



Appeal Decision

Site visit made on 21 June 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/Z3825/W/21/3280084

Land adjacent Pucks Croft Cottage, Horsham Road, Rusper, West Sussex RH12 4PR

- 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 BPH Construction Equipment Ltd against the decision of Horsham District Council.
 - The application Ref DC/20/2465, dated 4 December 2020, was refused by notice dated 3 February 2021.
 - The development proposed is described as 'outline planning application with all matters reserved except for access in relation to the provision of 7no. houses with car parking, landscaping and associated access at land adjacent to Pucks Croft Cottage, Rusper, Horsham'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although expressed differently at part E of the appeal form and on the Council's decision notice, neither of the main parties has provided written confirmation that a revised description of development from that entered on the original planning application form has been agreed. I have therefore used this description in the banner heading above.
3. The application is made in outline with all matters reserved except for access which is to be considered at this stage. I have had regard to the plans submitted as part of the application. However, I have regarded all elements of these drawings as indicative, apart from the details of the access.
4. Subsequent to the Council's decision on the application, it received advice from Natural England raising concerns in relation to the impact of water abstraction within the Sussex North Water Supply Zone ('SNWSZ') on the integrity of the Arun Valley Special Area of Conservation ('SAC'), Special Protection Area ('SPA') and Ramsar Site. In light of this advice, the Council's appeal statement sets out that it considers the effect of the development on the Arun Valley sites in the absence of demonstrated water neutrality to justify an additional reason for refusal. The main parties have had the opportunity to comment on this matter as part of their evidence, and have also been able to comment in relation to the appellants proposed approach to achieve water neutrality. I have determined the appeal on the submissions and evidence before me.
5. Also since the Council determined the application, the Rusper Neighbourhood Plan 2021 ('RNP') was formally made and therefore now comprises part of the

development plan. The main parties have been able to provide comments on any implications for the appeal of this change in policy as part of their evidence, and I have had regard to the RNP in making my decision.

Main Issues

6. The main issues are:

- i) whether or not the proposed development would provide a suitable location for housing having regard to its position within the countryside and the spatial strategy for the District;
- ii) the effect of the proposal on the character and appearance of the area;
- iii) the effect of the proposal on the integrity of the Arun Valley SPA, SAC and Ramsar Site, with particular regard to the abstraction of water within the SNWSZ; and
- iv) the effect of the proposal on highway safety.

Reasons

Suitability of the Location

7. The appeal site is located on Horsham Road on the outskirts of Rusper. For the most part, it comprises open grassland, although there is a barn close to the boundary of the site with Pucks Croft and Pucks Croft Cottage which are to the north east. There is further residential development to the opposite side of Horsham Road, while the remainder of the site abuts predominantly open land, with a belt of fairly dense trees to the west.
8. Policy 2 of the Horsham District Planning Framework 2015 ('HDPF') provides a spatial strategy intended to maintain the district's unique rural character whilst ensuring that the needs of the community are met through sustainable growth and suitable access to services and local employment. It focuses development in and around Horsham and directs growth in the rest of the district in accordance with the identified settlement hierarchy.
9. Policy 3 of the HDPF sets out that development will be permitted in towns and villages which have defined built-up areas, while Policy 4 of the HDPF outlines that outside of built-up area boundaries, the expansion of settlements will be supported subject to criteria including that the site is allocated in the Local Plan or in a Neighbourhood Plan and adjoins an existing settlement edge. Policy 26 of the HDPF further relates to development in the countryside, and includes a requirement that any proposal for development outside of built-up area boundaries must be essential to its countryside location.
10. The majority of the site is adjacent to but outside of the defined built-up area boundary of Rusper, and is therefore within the countryside in planning policy terms. It is not allocated for development in the Local Plan or in the RNP, and I have not been provided with substantive evidence demonstrating that the development is essential to its countryside location. Residential development of the site would not therefore accord with Policies 2, 3, 4 or 26 of the HDPF.
11. In addition, HDPF Policy 3 identifies that smaller villages including Rusper have limited services, facilities, social networks but good accessibility to larger settlements or settlements with some employment but limited services, facilities or accessibility. It states that residents of smaller villages are reliant on larger settlements to access most of their requirements. As highlighted

within the appellant's evidence, Rusper does offer some facilities including a primary school, local shop, post office and pubs within reasonable walking distance of the appeal site. However, future occupiers would need to travel further afield to reach facilities including a secondary school, comprehensive shopping facilities or significant employment. There would be some opportunities to do so by bicycle or by bus, but the details before me indicate that the available bus service does not operate during usual commuting times or at weekends. Together with the distances to other destinations with a wider range of facilities, I consider that occupiers would be likely to rely on private vehicles for many journeys, contrary to objectives within the National Planning Policy Framework ('the Framework') to promote sustainable transport. That said, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and it is clear that there would be potential to access at least some day to day services by means other than private vehicle. Noting also the small scale of the development, I consider that the adverse impacts in this regard would be limited.

12. Nevertheless, the location of the majority of the development within the countryside would conflict with the spatial strategy for the District and Policies 2, 3, 4 and 26 of the HDPF, and I conclude on this basis that it would not therefore be a suitable location for housing. I return to consider the weight to be given to the conflict with these policies including with regard to the supply of housing in the District in my Planning Balance below.

Character and Appearance

13. Extracts of the West Sussex County Council Landscape Character Assessment 2003 for the Low Weald Hills Landscape Character area included within the appellant's Landscape Appraisal/Study 2020 ('LAS') note that Rusper forms a particularly attractive area with a traditional core and some suburban development on village edges. Although the appeal site is in close proximity to Pucks Croft and Pucks Croft Cottage, the site is largely open. It reflects the small and medium scale grassland fields edged with woodland shaws, hedgerows and hedgerow trees that the LAS notes are characteristic of the landscape to the south and east of Rusper, and I find that it contributes an attractive rural character and setting to the village.
14. Layout is a reserved matter, but details of access to the site do form part of the application, and the indicative drawings suggest that dwellings would be arranged around a cul-de-sac. The proposed dwellings together with associated access, parking and gardens would spread across a considerable proportion of the site. Irrespective of nearby buildings, the encroachment of the development onto currently undeveloped land would be urbanising, and would result in a loss of openness.
15. The appellant argues that the density of development would be comparable to other areas in Rusper, including at Gardeners Green to the opposite side of Horsham Road, and that it would be lower than developments closer to the village centre. Be that as it may, I consider that the open site has a stronger connection, both spatial and visual, with the adjacent development to the south of this part of Horsham Road where I saw that the closest dwellings are typically set back varying distances from the street on large plots in a loose-knit linear arrangement which provides for a spacious and informal character. In my assessment, this provides for a noticeable impression of

transition between the village centre and the surrounding open countryside, and a different character to the opposite side of Horsham Road where I observed a more regular and tighter arrangement of buildings.

16. The submitted details indicate that the plots to dwellings would be smaller than the majority of nearby buildings to this side of Horsham Road. Despite the potential for areas of public amenity and village green spaces within the site, the overall density of development would also be higher, and in my view, the proposal would result in a slightly more intense form of development that would contrast with these more spacious neighbours.
17. Moreover, while the appellant indicates that the dwelling on Plot 7 would face Horsham Road, it would be accessed from within the site. I appreciate that there are other examples of cul-de-sacs in Rusper, but the layout would be at odds with the generally linear ribbon character of the adjacent buildings on this side of Horsham Road, and would give the development a more formal and suburban character that I consider would be somewhat incongruous at this edge of the settlement. I find given these factors that the proposal would erode the spacious character along this side of Horsham Road, disrupting the perception of a gradual transition between the village and the surrounding countryside.
18. Nevertheless, the site would in many cases be seen together with higher density development elsewhere in Rusper and would not therefore be wholly exceptional within the village. The appellant has also sought to develop a 'landscape-led' approach, and I agree that the planting together with indicated provision of open spaces within the site would provide visual links with the surrounding landscape and would help to integrate the development with its surroundings. Although I am not persuaded that the inclusion of landscaping and enhanced planting including along Horsham Road would fully offset or mitigate the encroachment of more intense built form into the countryside to this side of Horsham Road, these factors would serve to reduce the visual impact of the proposal.
19. In addition, I acknowledge that the site is well-contained, and that new planting could be incorporated into the scheme including around the boundaries which would provide some screening of the development. The LAS outlines that there would be no or only negligible change to views from many points, and while there would be some views of the development from Horsham Road and sections of the nearby right of way, I find that the visual impact of the proposal would be localised. Given also the relatively small scale of the development, harm to the character of the wider surrounding landscape would in my judgement be modest.
20. Even so, the LAS highlights key relevant landscape characteristics of the area around the site as a rural unspoilt character and largely intact historic dispersed settlement pattern. While the effect would be localised, I find for the above reasons that the proposal would adversely affect the countryside setting to the village and I conclude that it would cause some harm to the character and appearance of the area.
21. As a consequence, there would be conflict with policies 25, 32 and 33 of the HDPF which together and amongst other things broadly seek to conserve and enhance landscape character and the natural environment, and require new

development to be of high quality design that complements local character and contributes to a sense of place.

Nature Conservation Sites

22. Natural England has issued advice outlining that it cannot be concluded that existing water abstraction within the SNWSZ is not having an adverse impact on the integrity of the Arun Valley SAC, SPA and Ramsar Site through reduced water levels and potential water quality impacts. The advice also indicates that further development with a requirement for additional abstraction in the SNWSZ is likely to have an adverse impact on the European sites.
23. The appeal site is within the SNWSZ. From the information before me, I am unable to conclude with sufficient certainty that the proposal would not be likely to have a significant effect on the Arun Valley sites either alone or in combination with other plans and projects through water abstraction to meet the increased water demand associated with the 7 dwellings.
24. To be able to determine that a proposal would not be likely to adversely affect the integrity of the Arun Valley sites, advice from Natural England indicates that the proposal would need to demonstrate that it would achieve no net increase in water consumption, or 'water neutrality'. In advance of a strategic solution, Natural England has advised that demonstrating water neutrality may be done through a combination of water efficiency measures and offsetting.
25. The appellant has provided a Water Neutrality Statement, as well as supplementary comments in response to concerns raised by the Council regarding the Statement and in response to a subsequent request that I made for further information.
26. Based on an indicative housing mix and assumed population of 24 residents, these detail an expected normal water consumption for the development of around 744,600 litres per annum. However, the appellant proposes that rainwater harvesting can be installed to meet non-potable water demand, and the use of identified water efficiency measures to achieve a maximum daily water use of 80 litres per person per day. This equates to a water demand of around 700,800 litres per annum that would need to be offset to achieve water neutrality.
27. The appellant suggests that the increase in water demand at the appeal site could be offset on a site within their ownership at Northwood Forestry where planning permission was granted in February 2022 for change of use of existing land and buildings to use for plant hire, sales and repair. The evidence before me includes a copy of the Water Neutrality Statement for the Northwood Forestry development ('WNS'). This indicates that additional water demand associated with that development could be met by the harvesting of rainwater from existing roofs in the south east part of the site, and concluded that the development would be considered water neutral.
28. In relation to the current appeal, the appellant has provided details indicating that additional roof area of around 3,000sqm would be available at the Northwood Forestry site to accommodate further rainwater harvesting. However, the appellant confirms that the remaining baseline water usage at the Northwood Forestry site after the development and water neutrality measures proposed there would be around 349.93m³ (or 349,930 litres) per

annum. Moreover, the WNS confirms that fresh drinking water at the Northwood Forestry site would continue to be supplied from the mains, albeit that this is suggested to be a very small proportion of the baseline demand.

29. Even if I were satisfied that further rainwater harvesting at the Northwood Forestry site could potentially harvest a volume of water equivalent to the water usage of the appeal development requiring offsetting (around 700,800 litres per annum), this would far exceed the baseline water demand volume at that site. From the information before me, it is not clear how harvested rainwater in excess of the baseline water usage at the Northwood Forestry site would contribute to reducing water usage in practice, and I have no substantive details to indicate how water demand associated with the appeal proposal in excess of the baseline water demand at Northwood Forestry could otherwise be offset. I am not therefore satisfied that there would be scope to fully offset the water usage associated with the appeal development at the Northwood Forestry site. Although I am aware that work to develop a strategic solution to offsetting is ongoing, I have no clear indication of what form mitigation would take, nor likely timescales.
30. I have considered the appellant's suggested 'Grampian' condition to secure water neutrality based on a calculation of exact water consumption figures and offsetting requirements according to details to be agreed at reserved matters stage. However, I need to be convinced the proposal is capable of achieving water neutrality. Given my findings above, I can have little confidence from the information before me that measures to fully offset additional water demand arising at the appeal site could be delivered in practice in order to achieve water neutrality. As there is currently insufficient certainty that effective mitigation could be secured to achieve water neutrality, I am not satisfied that this issue could in this case be reasonably deferred to be addressed through a planning condition. Given that water neutrality has not been secured and the absence of an appropriate mechanism by which it could be secured, I find that adverse effects on the integrity of the Arun Valley SAC, SPA and Ramsar Site can not be excluded.
31. As a result, I can only conclude that the proposed development would adversely affect the integrity of the Arun Valley SAC, SPA and Ramsar Site. In these circumstances, I find that Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Regulations') would preclude the proposal from proceeding. The proposal would also conflict with Policy 31 of the HDPF which, amongst other things, sets out 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. It would also be contrary to the Framework's objectives for the protection of biodiversity and the conservation of the natural environment.

Highway Safety

32. The Council's third reason for refusal of the planning application asserted that insufficient information had been provided to demonstrate that there would be safe and suitable access to the development.
33. As part of the appeal, the appellant has provided a Planning Appeal Statement (Transport) dated 7 May 2021 ('PAST') which includes details of Automatic Traffic Count surveys undertaken in the vicinity of the site in accordance with

Department for Transport Document CA 185 Vehicle Speed Measurement 2019, part of the Design Manual for Road and Bridges ('DMRB'). Having regard to the observed vehicle speeds, the PAST confirms that visibility splays consistent with design standards specified by DMRB and the Department for Transport Manual for Streets can be achieved within highway land or land under the control of the appellant.

34. The Council has not raised concerns in relation to the additional information provided with the appeal. From the evidence before me, I can see no firm reason to take a different view, and I am satisfied that suitable standards of visibility could be achieved sufficient to provide safe and suitable access to the site and to avoid undue conflict between traffic, cyclists and pedestrians.
35. Accordingly, I conclude that the proposal would not cause unacceptable harm to highway safety, and I find no conflict with Policy 40 of the HDPF which includes requirements seeking development that provides safe and suitable access and that minimises conflict between traffic, cyclists and pedestrians.

Benefits of the Development

36. The Framework includes clear objectives seeking variously to make the best use of available land, to boost significantly the supply of housing and recognising that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. Moreover, the Council accepts that it is unable to demonstrate a five year supply of housing. In this context, the delivery of 7 additional dwellings is an important benefit, and I give it great weight. However, even if I were to find the current supply is 3.9 years as the appellant had suggested rather than 4 years as the Council asserts, I consider that the benefit would be fairly limited given the relatively small scale of the contribution to the mix and supply of housing overall.
37. There would be direct and indirect social and economic benefits of the development, both short-term during construction and longer-term on occupation. These would include support for local services and employment, and expenditure contributing to the local economy. However, the extent of these benefits would be tempered by the small scale of the development, and I give them modest weight. I also note that the appellant has referred to New Homes Bonus payment to the Council, but the Planning Practice Guidance makes it clear that it would not be appropriate to make a decision based on the potential for a development to raise money for a local authority, and I have not been provided with evidence that any benefit arising in this regard would be directly related to the development. This is not therefore a matter to which I afford weight in favour of the proposal.
38. The indicative landscaping proposals would enhance natural features across the site and would provide additional habitat for biodiversity. In this regard, I see no reason to disagree with the Council's Ecology Consultant that the proposal could deliver a biodiversity net gain on the site itself which would be supported by the Framework. However, this would depend somewhat on the detail of reserved matters and enhancement measures, and the extent of any benefit is not therefore clear at this stage which limits the weight that I afford to it.
39. The indicative details also show that open space and areas of recreation and play would be provided on the site, and the appellant advises that these would

be accessible to existing local residents. I note support within the RNP for increasing provision of public open space in Rusper, but I have not been provided with substantive evidence drawing my attention to an identified deficit in space locally. Accordingly, I give modest weight to this benefit.

40. Future occupiers of the site would have some access to local services and facilities and public transport links within Rusper, as well as pedestrian and cycle linkages to the rights of way network. However, I have found there would still be some reliance by occupiers on private vehicles, and I do not consider the accessibility of the site to constitute a significant benefit of the proposal.
41. I have no reason to doubt that the mass, scale and materials of the buildings could be designed to be sympathetic to the local area and that it would be possible to provide sustainable drainage and passive surveillance of open spaces as part of the development. However, I am not persuaded that these are positive benefits in favour of the scheme. I also note the appellant's comments that the development would incorporate sustainable design and construction measures, but it is not clear from the information before me that these would provide for significant benefit over what would in any case be necessary to comply with requirements of the development plan and building regulations which limits the weight that I give to this factor.

Planning Balance

42. Although I have found that the proposal would not unacceptably harm highway safety, I have concluded that the development would not be a suitable location for housing on account of the position of the majority of the site within the countryside, in conflict with the spatial strategy for the District. It would also cause harm to the integrity of the Arun Valley SPA, SAC and Ramsar Site and to the character and appearance of the area, albeit that the harm in the latter case would be localised and relatively modest. For these reasons, the proposal would conflict with Policies 2, 3, 4, 25, 26, 31, 32 and 33 of the HDPF. While these policies are most important for determining the proposal, the lack of a five year housing supply means that they would be deemed out of date under the provisions of footnote 8 of the Framework.
43. In these circumstances, the presumption in favour of sustainable development outlined at paragraph 11(d) of the Framework is engaged, and provides that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, 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.
44. Given however my conclusion that the proposal would adversely affect the integrity of the Arun Valley SPA, SAC and Ramsar Site, footnote 7 and paragraph 182 of the Framework confirm that the presumption in favour of sustainable development would not apply.
45. Notwithstanding the shortfall in housing land supply, the adverse effect of the development on designated nature conservation sites and conflict with the Regulations is a matter of overriding concern that would significantly outweigh the modest benefits of the proposal.

46. Taken together with the harm, albeit modest, to the character and appearance of the area, and arising from the location of the development contrary to the spatial strategy for the district, I conclude overall that the proposal would conflict with the development plan when it is read as a whole. Material considerations including the Framework do not indicate that a decision contrary to the development plan should be reached.

Conclusion

47. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR