



Appeal Decision

Site visit made on 21 February 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2022

Appeal Ref: APP/L3815/W/21/3278697

Land East of The Trees, Main Road, Fishbourne PO18 8AU

- 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 E Rees (Domusea Developments Ltd) against the decision of Chichester District Council.
- The application Ref FB/20/02723/FUL, dated 23 October 2020, was refused by notice dated 4 May 2021.
- The development proposed is 1 no. dwelling, new access and associated works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) published on 20 July 2021 sets out the Government's planning policies for England. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties have had the opportunity to comment on this matter as part of the appeal process, and I have had regard to the updated Framework in determining this appeal.

Main Issues

3. The main issues are:
 - Whether the proposal would be suitably located, having regard to national and local planning policies, which restrict residential development in the countryside; and
 - The effect of the proposal on the character and appearance of the area, including the setting of the Chichester Harbour Area of Outstanding Natural Beauty (AONB).

Reasons

Location

4. Policy 2 of the Chichester Local Plan: Key Policies 2014-2029¹ (LP) sets out the Development Strategy and Settlement Hierarchy for the area administered by the Council. The policy also establishes a presumption in favour of sustainable

¹ 2015.

development within the Settlement Boundaries reviewed through the preparation of Development Plans and/or Neighbourhood Plans.

5. The appeal site lies outside of any Settlement Boundary and therefore falls, for planning policy purposes, within the 'Rest of the Plan Area', where development is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification. No substantive evidence has been presented to demonstrate that the proposal would accord with any of these exceptions.
6. The site currently forms part of the garden area of the property known as the Trees. Having regard to the definition included in Annex 2 to the Framework, it can be considered as previously developed land, as it does not form part of a residential garden located in a built-up area. However, and whilst the Framework encourages the use of previously developed land, this is subject to a number of other considerations, in order to achieve sustainable development.
7. As part of its assessment of the proposal, the Council has referred to the Interim Position Statement for Housing Development. This document was produced as a solution to tackle housing land supply issues experienced within the District. In particular, proposals outside an identified settlement boundary are expected to demonstrate that the site is sustainably located and integrated with the settlement it adjoins.
8. The site's boundary is not, in whole or in part, contiguous with an identified settlement boundary as approved in the adopted development plan. The site lies at some distance away from Bosham/Broadbridge, where some services and facilities are available, and from Fishbourne, which largely relies on its proximity to a superstore situated in Chichester.
9. Accordingly, it is likely that future occupiers of the development would have to travel further afield to access most of the local services and facilities required for day-to-day living. The appellant's submissions indicate that the site is on a main bus route operating regular services and within proximity to Bosham's train station. However, in the absence of further evidence to demonstrate the frequency of the bus and train services, and how well the site is connected to the wider network, I am unable to ascertain whether public transport can be regarded as an attractive alternative to the private car.
10. Pedestrians and cyclists in particular would feel vulnerable along the A259, where vehicles are travelling at 40mph, and given that the site does not appear to be connected to Bosham by a continuous cycle lane. This, together with the lack of street lighting along Main Road, is likely to discourage cycling and walking in the evenings, especially at times of the year when daylight hours are restricted. Even allowing for the possibility of some journeys being carried out by bus, cycling or walking, there is a greater likelihood that, having regard to the site's location in relation to the existing network, future residents would rely on the private car for the majority of trips, which is the least sustainable mode of transport.
11. In support of the development, the appellant has drawn my attention to an appeal decision², where the Inspector supported a proposal on previously developed land. However, I do not have the full details of the circumstances

² APP/L3815/W/19/3226868.

that led to this appeal being allowed, and cannot therefore be certain that they constitute a direct parallel to the proposal before me, notably in terms of location and context. Accordingly, this limits the weight which can be afforded to this decision.

12. For the foregoing reasons, the proposal would not be suitably located, having regard to national and local planning policies which seek to restrict residential development in the countryside. The appeal scheme would therefore conflict with LP Policy 45, which sets out the Council's approach in respect of development proposals in the countryside. It would also fail to accord with the Council's Interim Position Statement for Housing Development.

