



Appeal Decision

Site visit made on 12 May 2022

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2022

Appeal Ref: APP/Z3825/W/21/3288442

Land North of Tisserand Farm, Stane Street, Billingshurst RH14 9AE.

- 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 Paul Quickenden against the decision of Horsham District Council.
 - The application Ref DC/21/1571, dated 6 July 2021, was refused by notice dated 5 October 2021.
 - The development proposed is outline planning application with all matters reserved for a change of use to provide a retirement community park development with associated tennis courts and facilities.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission has been applied for with all matters reserved. I have considered the submitted plan Site Plan Proposal 21/88/1A and Proposed Retirement Village Administration Building 19/39/3 as being indicative only.
3. This appeal follows a dismissed appeal¹ which sought permission for siting of some 46 residential mobile homes with associated community facilities. The appeal before me refers to 40 two bedroom mobile homes.
4. The term 'mobile home' and 'park home' have been used interchangeably through the appeal documentation. I have generally used the term 'mobile home' with reference to 'park home' where specifically referred to in policy.

Main Issues

5. The main issues in this appeal are a) the appropriateness of the location for the proposed development in the countryside, having regard to access to local services and facilities; and the effect of the proposed development on:
 - b) the district wide need for housing, including affordable housing;
 - c) the character and appearance of the area;
 - d) the living conditions of future occupiers, with particular regard to noise and disturbance;
 - e) highway and pedestrian safety;
 - f) biodiversity;

¹ APP/Z3825/W/20/3248730, decision issued on 27 January 2021.

- g) flood risk;
- h) mineral resources; and
- i) the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site.

Reasons

a) Location

6. The Horsham District Planning Framework 2015 (HDPF) aims to focus new development towards locations where access to services and facilities is the greatest. HDPF Policy 2 seeks to maintain the district's rural character while ensuring sustainable growth and suitable access to services and employment. HDPF Policy 3 sets out the settlement hierarchy, while HDPF Policy 4 deals with settlement expansion. HDPF Policy 26 looks to protect the countryside, with criteria on type of development and effect on character.
7. The National Planning Policy Framework (the Framework) addresses rural housing in paragraphs 78 to 80. In promoting sustainable development in rural areas, paragraph 79 states that housing should be located where it will enhance or maintain the vitality of rural communities. Opportunities for villages to grow and thrive should be identified especially where this supports local services. Paragraph 80 of the Framework seeks to avoid the development of isolated homes in the countryside unless specific circumstances apply. None of these circumstances are applicable here. The Framework does not define what isolated homes are, but a recent judgment² confirms that it is remoteness from settlements rather than remoteness from other structures/dwellings.
8. The site is not allocated for development within the HDPF or the Billingshurst Parish Neighbourhood Plan 2021 (BPNP) and lies outside the Billingshurst built-up area boundary in BPNP Policy BILL 1. The site is a field, adjacent to an industrial yard, the access to Tisserand Piggeries, and two existing dwellings.
9. The site lies within 500m of Five Oaks, while Billingshurst is approximately 1.3km away. Five Oaks is an unclassified settlement within the settlement hierarchy and has only limited services, including a service station. Billingshurst forms part of the Small Towns and Larger Villages category of the settlement hierarchy and has public transport and various services and facilities. On the edge of Billingshurst, planning permission DC/21/0321 has been granted for a business park including retail provision. Notwithstanding the aforementioned permission, as was established in an appeal³ for nearby Tisserand Piggeries, the site does not lie very close to the settlement boundary. Given its location some distance from a settlement, the proposed development would constitute isolated homes in the countryside, which the Framework seeks to avoid.
10. To reach Five Oaks or Billingshurst, future occupiers would cross the A29 Stane Street. The appellant has suggested introducing a pedestrian island to allow future occupiers to cross the road safely. They would then use a narrow and inconsistently surfaced footway along an unlit and busy 60mph road. The speed limit reduces to 40mph approaching Five Oaks. Having walked the length of the

² Court of Appeal in *City & Country Bramshill Limited v Secretary of State for Housing, Communities and Local Government & Ors* [2021] EWCA Civ 320

³ APP/Z3825/W/17/3179480, decision issued 23 January 2018.

A29 between Five Oaks and Billingshurst, I consider that the road conditions would significantly reduce the likelihood of walking to local services in Five Oaks, Billingshurst, or elsewhere. Cycling would present similar challenges, with any on-road cycling occurring in an unforgiving environment with frequent passing by cars and lorries. It is also likely that some future occupiers will have reduced mobility, decreasing their scope to walk or cycle.

11. There is a bus route along the A29, with unmarked north and southbound bus stops outside the site. Two bus routes pass the site allowing access to Horsham and Billingshurst. According to the Council, the 100 route operates hourly Monday to Saturday up to no later than 1900, while the 525 service is a once daily school service. The appellant claims to have contacted bus companies regarding the provision of a new bus stop. I have not received this correspondence. In any event, while the hourly service would offer an alternative to the use of the private car for some journeys, there is no mechanism to ensure that this bus stop would be put in place or evidence that this would be sufficient to encourage bus use. Train services are available in Billingshurst, Horsham, and Haywards Heath. The appellant has referred to scope for a mini-bus shuttle to stations, but there is no certainty of provision.
12. The proposed development would include a shop and club room, a recreation ground and tennis courts. Although these facilities may assist future occupiers, it is likely that they would have to leave the site to access other services and facilities. Given all of the aforementioned issues, the future occupiers of the proposed development would be likely to be highly reliant on the private car to access services and facilities.
13. Concluding on this main issue, the proposed development would not be in an appropriate location in the countryside, having had regard to access to local services and facilities. Consequently, it would be contrary to HDPF Policies 1, 2, 3, 4, 26 and 40, BPNP Policy BILL 1, and paragraphs 2, 11, 12, 47 and 80 of the Framework. These policies look to ensure that new development is sustainable, with access to services reflecting the district's settlement hierarchy and built-up area boundary; that the countryside is protected; that there is adequate choice to use sustainable transport; that decisions are made in accordance with the development plan; and that the development of isolated homes in the countryside should be avoided unless certain criteria are met.

b) Housing need, including affordable housing need

14. The proposed development would provide mobile homes for retired or elderly people, offering a lower cost alternative to smaller homes locally. The appellant argues that there is a growing need for and a lack of housing for elderly persons locally and nationally. Reference has been made to the Council's Regulation 18 consultation version of the Horsham District Local Plan 2019 – 2036 (2020)(HDLP) and the most recent Strategic Housing Market Assessment. Both documents refer to expected housing pressures, demand for affordable housing, and the need for smaller homes and to plan for an ageing population.
15. Indeed, the appellant states that the district's median house price is some 14 times higher than average annual earnings, rental costs are high, and younger people and families find high housing costs to be a barrier to living and working in the district. The highly mobile nature of Horsham's population has also been highlighted, with many people working in London and within the Gatwick

Diamond. The appellant has also provided a report⁴ on demand for supported housing and a report⁵ on park homes, and referred to Building Research Establishment data on the costs of poor housing to the National Health Service.

16. The Council does not dispute either that there is an ageing population or that there is a need for housing suitable for older age-groups, including retirement housing and specialist continued care accommodation.
17. HDPF Policy 18 encourages retirement and specialist care housing where accessible by foot or public transport to services, facilities, and the wider public transport network. It supports schemes which meet identified local needs for those on lower incomes and which provide affordable accommodation for rent or shared ownership/equity. Additionally, it supports large scale continuing care retirement communities to meet an identified need. Such communities should be in appropriate locations, normally defined built-up areas, and should provide appropriate accommodation, facilities, and services to support a full range of needs, including affordable provision or a commuted sum. The emerging HDLP has not yet been submitted for examination. In accordance with paragraph 48 of the Framework, the Council considers it would presently attract limited weight. Notwithstanding this, HDLP Policy 20 is broadly consistent with existing policy at HDPF Policy 18.
18. HDPF Policy 19 deals with park homes and supports such provision providing it meets a local housing need; is used for permanent accommodation; and there are no significant constraints such as flooding or drainage. Marketing to the district's residents is also necessary.
19. Notwithstanding the demographic change, the desire of older people to downsize from larger properties, and the need for older people to have access to accessible, healthy, well-designed, and well-insulated homes, and the provision of a number of local jobs, the appeal documentation is ambiguous in relation to the precise nature of the retirement housing. HDPF Policies 18 and 19 are supportive of such housing, but this requires demonstration of local need, amongst other criteria. As for the previous appeal, there is a lack of substantive evidence to confirm that the proposed development would meet either an identified specialist housing or park home need. Despite the scope to widen local housing options and provide low cost housing, it is unclear how the retirement housing would be delivered. The imposition of planning conditions would not resolve this, given the uncertainty as to what the housing would comprise.
20. Turning to affordable housing, HDPF Policy 16 requires 35% of dwellings to be affordable on sites providing 15 or more dwellings, or sites over 0.5 hectares. The Planning Obligations and Affordable Housing Supplementary Planning Document (2017)(SPD) also sets out the Council's requirements in relation to the provision of planning obligations, including affordable housing.
21. The appellant considers the proposed development to account for affordability. However, there is no legal agreement to secure affordable housing provision. In the absence of this, the proposed development would harm local housing strategy as adequate levels of affordable housing would not be provided.

⁴ Wittenberg, R. and Hu, B. Projected Demand for Supported Housing in Great Britain 2015 to 2030.

⁵ Housing LIN (2014) Park Home Living – a good housing option for later life

22. In conclusion, it has not been demonstrated that the proposed development would acceptably address the district wide need for housing, including affordable housing. This would conflict with HDPF Policies 16, 18 and 19 and the Council's SPD, as set out above.

c) Character and appearance

23. The site is a field bounded by hedgerows and trees. Beyond the site itself, open fields and vegetation dominate views and contribute positively to the site's open countryside location. The indicative plan 21/88/1A shows a landscaped buffer on the site's southern edge, with tree and shrub planting on the boundaries and between pitches. On the road frontage, there would be tennis courts, a recreation ground, and an administration building, which would be screened from the A29 by tree and shrub planting. The proposed development would represent a reduction in six mobile homes, parking, and a bowling green in comparison to the previous appeal.
24. Given the alterations made and the increased landscaped buffer, the proposed development would have a lesser visual and landscape impact than the previous appeal. However, the reduction in effect would be relatively minor as much of the site would be occupied by mobile homes, associated facilities, access, parking and domestic paraphernalia. This would fundamentally alter the site's open and green nature, thereby eroding countryside character.
25. In this location, buildings are generally scattered and infrequent. The introduction of a such a large number of mobile homes and associated development would be incongruous and urbanising. Notwithstanding the scope for a different layout and landscaping at reserved matters stage, the location and extent of the proposed development would harm rural character.
26. I conclude that the proposed development would have a harmful effect on the character and appearance of the area. This would conflict with HDPF Policies 25(1), 26, 32, and 33. Amongst other things, these policies look to complement locally distinctive character, and protect and enhance landscape character, including protection of the countryside.

d) Living conditions

27. The site is located directly adjacent to the A29 and to an industrial yard. The appellant has submitted an Environmental Noise Impact Assessment (IMP5992-1), which addresses the indicative layout of mobile homes and the adjacent road and yard. This assessment concludes that future occupiers of the mobile homes would be exposed to a medium level of risk of day-time and night-time noise disturbance at external façades and within external amenity spaces. A significant majority of the proposed mobile homes would be exposed to above World Health Organization guidelines for external amenity spaces. This assessment has assumed all windows are closed and that the roofs of mobile homes qualify as façades. The extent of modelled impact identified is at its worst towards the south-eastern and eastern parts of the site.
28. In order to achieve acceptable noise levels, the assessment recommends the installation of an above 3m acoustic screen and a 4.5m bund along the site's south-eastern boundary. While the Council's Environmental Health Officer is satisfied that such bunding would provide effective mitigation against noise

from the adjacent yard, there remains uncertainty about how road noise would be satisfactorily mitigated and where the acoustic screen would be located.

29. The assessment also suggests required window and ventilation specifications, but is unclear as to whether such specifications could and would be achieved by mobile homes installed on this site. While glazing requirements would not necessarily be the same across the whole site, I cannot be certain that the worst affected pitches would have adequate glazing. Furthermore, the assessment advises mechanical ventilation to all rooms to ensure acceptable internal noise levels. It is by no means certain that mechanical ventilation would be in place in all mobile homes, with the potential for a consequent effect on noise levels if windows were opened to avoid overheating.
30. In terms of external amenity spaces, BS8233:2014 states that for gardens and patios, it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments. It goes on to clarify that in noisier environments, there may be a compromise between noise and other factors, such as convenience or the need to make efficient use of land resources. While the noise levels within the external amenity spaces would be reduced to the lowest practicable level by the bunding, this does not account for the effect of the proposed bunding on the character and appearance of the wider environment. As there is a deficiency of detail on the bunding, it is not possible to be certain that it would not have a negative effect on landscape character.
31. Although the assessment puts forward a number of measures which would be capable of mitigating the noise levels identified, these measures are dependent on the adequacy of construction, bunding, and screening. There is insufficient certainty that these measures would be achieved without negative effects.
32. In conclusion, it has not been demonstrated that the proposed development would not harm the living conditions of future occupiers, with particular regard to noise and disturbance. This would conflict with HDPF Policies 24 and 33, which require, amongst other things, that development is designed to avoid unacceptable harm to amenity of occupiers with regard to exposure to noise.

e) Highway and pedestrian safety

33. The design and access statement refers to traffic lights at the access, but I have no detail on this matter and have not addressed it further. Following determination of the application, the appellant submitted a Transport Statement (AS/ITP 379-1), which refers to a revised indicative access arrangement to the A29. This includes a junction layout, pedestrian refuges on the A29, 2m footways on the site frontage, and a reduction in the speed limit outside the site from 60mph to 40mph. The appellant considers that this would effectively extend the existing Five Oaks speed restriction by a further 290m.
34. No means of securing this reduction in the speed limit or the other off-site mitigation has been put forward by the appellant. The County Council as Local Highway Authority (LHA) has highlighted that there is no guarantee that the speed limit would be reduced via a separate statutory process. Furthermore, the LHA has not been provided with a road safety audit (Stage 1) to establish the acceptability of the proposal as a departure from adopted LHA standards. The LHA has also expressed concerns about the sufficiency of visibility splays

proposed at the access and about the TRICS data on retirement and care communities used to establish likely trip generation.

35. Despite the additional detail provided on transport and the outline nature of the proposed development, omissions remain in the evidence as set out above. Thus, I am not persuaded that there is a reasonable prospect of a safe and adequate means of access being delivered. The absence of such means of access for pedestrians and other road users would have safety implications for future occupiers and for others using the A29.
36. Site Plan Proposal 21/88/1B was submitted with the appeal. This shows the access to the site at its northern corner. Although this has not been subject to public consultation, it would not have overcome my concerns in any event.
37. The appellant's transport consultant has concluded that the proposed development would not conflict with paragraph 111 of the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In this instance, it is not possible to be certain that this would not be the case.
38. I conclude therefore that it has not been demonstrated that there would not be harm to highway and pedestrian safety, contrary to HDPF Policy 40 which covers sustainable transport and seeks development which provides safe and suitable access for all vehicles, pedestrians, and cyclists.

f) Biodiversity

39. The appellant's documents include a Preliminary Ecological Appraisal (November 2019). The appraisal concludes that the development proposals would not be likely to have a major adverse effect on biodiversity, as there is limited species diversity and limited ecological value. However, it does recommend further surveys for amphibians, bats, and reptiles in order to formulate any necessary mitigation. It also acknowledges that the western and southern boundary hedges and treelines are likely to support bat foraging and commuting, and that a 5m buffer should be provided.
40. In the absence of further surveys, it is not possible to be certain that suitable mitigation would be achievable for the relevant protected species. Given the lack of information, it would not be a matter for application of a condition.
41. In conclusion, it has not been demonstrated that the proposed development would not be harmful to biodiversity. This would conflict with HDPF Policy 31 which deals with the protection and enhancement of biodiversity.

g) Flood risk

42. The predominant soil type in the locality is clay, which has poor permeability. The majority of the site is at low risk for surface water flooding, but an area to the south-east of the site is modelled as being at higher risk. The Council's Environmental Health Officer has requested a drainage strategy detailing the proposed means of foul and surface water disposal. This should provide details of the proposed foul water drainage scheme, including routing, design, and management/maintenance.

43. Furthermore, the Council considers that the design for treatment of surface water should follow the surface water drainage disposal systems hierarchy set out in the West Sussex Lead Local Flood Authority Policy for the Management of Surface Water and the recommendations of the Construction Industry Research and Information Association's SuDS Manual. The Council has also requested groundwater monitoring in the Winter to establish the highest annual ground water levels and percolation testing to BRE 365, or similar, to support the design of any infiltration drainage. This information has not been provided.
44. The document 'Sustainable Drainage System' confirms an intention to use permeable surfacing with naturally directed drains running towards a ditch. The indicative plan 21/88/1A shows rainwater harvesting and recycling and surface water drainage to discharge into the existing pond on the western corner of the site and to attenuation tanks. Foul water drainage would be connected into the existing foul water sewer adjacent to the A29.
45. Despite some information, there remains insufficient information to clearly demonstrate that the proposed development would be adequately drained for both surface and foul water drainage. Although the appellant considers that such matters can be addressed by condition, I am not persuaded that this approach would be suitable here, due to the lack of evidence. The requirements of the Water Industry Act 1991 and the judgment⁶ referred to by the appellant do not alter my concerns about the lack of detailed information.
46. I conclude that it has not been demonstrated that adequate site drainage can be provided. The proposed development would therefore have a harmful effect on flood risk, in conflict with HDPF Policy 38, which encourages use of sustainable drainage systems to ensure that flood risk is not increased.

h) Mineral resources

47. The site is within a Mineral Consultation Area for Weald Brick Clay, which is safeguarded against sterilisation. Development for non-minerals development would sterilise the site from future mineral extraction. It has not been confirmed whether mineral extraction would be appropriate, environmentally feasible, or practicable; or if prior extraction would not be possible, whether there is an overriding need for the development.
48. While the County Council has recognised that Weald Brick Clay is abundant within the wider area, it remains necessary for an adequate and proportionate mineral resource assessment to be provided. I have not been furnished with such an assessment. Although the appellant refers to adjacent businesses and landowners, the site location, and a neighbouring solar farm, this does not overcome the basic need to provide a mineral resource assessment. This is not a matter to be dealt with by condition.
49. In conclusion, the proposed development would sterilise the site from mineral extraction, with a harmful effect on the provision of mineral resources. This would be contrary to Policy M9 of the West Sussex Joint Minerals Local Plan (2018 and partly reviewed in 2021) which states that brick-making clay reserves are safeguarded against sterilisation, unless the overriding need for development outweighs the safeguarding and it has been demonstrated that prior extraction is neither practicable nor environmentally feasible.

⁶ Barratt Homes Limited v Dwr Cymru Cyfyngedig (Welsh Water) [2009] UKSC 13

i) The Arun Valley SAC, SPA, and Ramsar site

50. The site falls within the Sussex North Water Supply Zone (SNWSZ). Natural England has recently identified that it cannot be concluded that existing abstraction in the SNWSZ is not having a negative effect on the integrity of the Arun Valley SAC, SPA and Ramsar site. Natural England advises that development must not increase this adverse effect. The Council was therefore required to consider this. The appellant was latterly made aware of the need for a water neutrality report as the Natural England Position Statement for Applications within the SNWSZ (September 2021) was issued after submission of the application, but prior to its determination.
51. Natural England's Position Statement advises that plans and projects affecting sites where an existing adverse effect is known will be required to demonstrate, with sufficient certainty, that they will not contribute further to an existing adverse effect. The Position Statement advises that applications will need to demonstrate water neutrality within the SNWSZ.
52. Notwithstanding rainwater harvesting and recycling and attenuation tanks, there would be likely to be an effect on water abstraction due to increased demand. Appropriate assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) is therefore required. As a part of appropriate assessment, I must consider any avoidance or mitigation measures that might be necessary. However, the appellant has only given limited indication of measures to address this issue and these lack technical detail. I therefore consider that the limited measures do not demonstrate with sufficient certainty that water neutrality would be achieved. This would not be suitably addressed by condition.
53. I conclude that the proposed development would not have an acceptable effect on the Arun Valley SAC, SPA, and Ramsar site, in conflict with HDPF Policy 31, paragraphs 179 and 180 of the Framework, the Regulations, and section 40 of the Natural Environment and Rural Communities Act 2006, insofar as they seek to protect and enhance biodiversity, including protected sites.

Other Matters

54. The appellant considers that the Council has copied the previous reasons for refusal. It is clear that the Council's previous concerns remain largely substantive, although there have been some changes in circumstances in relation to Natural England's position on water neutrality, the provision of further assessments, the making of the BPNP, and the granting of permission for a business park off the A29. However, it will be seen from the appeal decision that I agree with the Council's findings on all main issues.
55. The Council chose to determine the application prior to receipt of transport and noise assessments. However, I have taken these documents into account. The Council's Environmental Health Officer and the LHA have also provided input on these assessments as part of the appeal.
56. Although only two objections were received and a greater number of objections may have been received in relation to large scale housing schemes locally, this does not outweigh any of the concerns outlined in the main issues above.

57. While it may be that mobile homes have lower running costs and impacts on natural resources than traditional buildings, I have been given no certainty that the mobile homes proposed would reduce environmental impacts.
58. The Council has expressed interest in the site for Gypsies, Travellers, and Travelling Showpeople. This is not yet a site allocation in an adopted development plan and does not enhance the acceptability of this proposal.

Planning Balance

59. Both parties have confirmed that the Council does not currently have a five year housing land supply. Recent appeal decisions⁷ indicate a supply of between 4.2 and 4.4 years. Paragraph 11 d) of the Framework is therefore engaged. This states that, in circumstances such as this, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
60. Footnote 7 to paragraph 11 d (i) makes specific reference to habitats sites and flood risk. As I have concluded that the proposed development would not have an acceptable effect on the Arun Valley SAC, SPA, and Ramsar site and flood risk, this provides a clear reason for refusing the development proposed.
61. As in the previous appeal and notwithstanding the standard methodology for calculating local housing need, there would be clear conflict with the Council's development plan arising from the proposed development which would result in substantial harm. Despite the possible benefits of boosting housing land supply and increasing housing choice and jobs locally, these are outweighed by my considerable concerns about the nine main issues set out above.

Conclusion

62. For the reasons set out above, the appeal should be dismissed.

Joanna Gilbert

INSPECTOR

⁷ APP/Z3825/W/20/3266503, decision issued 30 July 2021; APP/Z3825/W/20/3257700, decision issued 2 August 2021; and APP/Z3825/W/20/3261401, decision issued 19 August 2021.