



Appeal Decision

Hearing held on 8 November 2022

Site visit made on 9 November 2022

by M Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/C3810/W/22/3304106

Land rear of Paynters Croft, Burndell Road, Yapton BN18 0HR

- 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 Mr Jason Osborn (Driftstone Homes) against the decision of Arun District Council.
 - The application Ref F/22/21/PL, dated 4 November 2021, was refused by notice dated 18 February 2022.
 - The development proposed is full application for 23 dwellings with associated access, infrastructure, landscape, open space at land to the rear of Paynters Croft, Yapton.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Interested parties provided me with copies of several nearby planning permissions of relevance to the consideration of this appeal. The main parties were given an opportunity to comment on them, and I refer to them in more detail in my reasoning.
3. A street scene drawing was submitted shortly before the hearing. I have treated this as illustrative only. Amended plans were also submitted with the appeal which alter the proposed housing mix and floorplans, and the dimensions of parking spaces and garages. An additional noise report was also submitted. I am satisfied that the provision of this additional information does not significantly alter the proposal from that originally publicised at the planning application stage, does not prejudice interested parties, and the Council had the opportunity to address this material as part of their statement of case.
4. In relation to the above, and prior to the hearing, the Council confirmed that they were satisfied that several of the Reasons for Refusal (RfR) contained in the decision notice had been resolved by the submission of additional evidence during the appeal process¹, including that relating to the compatibility of the proposal with the nearby waste management facility².

¹ Statement of Common Ground signed 20th October 2022 and Statement of Common Ground Addendum signed 4th November 2022

² RfR no 3

5. Notwithstanding this, prior to the hearing I issued a *pre-hearing note*³ which set out my initial identification of the main issues, taking into account all the evidence before me, including representations received from interested parties. This included a main issue concerning the scheme's relationship with all nearby businesses⁴, which was more expansive than the Council's RfR 3, which referred to the waste management facility only. The main issues were also aired during the hearing and no party raised any objection to them.
6. As a result of the above, I allowed the Council and the appellant an opportunity to set out their respective positions in relation to noise (the first main issue highlighted below). All parties at the hearing were given an opportunity to comment on the statements subsequently submitted, and I have considered the responses as part of my determination of this appeal.

Main Issues

7. The main issues in this case are:

- The scheme's compatibility with existing businesses, with particular regard to potential noise impacts.
- The effect of the proposal on the character and appearance of the area.

Reasons

Noise

8. Paragraph 187 of the National Planning Policy Framework (the Framework) states that decisions should ensure new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development in its vicinity, suitable mitigation should be provided before the development has been completed.
9. The appellant carried out a noise assessment which included a survey of the prevailing noise climate, against which the suitability of the scheme was assessed. A further noise assessment was carried out in response to West Sussex County Council's⁵ (WSCC) concerns relating to the proximity of an existing waste recycling facility⁶ and the potential for noise disturbance. This assessment included an appraisal of the recent planning permission to expand the facility to include the processing of inert waste.
10. The noise assessments concluded that there could be an adverse impact arising from the existing and future operations associated with the waste facility. To mitigate potential impacts on the external amenity areas of proposed dwellings which would face the southern boundary of the site, a 2.5m acoustic fence would be installed beyond the end of these rear gardens, along the southern and eastern boundaries of the scheme. The Council are satisfied that, in

³ Dated 1st November 2022

⁴ With particular regard to noise

⁵ West Sussex County Council are the waste planning authority

⁶ TJ Waste and Recycling - existing facility with recent planning permission to expand (planning reference – West Sussex County Council - WSCC/037/19)

respect of the nearby waste management facility, this mitigation would be sufficient to ensure no unacceptable noise impacts.

11. However, the waste management facility is not the only business within the locality which may emit additional noise. Most notably, there is an extant prior notification approval for a grain store associated with the agricultural business at the adjacent lying Northwood Farm⁷. Whilst I accept that the noise surveys carried out by the appellant would have recorded any background noise levels associated with the farm at the time of the survey, the resultant noise assessment did not take into account likely future activities associated with the permitted grain store.
12. The likelihood of impacts is increased partly due to proximity, with the grain store proposed just beyond the southern boundary of the appeal site, extending the farm operations in a westerly direction and closer to the appeal site boundary. As I saw on my site visit, preparatory groundwork has commenced within the farm complex which would appear to be in connection with this building. I have no reason to believe that the grain store will not be built.
13. Furthermore, the grain store would be located closer to the appeal site than the waste management facility and the closest commercial receptor, which formed part of the submitted noise assessments⁸. Therefore, the assessments considered potential noise sources further away from the appeal site than the proposed grain store.
14. In addition, I was told during the hearing by a representative of Northwood Farm that the grain store will include a conditioning floor or other means of ventilation to assist with the drying of crop. Whilst the details accompanying the relevant prior notification do not refer specifically to a grain drying facility, nor do they show details of external plant or venting, 'conditioning floor' is included in the description of development on the Council's decision notice. Moreover, it seems to me that any ventilation system associated with the grain store could operate at any time during the day or night.
15. As a result, I am concerned that the use of plant, machinery, and the comings and goings of vehicles associated with the grain store and extended farm complex could create a tension between the proposed residential development and the expanded agricultural business. As such, it could lead to noise and disturbance for future occupiers of the proposed dwellings. This in turn could lead to constraints on the operations of the business due to complaints from future residents.
16. As well as the potential impact from the grain store in isolation, the Government's Planning Practice Guidance (PPG) highlights that the cumulative impacts of more than one noise source can influence the prevalence of noise⁹. Whilst I accept that noise impacts from the waste management facility alone are unlikely to lead to unacceptable adverse effects, this has not been calculated taking into account the future expansion of the farm.

⁷ Arun District Council – approval under Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 – planning reference CM/29/21/AG

⁸ Figure AS12213/SP1 of ProPG Stage 1 Risk Assessment & BS4142 Assessment – Clarke Saunders 15 February 2022

⁹ PPG paragraph: 006 Reference ID: 30-006-20190722

17. Moreover, I have also been made aware of nearby planning permissions for a Flexible Generator Plant¹⁰ and concrete batching plant¹¹. These schemes would be located further away from the appeal site than Northwood Farm, and the appellant has appraised each of the respective planning permissions to conclude that there would be no significant noise effects of each in isolation.
18. Nevertheless, it is clear to me that the relationship between noise and impacts is complex and is dependent on the combination of various factors in any particular situation. I note the appellant's claims that the various noise sources may contribute to the ambient environment, meaning that individual sources would not be identifiable or harmful in reality. However, this statement is not supported by detailed objective analysis properly appraising each noise source relative to the proposal so that the cumulative impact can be readily understood. Such an approach is advocated by PPG which makes it clear that businesses or other facilities that are permitted to be carried out should be taken into account, even if they are not occurring at the time of the application being made¹².
19. I appreciate that the proposed acoustic fencing would likely reduce noise levels from all sources from within the scheme. However, even if I was to accept the appellant's assertion that internal noise levels within each of the proposed dwellings would be low, the appellant accepts that sources may be audible at some of the external areas¹³. With reference to the significance criteria set out in PPG, the appellant states that generally noise exposure could be between *No Observed Adverse Effect Level (NOAEL)* and the *Lowest Observed Adverse Effect Level (LOAEL)*¹⁴. However, according to PPG, even a LOAEL would represent a present and intrusive noise which would require further mitigation.
20. Turning to mitigation (over and above the proposed acoustic fence), I have considered the imposition of a planning condition¹⁵ which could set out details of any necessary additional measures, based on the findings of a further acoustic report. However, even if I was to accept the appellant's assertion that suitable measures could be incorporated in order to reduce noise entering the proposed dwellings, I have concerns that the rear external amenity areas of dwellings would be particularly exposed.
21. In this regard, I have been provided with limited details proposing additional mitigation measures. Whilst it is suggested that the height of the proposed fence could be increased, I do not know if this would provide effective mitigation. Furthermore, an increase in fence height may adversely affect the usability of the garden spaces or the visual amenity of the surroundings, and such effects have not been assessed.
22. Therefore, due to the proximity of the grain store and associated activities, along with other existing and potential future noise generating uses in the area, I cannot be certain that the acoustic fence would provide the mitigation necessary, and no other suitable measures have been suggested. Intrusive noise within the proposed gardens would mean future residents would be less

¹⁰ Arun District Council – planning permission ref CM/69/21/PL

¹¹ Arun District Council – planning permission ref CM/6/18/PL

¹² PPG paragraph: 009 Reference ID: 30-009-20190722

¹³ See – appellant statement (noise comments)

¹⁴ PPG Paragraph: 005 Reference ID: 30-005-20190722

¹⁵ As suggested by the appellant

likely to use them, or would do so facing potentially adverse effects on their health and quality of life.

23. I recognise that the Council did not object to the proposal on cumulative noise grounds until late in the process, and the noise objections they raised were not reflected in the Council's RfR, nor did they form the basis of the Council's appeal statement of case. Irrespective of this, the appellant did not submit substantive evidence to refute the concerns raised by interested parties relating to noise. I am obliged to examine all the evidence before me, which I have done in order to reach a reasoned decision.
24. I note that the appeal site comprises garden spaces associated with existing properties, and I am not aware of any noise complaints relating to the existing businesses. However, my concerns relate mainly to the introduction of further noise generating activities, some of which would be closer to the appeal site than existing.
25. In conclusion, it has not been demonstrated that the proposal would be compatible with existing businesses with particular regard to noise impacts. Nearby existing and potential future uses would be likely to adversely affect the living conditions of future occupiers, with regard to noise. The proposal could curtail existing and future commercial uses in the area as a result. This would be in conflict with policy QE SP1 of the Arun Local Plan 2011-2031 (2018) (Local Plan), and policy EE3 of the Ford Neighbourhood Plan 2017-2031 (2018) (Neighbourhood Plan) and paragraph 187 of the Framework which require, amongst other matters, that the location of existing commercial uses and businesses is taken into account to ensure the amenity of new developments is safeguarded from incompatible land uses. In addition, there would be conflict with policy W2 of the West Sussex Waste Local Plan (2014) as the residential scheme could prejudice the waste management facility in combination with other noise sources.

Character and appearance

26. The appeal site lies outside the Built-Up-Area Boundary as depicted by the Local Plan and for the purposes of planning policy is in the countryside. On a district level, it is situated within the *30 Bilsham Coastal Plain* Landscape Character Area (LCA) as identified in the Arun Landscape Study 2006 (ALS). The ALS recognises this as an area of substantial landscape sensitivity, with low/medium capacity. Its main characteristics comprise its enclosed arable landscape appearance, and its rural agricultural setting to settlements including Yapton.
27. The key characteristics of the landscape set out in the ALS are not altogether reflective of the observations I made on my site visit, nor those set out in the appellant's submitted landscape and visual appraisal. For example, most of the appeal site constitutes well-manicured residential gardens with hedgerows and vegetation along the boundaries. This serves to significantly enclose the appeal site. Moreover, despite its location outside the defined settlement boundary, it lies close to relatively modern housing to the north along with a fragmented array of large buildings further to the south associated with Northwood Farm and commercial uses which occupy the former airfield. Therefore, the appeal site lacks the eminent rurality associated with the open countryside which lies generally to the west and southwest.

28. As a result, I define the appeal site as semi-rural, as it is influenced by the suburban form nearby. Added to that its current domestic use, it therefore has more affinity with the suburban areas associated with the adjacent settlement than it does with the open countryside. In addition, despite the scheme's resultant moderate extent of urban encroachment, the trees and hedgerows located along the site boundaries which make an important contribution to the landscape's character would largely be retained. Furthermore, there would be no loss of arable fields and the impact on the prevailing topography and wider countryside would be limited. Consequently, I find no harm to the landscape's character.
29. In terms of visual effects, some of the proposed buildings and the acoustic fencing would be visible above the existing boundary vegetation. However, it is important to recognise that the extent to which views of these elements would be obtainable from the surroundings would mainly be limited to Public Rights of Way (PRoW), which lie generally to the west and southwest of the site.
30. In order to quantify the extent of visibility, on my site visit I walked along the most affected parts of the PRoW¹⁶. The western-most length of the PRoW extends east along part of Cinders Lane, before heading south, skirting existing housing. From here views of the appeal site are largely obscured by vegetation, trees and existing built form. Glimpses of the proposed two-storey houses would be obtainable (particularly the roofs), but given the distance involved (*circa* 250m at its closest point) and the prevalence of hedgerows and trees on the site's boundary, the development would not appear overly prominent.
31. The PRoW then routes in a generally south-easterly direction where more open views of the appeal site are obtainable. However, not only would a combination of distance and the existing site boundary landscaping reduce the prominence of the built form when viewed from this stretch of footpath, but the scheme would be seen alongside modern housing associated with *Yapton View*¹⁷. Observing the wider panorama, housing associated with *Cinders Lane*¹⁸ is also clearly visible in the landscape, along with large buildings associated with Northwood Farm and other commercial uses located within the former airfield.
32. From further along the PRoW the existing site boundary vegetation would remain the dominant feature, and views of the proposal would be restricted due to this, distance and other screening. Overall, the visual effects of the proposal from sensitive receptors would be limited.
33. In terms of the proposed acoustic fence, impacts would be limited to oblique angle views from various points along the PRoW. However, the fence would largely be seen against the backdrop of the proposed housing and the existing buildings associated with Northwood Farm. It would not be a dominant feature in the landscape.
34. I appreciate that the scheme would rely on the retention of trees and hedgerows along the site boundaries to mitigate visual effects. I see no reason

¹⁶ PRoW no. 166

¹⁷ Arun District Council - planning permission ref Y/98/18/RES

¹⁸ Arun District Council - planning permission ref Y/4/19/RES

why these features could not be excluded from the boundaries of individual properties, so that they could be retained and maintained as part of a wider landscape management plan, to be secured by condition. This would reduce the likelihood of these existing landscape features being removed.

35. In respect of the proposed access, the rurality of Burndell Road has been diminished by the presence of other accesses at various points along the street, which utilise modern surfacing materials. Whilst the widening of the access as proposed would have an urbanising effect mainly due to a loss of vegetation and the provision of signage, a planning condition could be imposed to control the type of materials to be used in its construction¹⁹. The Council agrees that the use of a more rustic material would be in more in keeping with the area's character. Moreover, existing trees close to the junction with Burndell Road would be retained, and a condition could be imposed detailing construction techniques to avoid root damage which could compromise the trees. I find no harm in this respect.
36. Turning to the scheme's design and appearance. Like the proposal, the prevailing pattern of existing housing in the area includes those with a considerable set-back from Burndell Road. Furthermore, the composition of the proposed dwellings would be appropriate in terms of height and overall scale. The varied house types, the position of dwellings within their plots, and the varied spaces between them would add variety to the street scene. Details of the type and colour of roofing materials could be conditioned, ensuring a varied roofscape could be secured, thus addressing the Council's concerns. I am also satisfied that the proposed half-hipped roof design would reflect roof forms in the locality, including examples I saw nearby along Burndell Road.
37. The rear gardens associated with proposed plots 5 - 10 would be less than the 10.5m advocated by the Arun Design Guide Supplementary Planning Document 2021 (SPD). However, the purpose of this requirement, according to the SPD, is to ensure adequate privacy. In addition, the SPD advocates flexibility where it can be justified. In this case, none of the rear garden boundaries would face other properties, thus there would be no impact on the privacy of existing occupiers. Furthermore, these garden spaces would face hedgerows and trees and future occupiers would benefit from verdant surroundings. Overall, the quality and useability of these garden spaces would be acceptable.
38. In terms of materials, the use of black timber weatherboard would feature heavily on the facades of the proposed dwellings, although it would be contrasted with brick. Moreover, and despite the omission of flint²⁰, a traditional vernacular material present in the locality, the wider area displays a diverse palette of walling materials. Burndell Road is testament to this, with variation in the building materials which face the street. I also saw weatherboard on the walls of some buildings close to the appeal site, and in relation to a modern housing scheme at Navigation Drive. Despite the latter's location some distance away and appreciably separate from the appeal site, it nevertheless forms part of the settlement's character and further reinforces local variety. Moreover, whilst *black* weatherboard is not specified, 'weatherboard' is nevertheless listed as a local material in the SPD.

¹⁹ Apart from the first 15m of the proposed access, which would be hard surfaced

²⁰ Flint proposed but limited to a single boundary wall within the scheme

39. Therefore, on balance, I am satisfied that the proposed materials would relate to the surrounding context, utilising a simple robust palette which would be attractive and of high quality.
40. However, well designed places are not just about the appearance of the buildings within them. The Government's National Design Guide²¹ makes it clear that, amongst other things, parking should be well-designed and sensitively integrated into the built form. This is not reflected in the scheme.
41. My main area of concern relates to an extensive area of hardstanding (comprising block paving) and car parking generally fronting plot no's 5 – 10. A number of these parking spaces would be positioned perpendicular to, and directly in front of, proposed dwellings and aligned in a single parking 'block'. When entering the development along the main access road these components of the layout would be prominent in views, with parked vehicles and hard surfacing dominating the street scene.
42. In addition to which, this parking area would be positioned such that it would form a hard edge to the public open space (POS) proposed immediately to the south. Opportunities available for tree planting would be limited due to an underground drainage attenuation tank proposed beneath the POS, and limited space within the proposed layout to incorporate planting to soften impacts.
43. Therefore, the scheme in part would fail to align with the principles of good design, with proposed parking being poorly integrated, undermining the scheme's identity by introducing elements of built form which would be unattractive. In turn this insensitive urban feature would also harm the attractiveness and useability of the proposed POS.
44. However, the extent of harm I have identified is moderated in this case as concerns mainly relate to the north-western portion of the proposed layout only. Moreover, the substandard street layout of this part of the site would have a limited impact on the character and appearance of the wider countryside. In respect of other design elements, I find that the proposal would address the requirements of the SPD for the reasons set out.
45. As a result, I find moderate harm to the character and appearance of the area. There would be conflict with policies D SP1 and D DM1 of the Local Plan, policies H1 and H6 of the Neighbourhood Plan and paragraph 130 of the Framework which require, amongst other matters, that development reflects the characteristics of the site in terms of layout, provides layouts which are attractive with appropriate provision for planting, and is visually integrated with its surroundings. The scheme would fail to sensitively integrate parking into the layout resulting in an obtrusive element, contrary to the SPD and the National Design Guide.

Other Matters

46. The Council's RfRs originally included concerns relating to surface water drainage and the potential to increase flood risk. Nevertheless, both the proposed access and main site could be drained using sustainable drainage techniques. The Council no longer raise an objection subject to additional details, which could be secured by planning condition.

²¹ MHCLG 2021

47. The submitted bi-lateral S106 agreement includes contributions towards affordable housing, off-site highway mitigation, and a sustainable travel plan. I am satisfied that these elements would address the requirements set out in the Council's RfR 2.
48. Concerns raised by interested parties in relation to highway safety are not supported by the Council or the evidence before me. Conditions could be imposed in order to ensure a safe and suitable access, and to address other concerns relating to sustainable travel and other highway matters.
49. RfR 4 refers to the document - *Accommodation for Older People and People with Disabilities 2020*. The proposal would meet this guidance in part by ensuring 30% of proposed dwellings would adhere to M4(2) Accessible Homes standards. The requirement to provide 2no dwellings to meet M4(3) Wheelchair Accessible Homes has not been met. However, this document does not constitute formal supplementary planning guidance nor is it a planning policy. In any event, the Council are now satisfied that the proposal would meet policies D DM1 and D DM2 in accessibility and internal space standard terms, and that RfR 4 would be addressed. Therefore, given general compliance with specific planning policy requirements, I am satisfied that the proposal would make suitable provision for all users in terms of accessibility, and I find no conflict with policy in this regard.

Planning Balance and Conclusion

50. In the interests of clarity, in ascribing weight to the benefits and harm I have used the following scale: limited, moderate, significant and substantial.
51. The Council's housing land supply position stands at approximately 2.4 years. As such, Arun District are unable to demonstrate a five-year supply of deliverable housing sites as required by paragraph 68 of the Framework. Therefore, the policies which are the most important for determining the appeal are considered out of date. In such circumstances, paragraph 11d)(ii) of the Framework indicates that permission should be granted unless 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.
52. Therefore, the housing land supply shortfall is substantial. Furthermore, Arun's Housing Delivery Test measurement of 2021 stood at 65%, suggesting that housing delivery has not significantly improved based on recent performance. Therefore, whilst the number of houses proposed would be relatively modest, the scheme would make a notable contribution in the face of considerable housing under supply and recent delivery. As a result, I attribute the provision of market housing significant weight as a benefit in this case.
53. In terms of affordable housing, the Council described the current need as 'extremely high'. The appellant also points to significant affordability issues in the district. Consequently, the provision of 7 affordable homes in this case carries significant weight in favour.
54. The benefits to the local economy, both during construction and indirectly through a likely increase in local spending by future residents, would be proportionate to the modest scale of the scheme. Therefore, these benefits carry moderate weight.

55. The Council does not dispute that overall biodiversity net gain is achievable, although there is uncertainty over the extent to which the scheme would be capable of delivering enhancement. Therefore, these benefits carry limited weight in this case.
56. Turning to harm. Due to the proximity of existing businesses, and the potential for both individual and cumulative noise generation from them, there is a likelihood that living conditions of future occupiers of the proposed dwellings would be unacceptably diminished, and the operational capacity of existing and future businesses constrained due to the potential for complaints from future residents. It has not been demonstrated that the scheme would be compatible with businesses in the local area. There would be conflict with several associated development plan policies as a result. I give substantial weight to this conflict.
57. Moreover, in terms of the proposed layout, part of the scheme would be dominated by parking and hardstanding, which would also diminish the aesthetic quality of the nearby POS. When viewed in context of the other positive elements of design exhibited by the scheme, and the limited impact on the wider countryside, the conflict with associated development plan policies attracts moderate weight against the proposal. Overall, I consider that the proposal would conflict with the development plan when taken as a whole.
58. Weighing these matters in the balance, I find that the harm would be overriding, and would significantly and demonstrably outweigh the benefits outlined. The proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework. Therefore, this decision should be taken in accordance with the development plan, and no material considerations indicate otherwise. This leads me to conclude that the appeal should be dismissed.

M Woodward

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Karen Barnes	Agent - Turley
Simon Packer	Agent - Turley
Jason Osborn	Appellant – Driftstone Homes
Stephen Wadsworth	Briarwood Landscape Architecture Ltd
Alec Korchev	Noise consultant - Clarke Saunders Associates
Chris Purdy	MH Architects

FOR THE LOCAL PLANNING AUTHORITY:

Jessica Riches	Arun District Council
David Easton	Arun District Council
Juan Baeza	Arun District Council

INTERESTED PARTIES:

John Gosling	TJ Waste & Recycling
Graham Abbot	Northwood Farm
Susan Abbot	Northwood Farm