



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: 23 May 2022

Appeal Ref: APP/C3810/W/21/3276647

Land West of New Barn Lane, Bersted, West Sussex PO21 5DN

- 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 Daniel Poole (Bellway Homes Ltd (Wessex)) against the decision of Arun District Council.
 - The application Ref BE/119/20/PL, dated 30 September 2020, was refused by notice dated 23 March 2021.
 - The development proposed is Erect No.1 Detached House.
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Decision

1. The appeal is allowed, and planning permission is granted for "Erect No.1 Detached House" at Land West of New Barn Lane, Bersted, West Sussex PO21 5DN in accordance with the terms of the application, Ref BE/119/20/PL, dated 30 September 2020, subject to the attached Schedule of Conditions.

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 main parties have had the opportunity to comment on this matter as part of the appeal process, and I have taken account of the updated Framework in determining this appeal.
3. The appellant has submitted a signed Planning Obligation by way of Unilateral Undertaking (UU) dated 16 November 2021, pursuant to Section 106 of the Town and Country Planning Act 1990, which I shall return to later in this decision.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the neighbouring occupiers of no 10 Winston Crescent, with particular regard to outlook, sunlight and privacy; and
 - Whether the proposal would make adequate provision for surface water drainage.

Reasons

Character and appearance

5. The appeal site comprises a relatively modest piece of undeveloped land which lies within proximity to an established residential area predominantly characterised by single storey detached, semi-detached and terraced dwellings. The site is also adjacent to a large scheme of 50 dwellings, which is currently under construction.
6. The traditional built form and scale of the new house would reflect the design approach of the adjacent semi-detached properties, including in respect of materials and architectural features. Moreover, the scale and design of the proposed dwelling would ensure that it appears as a continuation of the adjacent development.
7. Whilst the new house would be visible from Winston Crescent, so are the properties which are currently being built. As a result and also by virtue of its relatively modest size, the contribution currently made by the site in providing transition between the two areas is extremely limited. The dwelling would be seen against the backdrop of this large residential scheme, and would thus not appear unduly prominent within the street scene.
8. For the foregoing reasons, the effect of the proposed development on the character and appearance of the surrounding area would be acceptable. I therefore find no conflict with Policies D SP1 and D DM1 of the Arun Local Plan 2011-2031 (LP) and Policies ES1 and HDQ2 of the Bersted Neighbourhood Plan 2014-2029 (NP). In particular, these policies seek to ensure that proposals for new housing are visually integrated with their surroundings and reflect the characteristics of the site and local area, notably by creating a sense of place appropriate to its location.

Living conditions

9. The appeal site shares one of its side boundaries with no 10 Winston Crescent (no 10). The front, side and rear elevations of this end-of-terrace bungalow include windows serving habitable rooms. The proposed development would be constructed within proximity to the boundary shared with the bungalow, and it is of note that the two neighbouring properties would be separated by the intervening garage at no 10 which, to some extent, would reduce the visual impact of the new addition.
10. At the nearest point, the new house would be sited approximately 8 metres from this neighbouring property but the separation distance between the two dwellings would then increase, by reason of their respective orientation. This would ensure that the proposed development does not appear oppressive or overbearing and subsequently, occupiers of no 10 would continue to enjoy an open outlook onto their side garden.
11. The appellant has sought to address the concerns raised by the Council regarding the loss of light which would be experienced by these neighbouring residents. The sunlight study clearly shows that the amount of shading caused by the new building would be minimal. Furthermore, the separation distance between the existing and new dwellings would ensure that the appeal scheme causes no significant impact upon the living environment of existing residents with regard to loss of sunlight or daylight.

12. The rear elevation of the dwelling includes two first floor levels serving habitable rooms, but these would provide no more than very oblique views onto a small part of no 10's rear garden. Additionally, the appellant has suggested a condition to ensure that planting would be maintained along the boundary shared with this neighbouring property. For these reasons, I am satisfied that the development would not result in a harmful loss of privacy for the occupiers of no 10.
13. Overall, the appeal scheme would have no significant adverse effect upon the living conditions of the occupiers of no 10, with regard to outlook, sunlight and privacy. Consequently, the proposal would accord with LP Policy D DM1 which, amongst other things, requires development proposals to have minimal impact to users and occupiers of nearby property and land. The apparent conflict with the Arun District Design Guide Supplementary Planning Document in respect of separation distances is here outweighed by the circumstances of the case and in particular the relationship between the existing and proposed dwellings.

Drainage

14. The appeal scheme would increase the size of the impermeable area draining to the wider development which has been previously approved. The appellant's submissions are supported by a revised drainage layout plan¹ and stormwater calculations prepared by WSP to account for the construction of this additional dwelling, in respect of which the Council has raised no concerns.
15. Having regard to the available evidence, I am satisfied that the appellant has provided sufficient information showing that there is adequate provision for surface water drainage as part of the wider development off New Barn Lane to accommodate the proposed development. There would consequently be no conflict with LP Policies W SP1 and W DM3, and NP Policy ES2. Amongst other things, these seek to ensure that development proposals identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS), appropriate to the size of the development.

Other Matters

16. As noted above, the appellant has submitted a UU during the course of the appeal, which would provide financial contributions towards primary education, secondary education, further secondary education, health, library facilities and the fire service. Measures to mitigate the effects of the development on the Pagham Harbour Special Protection Areas (SPAs) are discussed in the following section.
17. The appeal scheme would enable the construction of a family dwelling, which may provide accommodation for children attending the local catchment school(s). I have had regard to the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 (as amended), as well as national policy and guidance on the use of planning obligations. Overall, and having regard to the available evidence, I am satisfied that these obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

¹ 1643-WSP-XXX-NBL-DR-C-0531 rev P01.

Appropriate Assessment

18. The appeal site lies within proximity to Pagham Harbour Special Protection Area (SPA), which is recognised under the Habitats Regulations as being of international significance for supporting important populations of rare birds for a large proportion of the year. A strategic approach to mitigation has been adopted by the Council to address the current and future pressures on Pagham Harbour which are caused by recreational disturbance associated with residential development.
19. There is no dispute between the main parties that the appeal scheme could have a likely significant effect on the integrity of these sensitive areas (either individually or in combination with other plans or projects) notably by reason of additional recreational pressures, unless suitable mitigation is provided. In such circumstances, I am required, when evaluating the effects that a proposal might have on a European site, to consider avoidance and reduction measures through an Appropriate Assessment (AA), rather than at the screening stage.
20. LP Policy ENV DM2 requires all residential development proposals to make developer contributions towards the agreed strategic approach to access management at Pagham Harbour and create easily accessible new green spaces for recreation within or adjacent to the development site. As noted above, a signed and dated UU, which would provide the required financial contribution towards Access Management, has been submitted as part of the appeal.
21. Natural England (NE), who provided comments during the course of the planning application, consider that the measures put in place by the Council to manage potential adverse impacts upon the Pagham Harbour SPA are ecologically sound. NE have subsequently confirmed that the proposed financial contribution is sufficient to avoid an adverse impact on the integrity of the European site and relevant features. It is also agreed that the UU adequately secures the deliverability of the measures to mitigate against the potential recreational impacts caused by the development.
22. The UU would ensure that the financial contribution towards mitigation measures is secured by legally binding means, and would be paid upon the grant of planning permission. No concerns have been raised by the Council regarding the content of the UU. Consequently, and having regard to the available evidence, I am satisfied that the secured financial contribution towards mitigation measures would ensure that there would be no likely significant adverse effect on the integrity of the Pagham Harbour SPA (either individually or in combination with other plans or projects), as a result of the proposed development.

Conditions

23. I have considered the conditions suggested by the Council, making minor amendments where necessary, to ensure compliance with the relevant tests as set out in paragraph 56 of the Framework and the national Planning Practice Guidance². The appellants have confirmed their agreement in relation to the suggested pre-commencement condition.

² Paragraph: 003 Reference ID: 21a-003-20190723.

24. In addition to the standard time limit, I shall impose a condition specifying the relevant drawings which the development must accord with, in the interests of certainty and to provide clarity. It is considered necessary to request further details of the external materials, to preserve the character of the site and surrounding area.
25. To preserve the appearance of the area and the privacy of neighbouring residents, I shall add a condition requesting boundary planting details to be submitted and agreed by the Local Planning Authority. Conditions requiring the formation of car parking spaces are needed to preserve highway safety. I shall also add conditions requiring the provision of cycle parking facilities and electric car charging points, in the interests of sustainability. A condition regarding the provision of a fire hydrant is considered necessary in the interests of safety and amenity.
26. The PPG³ states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. No clear justification has been provided here, and for this reason, I shall therefore not impose a condition restricting the use of permitted development rights.

Conclusion

27. For the reasons detailed above, I conclude that the appeal should be allowed.

S Edwards

INSPECTOR

³ Paragraph: 017 Reference ID: 21a-017-20190723.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: S201A location plan, P201 proposed layout, P202A block plan, A-951-00-01 Rev H 'The Chandler' floorplans, A-951-00-02 Rev H 'The Chandler' elevations, 18256-PXXX CEMP plan and CMP drawing, Arboricultural Impact Assessment ref. BELL22532ais-am, On-Plot Proposed Drainage Layout Reference 1643-WSP-XXX-NBL-DR-C-0531 Rev 01.
- 3) No development above damp-proof course (DPC) level shall take place unless and until a schedule of materials and finishes to be used for the external walls and roofs of the proposed buildings has been submitted to and approved in writing by the Local Planning Authority and the materials so approved shall be used in the construction of the buildings.
- 4) No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.
- 5) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority.
- 6) Prior to the commencement of the development, details showing the proposed location of [1] one fire hydrant or stored water supply (in accordance with the West Sussex Fire and Rescue Guidance Notes) shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service. The fire hydrant or stored water supply shall be implemented in accordance with the approved details prior to occupation of the development.
- 7) Within 3 months of commencement of development, details of boundary planting between the site and the property known as no 10 Winston Crescent shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation of the development hereby permitted, shall be maintained at a minimum of 2 metres in height and permanently retained unless otherwise agreed in writing by the Local Planning Authority. Any plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

END OF SCHEDULE