections in respect of ecology, highways, trees, character, design and landscape. However, this is what is expected of all developments in order to achieve well-designed places and therefore does not positively support the proposal. Local residents raise other concerns including flooding, scale and density, loss of trees, overlooking and question whether the proposed houses would meet local needs. As the appeal is to be dismissed there is no need for these to be considered in any detail.

Conclusion

23. Because the proposal would not achieve water neutrality it would adversely affect the integrity of the Arun Valley SPA/SAC. Because of the provisions of the Regulations and notwithstanding the housing land supply position and the

³ Refs: APP/Z3825/W/20/3257700 and APP/Z3825/W/21/3266503

contribution that four additional units would make, this is an overriding consideration. Furthermore, the proposed development would not be in a suitable location having regard to the spatial strategy for the District. Overall it would be contrary to the development plan and there are no other material considerations to outweigh that finding.

24. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR