



Appeal Decision

Hearing held on 22 November 2022

Site visit made on 22 November 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Appeal Ref: APP/P1425/W/22/3299940

**Land south of Lewes Road and Laughton Road, Broyleside, Ringmer
BN8 5FP (Easting 544649 Northing 112426)**

- 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 Messrs Ben Ellis, Andrew Cooper, Adrian Cooper and Simon Cooper of Bedford Park Developments against the decision of Lewes District Council.
 - The application Ref LW/22/0104, dated 14 February 2022, was refused by notice dated 29 April 2022.
 - The development proposed is Outline planning application with all matters reserved for up to 68 residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline, with all matters reserved. Access, appearance, landscaping, layout and scale are reserved for subsequent determination. I have had regard to the drawings showing the illustrative layout of the scheme only insofar as they indicate how the site could be developed, and show the quantum of development that could be accommodated on site.
3. On the day before the Hearing, the Council sent a copy of the Appeal Decision¹ related to a large mixed use scheme on the adjacent site, which represents an important material consideration for the determination of the appeal before me. The main parties confirmed that they had had the opportunity to consider this decision prior to the Hearing.
4. The appellants have submitted a Planning Obligation signed and dated 5 December 2022, pursuant to Section 106 of the Town and Country Planning Act 1990, which would take effect should planning permission be granted. I shall return to this later in my decision.

Main Issues

5. The Council's objections to the proposal relate primarily to the effect of the development on the character and appearance of the area and surrounding countryside, including the South Downs National Park. I have however added

¹ APP/P1425/W/22/3298993.

the effects of the proposal on the Council's spatial strategy and heritage assets to the list of the main issues, following discussions at the Hearing and within the written evidence.

6. The main issues are:

- The effect of the proposal on the Council's spatial strategy;
- The effect of the proposal on the character and appearance of the area and surrounding countryside, including the setting of the South Downs National Park; and
- The effect of the proposal on the settings of heritage assets, including the Grade II listed building known as Ringmer Kennels, Laughton Road (List Entry Number: 1238770) and the non-designated heritage assets known as the Magazine and Hospital, former Ringmer Royal Horse Artillery Barracks.

Reasons

Spatial strategy

7. Section 6 of Lewes District Local Plan Part 1 – Joint Core Strategy² (the LPP1) sets out the over-arching approach for how new housing will be distributed across the plan area in the period up until 2030, and includes a settlement hierarchy to ensure that development is distributed in the most sustainable manner. Policy SP2 of the LPP1 sets out a minimum requirement of net additional residential units for Ringmer and Broyle Side to be delivered over the plan period, and a number of sites have been allocated for the provision of housing by Policy 6.4 of the Ringmer Neighbourhood Plan.
8. As part of the preparation of the Lewes District Local Plan Part 2 – Site Allocations and Development Management Policies³ (the LPP2), the Council has adopted the use of planning boundaries to establish a clear distinction between settlements, where development is considered acceptable in principle, and the countryside (i.e. outside of the planning boundaries).
9. Policy DM1 of the LPP2 states that outside the planning boundaries, the distinctive character and quality of the countryside will be protected and new development will only be permitted where it is consistent with a specific development plan policy or where the need for a countryside location can be demonstrated. The supporting text to Policy DM1 notes that a range of factors were taken into account in the consideration of planning boundaries, which include the existence of important 'gaps' of countryside between settlements.
10. Policy 4.1 of the Ringmer Neighbourhood Plan follows a similar approach, in stressing that proposals for new development outside planning boundaries that are not in accordance with other policies in the Neighbourhood Plan or other material planning policies, and would have an adverse effect on the countryside or the rural landscape, will not be permitted unless it can be demonstrated that the benefits of the development clearly outweigh the adverse impacts and that they cannot be located on an alternative site that would cause less harm.

² May 2016.

³ February 2020.

11. The appeal site is located within proximity but nevertheless outside the settlement boundaries of Ringmer and Broyle Side, which are respectively identified as a Rural Service Centre and a Local Village. It therefore lies, for planning policy purposes, in the countryside. Whilst there is no dispute between the main parties that the site lies in an accessible location, it would therefore conflict with the development plan's spatial strategy, and in particular with Policy DM1 of the LPP2 and Policy 4.1 of the Ringmer Neighbourhood Plan.

Character and Appearance

12. The appeal site comprises an area of largely undeveloped land located to the south of Lewes Road and Laughton Road, and within proximity to the village of Broyle Side. The site lies to the south-west of an area of light industry and is immediately adjacent to the South Downs Hunt Kennels, beyond which there is a strip of ribbon development dating from the 20th century.
13. The field consists of predominantly rough grassland, with mature hedgerows and trees along the boundaries filtering views into the site, particularly in summer months. An important proportion of the trees is however showing signs of ash dieback which, in the longer term, may affect the level of screening provided by the vegetation. There is an area of hardstanding in the north-western part of the site, which also includes a permanent building. At the time of my site visit, the yard also appeared to be used for open storage. A watercourse forms the southern boundary of the appeal site.
14. The largely undeveloped nature of the site and the mature vegetation firstly assist in preserving a clear form of separation between Ringmer and Broyle Side. In terms of its wider landscape setting, the appeal site forms part of an area of pastoral land and thus maintains a strong association with its rural surroundings, which is typically made of a geometry of largely level fields, with occasional areas of woodland, that is characteristic of the Eastern Low Weald.
15. Beyond these, the rising slopes of the South Downs National Park, which lies approximately 500 metres south of the site, stand out as a strong topographic backdrop. The scarp of the South Downs provides expansive views across the Low Weald countryside to the north. It is a matter of agreement between the parties that the site falls within the setting of the National Park. Whilst it may not be prominent, the appeal site nevertheless contributes to the setting of the National Park, as it maintains a degree of separation between Ringmer and Broyle Side, and forms part of expansive views from the scarp foothills and open downs across the Low Weald.
16. The contribution which the site makes to its rural surroundings would however be greatly diminished as a result of the proposal. By virtue of the quantum of development proposed, the appeal scheme would introduce significant change in what largely remains an undeveloped, open field, through a considerable reduction in openness and the loss of an area of countryside which is characteristic of its landscape setting.
17. In particular, the permanent, adverse effects of this residential scheme would occur on a much larger area than the commercial activities which are presently confined in the north-western part of the site. The construction of up to 68 residential units, together with the extensive areas of hardstanding required for the provision of access, turning and parking, would introduce an urbanising form of development on the site, which would detract from the pleasant

character of its rural surroundings. Furthermore, the creation of residential gardens, proliferation of domestic paraphernalia associated with the dwellings and features such as the acoustic fencing would cumulatively emphasise the incongruous nature of the development in relation to its rural context.