Character and appearance

13. As noted above, the appeal site currently forms part of the garden area of an end-of-terrace property known as The Trees, and includes a vehicle access and car parking area. The appeal site lies within an area characterised by small clusters of development, which are typically arranged in a linear fashion, along the A259. The relatively scattered pattern of development and irregular gaps between properties provide long-range views between the nationally protected landscapes of the Chichester Harbour AONB to the southern side of Main Road, and the South Downs National Park (NP) to the north. These attractive landscapes give the site and its immediate surroundings a pleasant rural and open feel.
14. The proposed dwelling would consolidate development along this frontage, and lead to the loss of an important visual gap between The Trees and October Cottage, which would thus erode the contribution made by the site to the rural character and appearance of the area. The harm resulting from this incursion of built development would be exacerbated by the extensive area of hardstanding which is required for the provision of access, turning and parking for the existing and proposed dwellings.
15. The development would unduly stand out as an urbanising feature, which would appear strongly out of kilter with the generally more rural character of its surroundings. Although additional planting may to some extent assist with softening the visual impact of the proposal, this would not outweigh the harm which I have identified, especially as the development would remain highly visible within the street scene and the Chichester Harbour AONB, including the existing footpath to the south.
16. The loss of part of the residential garden and the sprawling nature of the hardstanding area which forms part of the proposal would also adversely affect the setting of the Chichester Harbour AONB. Moreover, the resulting consolidation of development would lead to the loss of the important long-range views between the AONB and the South Downs NP, which would be detrimental to these nationally protected landscapes. Whilst I note that land immediately north of the appeal site appears to have been identified as developable, there is no certainty, having regard to the available evidence, that this area will be allocated for future development or that planning permission would be granted.
17. Given the above, the appeal scheme would cause unacceptable harm to the character and appearance of the area and the setting of the Chichester Harbour AONB. It would subsequently conflict with LP Policies 33, 43, 45 and 48, which

notably require development proposals to respect and where possible enhance the character of the surrounding area and site. They also seek to ensure that development does not undermine the integrity or predominantly open and undeveloped, rural character of the AONB and its setting. Similarly the development would be contrary to paragraph 124(d) of the Framework, but also Sections 12 and 15, which aim to achieve well-designed places, whilst conserving and enhancing the natural environment.

Other Matters

18. The appeal site lies within proximity to the Chichester and Langstone Harbours Special Protection Areas (SPAs), which are recognised as internationally important wildlife sites, and the Council has a legal duty to protect designated bird populations. Residential development is thought to have a likely significant effect on the integrity of the SPA (either individually or in combination with other plans and projects) notably by reason of additional recreational pressures, which could adversely affect the integrity of the SPAs unless suitable mitigation is provided.
19. Furthermore, Natural England has raised concerns regarding the increase in nitrates levels which have been found in the water environment of the protected sites. This issue is thought to be directly connected to the increase in wastewater associated with development involving overnight accommodation. This is causing eutrophication in this sensitive water environment, which could also have a likely significant effect on the designated sites.
20. As I am dismissing this appeal on other substantive grounds, these are not matters which need to be addressed further here. That said, had the development been considered acceptable in all other respects, I would have sought to carry out an Appropriate Assessment, to ensure the proposal's compliance with the Habitats Regulations.

Planning Balance

21. In its submissions, the Local Planning Authority has explained that circumstances have changed since the determination of the planning application, as the Council is now able to demonstrate 5.3 years of deliverable housing sites. In such circumstances, the presumption set out in paragraph 11d) of the Framework no longer applies. That said, my attention has been drawn to a Statement of Common Ground in the context of a current appeal³ elsewhere in the District, where the appellant argues that the Council has only 3.74 years of housing land supply.
22. The proposal would make a contribution towards housing supply and choice, and provide a medium-sized dwelling, in line with Chichester's Housing and Economic Development Needs Assessment. The development would also support the local economy to some degree. However, against that, the appeal scheme would conflict with the Council's Development Strategy and Settlement Hierarchy and the proposed dwelling would not be constructed in an accessible and sustainable location. Furthermore, the appeal scheme would have a harmful effect on the character and appearance of the area, including the setting of the Chichester Harbour AONB.

³ APP/L3815/W/21/3284553.

23. Even if I was to consider that the Council has no 5-year housing supply, it is my view that the adverse impacts caused by the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Conclusion

24. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR