

Appeal Decision

Site visit made on 17 January 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI
an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Appeal Ref: APP/Z3825/W/22/3297418

Lancasters Cottage, Littleworth Lane, Partridge Green, Horsham RH13 8EJ

- 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 & Mrs S Brewer against the decision of Horsham District Council.
 - The application, Ref. DC/21/2812, dated 20 December 2021 was refused by notice dated 11 March 2022.
 - The development proposed is the removal of garage and garden buildings. Construction of carbon neutral dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. An application (Reference DC/20/2086) for a new dwelling on the site was refused on 8 January 2021. An appeal against the refusal (Ref. APP/Z3825/W/21/3269125) was dismissed on 10 September 2021. The findings and decision of the Inspector are an important consideration in this current appeal.

Main Issue

3. The main issue is whether, having regard to local and national planning policies and all other material considerations, a new dwelling in this countryside location would be appropriate.

Reasons

4. The appeal site is within the curtilage of Lancasters Cottage, a detached two storey dwelling in the open countryside. There is another residential property, Birchfield, immediately to the north and the two houses are one of several examples of sporadic residential development along Littleworth Lane. The proposed dwelling would occupy garden land at the side of the existing dwelling and also replace a garage and ancillary buildings. It would share an access with Lancasters Cottage and a boundary with Birchfield.
 5. Local planning policy comprises the development plan, made up of the Horsham District Planning Framework 2015 ('the HDPF') and the West Grinstead Neighbourhood Plan 2019-2031 formally made on 23 June 2021. The HDPF sets out the Council's overarching spatial strategy for Horsham District, with Policies
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2, 3, 4 & 26 the key elements of its implementation. All of these HDPF policies are cited in the Notice of Refusal.

6. Policy 2 sets out the main elements of the strategy for the District, whilst Policy 3 establishes the Development Hierarchy. Policy 4 refers to the five types of settlement expansion that will be supported. Policy 26 seeks to preclude development outside built up area boundaries with any development needing to be essential to its countryside location and additionally meeting one of four criteria. As regards the Neighbourhood Plan, there is some confusion in the evidence as to 'Policy 6' but although extracts from the Plan are referenced by the appellants in support of the scheme, the important point is that the Neighbourhood Plan does not allocate any sites for development.
7. The Inspector in the dismissed appeal for a house on the same site appraised the proposal against the HDPF and Neighbourhood Plan policies and also Government policy in the then recently revised National Planning Policy Framework 2021 ('the Framework'). In this current appeal, the single reason for refusal is one of a harmful conflict with the development plan policies and the Framework. I have therefore given careful consideration to the Inspector's reasons for dismissal and findings in paragraphs 18 and 19 of that Decision.
8. These were that *'The appeal site is in the countryside and it has not been demonstrated that the proposal is essential to its countryside location. The development would be contrary to the overall spatial strategy of the development plan and the way in which it provides for the growth of existing settlements to protect the District's rural character and reduce the need to travel. It would be contrary to Policies 1, 2, 3, 4 and 26 of the HDPF policies it would also be contrary to paragraphs 78 to 80 of the Framework relating to the location of rural housing, as well as paragraph 15 which makes clear that the planning system should be genuinely plan-led'*.
9. Having regard to the similarity of the application with the current scheme in terms of principle (one detached house on the same plot) and the fact that the decision was made little more than 18 months ago, I regard the Inspector's findings as meriting significant weight in this appeal. Accordingly, if this new appeal is to succeed there needs to have been one or more of (i) a change in circumstances as regards planning policy; (ii) significant new features of the development, and (iii) additional evidence or submissions of sufficient weight to alter the planning balance.
10. As regards planning policy under (i), the Council is preparing a new District Local Plan for the period 2019-2036 which the officer's report on the appeal application says has not yet reached submission stage and so carries minimal weight in decision-making. The grounds of appeal refers to the policies of the Consultation Draft considered to be relevant to the appeal scheme, which I have duly noted.
11. These include the proposed upgrading of Partridge Green in the HDPF settlement hierarchy to the category of small towns and larger villages and of Littleworth from its 'Unclassified Settlement' to a 'Secondary Settlement'. However, given that the Draft Plan is still at a formative stage I am satisfied that it is only the adopted policies that are sufficiently material to carry significant weight in the determination of this appeal.

12. Turning to (ii) significant new features of the development, the appeal application is a revision of the previous scheme and is now for the '*construction of a carbon neutral detached dwelling*'. The concept was outlined in the Design and Access Statement and further supported by a comprehensive range of supporting information including the Sustainability Reports prepared by Blew Burton and Border Oak. In addition there is the appellants' own planning statement which sets out their vision for a new self-build home with its sustainability credentials.
13. The proposed development of a carbon neutral dwelling is undoubtedly a laudable project consistent with a number of national and development plan energy and planning policies, to which the appeal statement has drawn my attention. In particular there are the energy focused Policies 35, 36 & 37 in the HDPF and the three pronged approach of sustainable development achieving economic, social and environmental objectives in paragraph 8 of the Framework. Paragraphs 60 and 69 of the Framework also refer to the objectives of quickly boosting the supply of homes. I have had regard to these policies in my appraisal and acknowledge that they identify considerations that are helpful to the appellants' case for a carbon neutral home.
14. However, whilst the proposed dwelling would be an exemplar of sustainable construction and is undoubtedly a positive factor to weigh in the planning balance, it does not go to the heart of the reason for refusal. This is the specific location of the site in relation to the Council's spatial strategy and the complementary policies of Framework and their relevance to the proposal (as summarised in the previous Inspector's conclusions in paragraph 8 above).
15. Furthermore, a high degree of sustainability in the method and materials used for construction is by no means an uncommon issue raised in applications and appeals in support of exceptions being made for housing development in locations not supported by spatial policies or where the contemporary design of a proposed building in its context is adjudged to require justification. With measures to mitigate climate change at a high level in national consciousness this will be a trend that is likely to continue to gather pace and in my judgement it has already reached a point where it is no longer exceptional.
16. The implication of this is that a high standard as regards the sustainability credentials of building works and subsequent efficient energy consumption is rather more 'par for the course' than carrying significant weight to justify a divergence from adopted policy for the distribution of development (such policy having been approved only after public scrutiny and independent examination).
17. In this context it is not without significance that paragraph 80 of the July 2021 revision of the Framework deleted 'innovative' as a potential justification in itself for '*isolated homes*' in the countryside. And following the *Bramshill* judgement in the Court of Appeal, the remoteness of the appeal site from a settlement rather than other buildings is a description that can reasonably be applied in this instance, a conclusion already reached by the Inspector in the first appeal.
18. As regards (iii) additional evidence or submissions the appellants have sought to address, the updated position in housing supply is stated in the Council's Annual Monitoring Review (31 December 2021), and confirms a 'Five Year Land

Supply' of only 4 years. This shortfall is a factor in the appellants' favour but is more expediently considered in the weighing of the planning balance towards the end of this Decision.

19. The issue of 'locational sustainability' has been re-addressed in this appeal with the submission of the Transport Sustainability Report that considers the previous Inspector's findings on this subject in paragraphs 14, 17 and 25 of their Decision and now claims to demonstrate that the proposed development is in fact *'located in a sustainable location and is an accessible location to facilities and services'*.
20. To support this conclusion the report records the nearest (Horsham to Brighton service) bus stop to the site as a 14 minute walk from the site; the two nearest railway stations a 16 and 17 minute drive respectively; a 7 minute cycle ride to Partridge Green High Street, and public rights of way to Cowfold village some 2.3km to the east. I acknowledge that this information demonstrates that subject to favourable circumstances (for example clement weather, daylight and the 'right' time of the year) there are some potentially usable options for future occupiers of the appeal dwelling (as a 'self-build' project initially the appellants) to access services needed on a day to day basis other than by private car.
21. On the other hand, as regards accessibility and sustainability the site performs poorly compared with development within the settlements higher up in the hierarchy and on land adjoining those communities. I therefore do not consider the additional detail to be at all persuasive that the placement of Littleworth (at the lowest level in the development hierarchy of HDPF Policy 3) is in any way validated as an appropriate location for an open market dwelling.
22. Even if the Draft Local Plan is in due course confirmed as including the aforementioned upgrades, the location would still not be favourably regarded as appropriate for additional housing. And leaving aside the policy input, from observation at my visit I was in agreement with the previous Inspector's opinion at paragraph 16 that Littleworth Lane - as a narrow unlit road without footpaths and 1.1km & 2.2km from Littleworth and Partridge Green respectively - would be unsuitable for cycling and walking, the latter including the 1.2km to the bus stop when a bus is required for the destination.

Other Matters

23. The Design and Access Statement submitted with the application document, the Sustainability Report as an appeal document and the appeal statement itself refer to permissions given by the Council and allowed appeals for new housing in the countryside. The absence of an appeal statement by the Council in this case precludes an opportunity for a counter schedule of housing applications that have been refused and upheld on appeal for the same reason as in this case.
24. In the event that development on this site had not already been refused permission with the decision confirmed at appeal and/or the inconsistency of the appeal site location with the Development Hierarchy preferences had been more finely balanced, I would regard these decisions as having more weight. However as I have already explained, the principle of the site's unsuitability for development has already been confirmed in the last appeal. And having first satisfied myself that this decision was made on the basis of a fair and

reasonable interpretation of the most relevant HDPF and Framework policies, I do not consider that other decisions based on the particular locational factors and characteristics of each site can reasonably carry significant weight.

25. On another matter, the appeal statement refers to 34 representations of support for the appeal scheme, albeit only 8 of these from addresses within Horsham District. I have taken these into account, but as regards the appellants' frustration with the application being determined by officers rather than committee members, this is not a matter I can take into account.

Planning Balance and Conclusion

26. With a 4 year housing land supply, slightly less than at the time of the first appeal, the Council is unable to demonstrate a 5 year deliverable supply of housing. Having regard to paragraph 11d) and footnote 8 in the Framework this means that the key policies in the determination of the application are out of date. Paragraph 11d) ii also says that where this applies, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
27. I have acknowledged that the proposed dwelling has sustainability credentials as regards its construction and future energy use, although in itself this does not carry significant weight. I have additionally referred to local and national policies that are favourable to the development. Also as regards housing supply, I recognise that the construction of an additional dwelling would make an incremental, albeit modest, contribution to housing supply.
28. However, the development of this site which would result in a new home isolated from any settlement and would be clearly at odds with the HDPF'S spatial strategy which seeks to safeguard the rural character of the District by ensuring that developments and particularly new homes are located within or adjacent to existing built up areas. The development hierarchy is the mechanism that achieves sustainable development with the maximum economic and social benefits, and the appeal proposal would run counter to this with no other 'essential reason' for being in an open countryside location.
29. I therefore conclude that the adverse impacts of the development would significantly and demonstrably outweigh its benefits when considered against the Framework taken as a whole. For this reason the presumption in favour of sustainable development in paragraph 11 of the Framework does not apply.
30. There are no other considerations which outweigh this finding and accordingly the appeal is dismissed.

Martin Andrews

INSPECTOR