18. Most of the hedging along the outer boundaries of the site is proposed to be retained, and this would to some extent help with minimising the visual impact of the proposed development. However, whilst the vegetation would filter views into the site during the summer months, the development would be noticeably more obvious when trees are not in leaf. Additionally, some of the vegetation would have to be removed to enlarge the existing access onto Lewes Road, which would also increase the prominence of the development in public views.
19. The ash dieback, which is affecting a significant proportion of the hedgerow boundary, is also likely to lead to the decline and removal of these trees, and this may reduce the level of screening provided by the vegetation. Moreover, I share the concerns raised by the Council regarding the loss of boundary vegetation which could occur in the longer term, as the proposed masterplan shows that a number of properties would have rear gardens adjoining Chamberlaines Lane. This means that there would be no mechanism to prevent future occupiers from removing the existing soft landscaping.
20. As this is an outline scheme, I accept that this issue could be addressed as part of a subsequent reserved matters application. However, taken together, these considerations raise doubts regarding the level of screening which would be provided by the existing hedgerow if the development was to take place. The appellant's submissions suggest that the existing planting, hedgerows and trees could be enhanced as part of the proposal, but in the absence of further details, limited weight has been afforded to this argument.
21. I must also have regard to the fact that a large mixed use scheme has recently been granted outline planning permission on land at Broyle Gate Farm, which is located on the opposite side of Chamberlaines Lane. This means that the construction of the proposal before me would, in combination with the approved scheme at Broyle Gate Farm, would harmfully consolidate development on the southern side of Lewes Road and lead to the loss of the important green gap which presently contributes to the rural settings of Ringmer and Broyle Side. The resulting loss of this gap between the villages, which would be evident in views from the National Park, would add to the negative impact which the development would have upon the landscape and settlement pattern of this rural area.
22. Users of the extensive network of Public Footpaths located in the area would be the principal visual receptors affected by the development. Public Footpath RIN/20 runs along Chamberlaines Lane and leads to the South Downs National Park. Pedestrians using RIN/20 are currently able to enjoy filtered views of the site and the wider countryside, despite the detracting impact of the commercial units at Ringmer Business Park. Whilst the vegetation may to some extent soften the visual impact of the development, the suburbanising effects of this large residential scheme would inevitably cause harm to the experience for users of this public footpath. The appeal scheme would also have an adverse effect on users of Public Footpath RIN/16, situated to the north of Lewes Road, though this would be of moderate significance for these

receptors, owing to the distance, topography and screening provided by the vegetation.

23. The appeal scheme would also have an adverse impact on long distance views towards the site experienced by walkers using Public Footpaths RIN/21 and RIN/23, and Saxon Down, within the National Park. In my experience, walkers on public footpaths, particularly those approaching and within a National Park should be treated as high sensitivity receptors, with a high susceptibility of change. Notwithstanding the intervening vegetation, the houses and the scale of development would remain visible and prominent, and the erosion to the rural character of the area and beauty of the countryside from these views within the National Park would be evident.
24. For the foregoing reasons, the appeal scheme would have a significant adverse effect on the character and appearance of the area and surrounding countryside, including the setting of the South Downs National Park. It would therefore conflict with Core Policy CP10 of the LPP1, Policy DM1 of the LPP2, and Policy 4.1 of the Ringmer Neighbourhood Plan (February 2016). These notably seek to ensure that development proposals outside planning boundaries protect the distinctive character and quality of the countryside. The proposal would also fail to accord with the aims of paragraphs 174 and 176 of the Framework which, in particular, require development within the setting of National Parks to be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

Heritage

25. The appeal site lies to the rear of the complex known as the Southdown Hunt Kennels. Constructed in the 18th century, the main timber framed and weatherboarded building, which is listed at Grade II, provided accommodation for the Royal Horse Artillery's officers and subsequently became the base for the Southdown Hunt in the 1850s. Whilst the building has been subject to a number of alterations, it retains much of its historic detailing, which includes a symmetrical front elevation with a wide stuccoed porch, flanked by recessed pilasters and large sash windows at ground and first floor levels. Insofar as it is relevant to this appeal, I find that the significance of this listed building resides in its military origins and subsequent use by the Southdown Hunt, but also in its spacious and open rural setting, with the backdrop of the National Park, which can notably be appreciated from Laughton Road.
26. The brick-built Magazine and the former Barracks Hospital, which are from the same era as the main listed building, are formally recognised as non-designated heritage assets by Policy 4.7 of the Ringmer Neighbourhood Plan. Appendix 1 to the Neighbourhood Plan provides additional information regarding these assets, which are considered as heritage buildings meeting Historic England's criteria for listing.
27. Since the site has been occupied by the Southdown Hunt, the Magazine has been used as the hounds' kennels. However, its special interest also derives from its arched and corbelled construction, designed to prevent and contain any explosion, which reflects its military origins. The former barracks Hospital is also of additional historic significance, insofar as the medical services were provided by the geologist and iguanodon discoverer Dr Gideon Mantell. In addition to their respective significance, there is no doubt that these non-

designated heritage assets make an important contribution to the special interest of the Grade II listed building.

28. The irreversible change of use of the agricultural land sited to the rear of the heritage assets and the visual intrusion caused by the proposed built forms would cause permanent harm to the open and rural setting of the Southdown Hunt Kennel complex. This would not only be of detriment to the special interest of the Grade II listed building, but also to the significance of the Magazine and former Barracks Hospital as non-designated heritage assets.
29. The harm would be exacerbated by the addition of acoustic fencing which would be installed to protect the living conditions of future occupiers of the development from the noise caused by the hounds. The acoustic fence, which would be of considerable height, would be sited on the outer edges of the site adjacent to the kennels, and would unduly stand out as an incongruous feature within the setting of the listed building. Whilst the visual impact could to some extent be mitigated by additional landscaping within the confines of the site, the acoustic fencing would in all likelihood remain visible from Laughton Road, as an incongruous feature within the settings of the heritage assets.
30. The appeal scheme would cause less than substantial harm to the significance of the Grade II listed Southdown Hunt Kennels and the non-designated heritage assets known as the Magazine and the Hospital, to which I ascribe considerable importance and weight. In accordance with paragraph 202 of the Framework, the harm caused to the significance of the Grade II listed building should therefore be weighed against the public benefits of the proposal.
31. There is no dispute between the main parties that the harm caused to the special interest of the listed building would in this instance be outweighed by the public benefits associated with the proposal, which include the provision of market and affordable homes. Having regard to the available evidence, I see no reasons to reach an alternative view.
32. Concerns have been raised by interested parties regarding the effect of the proposal on the settings of other heritage assets, including Fingerpost Farm, Broyle Gate and its Barn, which are all listed at Grade II. My attention has also been drawn to the effect of the development on the setting of Little Thatch, which is also identified as a non-designated heritage asset by Policy 4.7 of the Ringmer Neighbourhood Plan. However, these assets are sited further away from the appeal site, and no objection has been raised by the Council in this respect. There are no reasons for me to disagree with this approach, and I confirm that the proposal would preserve the special interest of these heritage assets.

Other Matters

Concerns raised by interested parties

33. Other concerns have been raised by a number of interested parties, notably in respect of highway impacts, which I have noted. However, the Local Highway Authority did not raise any objection to the appeal scheme, subject to the imposition of a number of conditions and associated highway works which would be agreed and implemented as part of a Section 278 Agreement. Overall, I am satisfied that the impacts of the development in that respect have been adequately assessed.

Planning Obligations

34. As noted above, a Section 106 Legal Agreement (the S106) was submitted in support of the appeal, which would secure the on-site provision of 40% (up to 27 units) of the dwellings as affordable properties. It would comprise a mix of affordable rented and shared ownership units. This obligation would accord with the requirements of Core Policy CP1 of the LPP1.
35. Additionally, the S106 includes a financial contribution towards recycling facilities, which is supported by Policy DM26 of the LPP2. The S106 would also secure the provision of a Travel Plan, as well as financial contributions towards a Travel Plan Audit Fee and a Traffic Regulation Order. These are supported by Core Policies CP7, CP9 and CP13 of the LPP1. Furthermore, the S106 sets out an obligation to enter into a Section 278 Agreement, which would secure a number of off-site highway works required as part of the development. These would accord with the aims of Core Policies CP7, CP9 and CP13 of the LPP1 and Policies DM10 and DM35 of the LPP2.
36. 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.
37. The proposal would also include the provision of an off-site Community Woodland Area (CWA) in accordance with a planting specification, specification of works and maintenance plan, which have been secured as part of the S106. As set out in the legal agreement, this CWA would be delivered in accordance with be transferred to a management company for its management and maintenance.
38. In that respect, the Council's CIL Compliance Statement has drawn my attention to Core Policies CP7, CP8 and CP10 of the LPP1, Policies DM14 and DM27 of the LPP2 and Policy 4.6 of the Ringmer Neighbourhood Plan. Despite the policy justification presented by the Council in respect of this CWA, I have concerns regarding this aspect of the proposal, and whether it would meet the requirements of Regulation 122 of the CIL Regulations.
39. Policy 4.6 of the Ringmer Neighbourhood Plan refers to a community-managed woodland within the Parish which, it was argued at the hearing, had already been provided as part of an earlier development. I have however seen no substantive evidence which suggests that the proposed CWA would be managed by the Community. The CWA is presented by the appellant as an additional community benefit, above and beyond the policy requirements in respect of open space. It relates to a parcel of land which is clearly separate from the appeal site and, overall, I fail to see how this would be directly related to the development. Accordingly, the provision of the CWA would not meet the relevant tests.

Interim Policy Statement for Housing Delivery

40. I have had regard to the Interim Policy Statement for Housing Delivery published in March 2020, which sets out the criteria that the Council uses to

determine planning applications for residential development outside settlement planning boundaries. Whilst it has been produced to address the housing land supply issues experienced by the Council, this document does not form part of the development plan and I have accordingly afforded it limited weight for the determination of this appeal.

Planning Balance

41. The Council is presently unable to demonstrate a five-year supply of deliverable housing sites. It is agreed between the main parties that the Council can only demonstrate a supply of 2.73 years, which represents a very significant shortfall. In such circumstances, paragraph 11d) of the Framework states that the policies which are most important for determining the application are deemed out-of-date, and 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.
42. The appeal scheme would enable the construction of up to 68 residential units, 40% of which would be affordable. Given the extent of the housing land supply shortfall and the under provision of affordable residential accommodation, these are considerations to which I ascribe significant weight. It is also noted that the proposed dwellings would be sited within an accessible location, and would be constructed on a partially brownfield site. There would be financial benefits associated with the development. The proposal would also support the economy, firstly during the construction phase and then through increased local spending. These are afforded some weight.
43. I have given the benefits arising from the provision of an ecological area and public open space very limited weight. Relatively limited information has been presented in respect of these aspects of the proposal. With regard to the provision of open space in particular, the appellant explained that further details would be provided as part of a subsequent reserved matters stage. As the designation of an area of public open space has not been included within the S106, there would be no mechanism to ensure that it is provided and maintained for the lifetime of the development. This therefore reduces the weight which can be ascribed to this aspect of the proposal. For the reasons detailed earlier in the decision, I have also ascribed very limited weight to the provision of a CWA.
44. Some of the other benefits associated with the proposed development, including the financial contributions towards recycling and travel plan monitoring are essentially intended to mitigate the effects of the development. As some of these could be of benefit to the wider public, I have nevertheless afforded them very limited weight.
45. Against that, the proposal would conflict with the Council's spatial strategy. Furthermore, the appeal scheme would adversely affect the character and appearance of the surrounding countryside, and the setting of the South Downs National Park, to which I ascribe very significant weight. The appeal scheme would fail to accord with Core Policy CP10 of the LPP1, Policy DM1 of the LPP2, and Policy 4.1 of the Ringmer Neighbourhood Plan, though the weight ascribed to these considerations is reduced due to the housing land supply situation.

46. The proposed development would also cause less than substantial harm to the significance of the Grade II listed Ringmer Kennels and non-designated Magazine and Hospital. Whilst the harm to the special interest of the listed building would be outweighed by the public benefits associated with the proposal, I nevertheless afford considerable importance and weight to each incidence of harm which would be caused to the significance of the affected heritage assets.
47. Overall, the adverse impacts of granting permission for the proposal would significantly and demonstrably outweigh the benefits, when assessed against the proposal in this Framework taken as a whole.

Conclusion

48. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

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INTERESTED PERSONS:

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John Whitlock
Martin Costin
Anne Duke
Linda Grange

CPRE Sussex
Ringmer Parish Council
Local resident
Local resident
Local resident

DOCUMENTS

- 1 Opening remarks on behalf of the appellant
- 2 Opening note on behalf of the Council