



Appeal Decision

Site visit made on 27 February 2023

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 9 March 2023

Appeal Ref: APP/Z3825/W/21/3288813

Land Adjacent Naldretts House, East Street, West Chiltington, RH20 2JY

- 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 S Every, The Classic Home Company (Southern) Limited against the decision of Horsham District Council.
 - The application Ref DC/21/0720, dated 26 March 2021, was refused by notice dated 2 July 2021.
 - The development proposed is erection of a detached two-storey dwelling house together with a detached garage and store with associated access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021 a revised National Planning Policy Framework (the 2021 Framework) was published. This has been reflected in the appeal evidence.
3. In September 2021 Natural England (NE) advised the Council that water abstraction is having a detrimental impact on the Arun Valley. This includes the Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site (the Arun Valley sites). It therefore advises that new development should achieve water neutrality such that water use is equal to, or less than, what it was before development took place. NE and affected Councils are preparing a mitigation strategy but currently there is no general mitigation solution. The main parties have had the opportunity to comment and I will return to this below.

Main Issues

4. The main issues are:
 - whether the appeal site would be an appropriate location for new housing development having regard to the spatial strategy and access to services and facilities;
 - the effect of the proposal on the living conditions of occupiers of neighbouring properties;
 - the effect of the proposal on the character and appearance of the area;
 - and the effect on protected species and provision of biodiversity gain.

Reasons

Location

5. The Parish of West Chiltington is divided roughly into three sections: the old village of West Chiltington; The Common, a more recent development, mostly from the turn of the 20th century; and the predominantly agricultural area.
6. The Development Hierarchy set out in Policy 2 of the Horsham District Planning Framework (the HDPF) focuses development in and around the key settlement of Horsham. Elsewhere growth can take place within defined towns and villages in accordance with the settlement hierarchy set out in Policy 3. The defined built-up area boundary recognises separate areas for West Chiltington Village and for The Common. Together they are identified in the hierarchy as a third tier Medium Village in which development within the built-up-area boundary is acceptable in principle.
7. The appeal site comprises a parcel of land to the south of Naldretts Farm and Naldretts House. These are both within The Common built-up area boundary but the appeal site is outside it. This means that the site is treated as countryside for the purposes of applying HDPF Policies. The spatial strategy seeks to protect the countryside against inappropriate development and the proposal would not have an essential need for a countryside location in terms of Policy 26. The site does not appear to be previously developed land and it is not allocated for development in the HDPF.
8. The West Chiltington Parish Neighbourhood Plan (the NP) is under preparation and it appears there have been several draft versions¹. The earlier version included the appeal site as part of a residential land allocation at Steele Close. It appears that a subsequent draft omits the land allocation at Steele Close. This has not been fully explained but may reflect that in the intervening period dwellings have been built on much of the allocated land at Steele Close albeit not on the appeal site. None of the Drafts have yet progressed to a stage where they would carry much weight in the context of this appeal.
9. West Chiltington Village and The Common have a moderate level of services and facilities for some day to day needs and some access to public transport. These are within a reasonable walking and cycling distance of the site. There is limited dedicated infrastructure for pedestrians and cyclists in the local area, which is reflective of the local rural area. Pedestrians/cyclists consequently have to share the carriageway with vehicular traffic and opportunities to travel by passenger transport are limited. Future occupiers would therefore be likely to rely on the use of the private vehicle for many day to day requirements.
10. The appeal site is in the countryside; is not allocated for development; and access to goods and facilities without relying on the private vehicle is less than ideal. Accordingly there is conflict with the spatial strategy.
11. However, the site adjoins the designated built-up area boundary and is now sandwiched between it and the houses on Steele Close so the term "countryside" is not a particularly apt descriptor. The development would be contained within an existing defensible boundary; would be of a scale appropriate to the village; would not prejudice comprehensive development and would make good use of land. The proposal, being surrounded by houses,

¹ Including NP 2016 to 2032 Pre-sub Draft v10 and a subsequent NP 2021 to 2036

would not cause harm to the wider rural landscape and would not result in the merging of settlements. Moreover, the Council indicates that only a three year supply of deliverable housing land can be demonstrated. Accordingly the spatial strategy must be considered to be out of date in accordance with Paragraph 11 of the 2021 Framework.

12. For the reasons set out above I conclude that, although there would be some conflict with the spatial strategy, the appeal site would not be a completely inappropriate location for new residential development. Accordingly I find limited conflict with Policies 2, 3, 4 and 26 of the HDPF.

Living conditions

13. The proposed dwelling would be some 5.5m to 6.5m from the boundary with Nos 13/15 Steele Close and its side wall would extend about half way along the boundary of each. It would be to the north-west of Nos 13/15 and, due to its height and mass, the building would appear over bearing and over dominant in views from the private gardens of those properties, and to a lesser extent from windows in those properties. In addition the garage, at some 6m high, closer to, and extending almost the rest of the rear boundary of garden of No 15, would add to the sense of enclosure for occupiers of that property. Notwithstanding the trees and shrubs planted along the boundary the proposal would create a gloomy and oppressive outlook for occupiers of Nos 13/15.
14. The proposed first floor windows in the side elevation facing towards Steele Close would serve a bathroom and shower room. Conditions could secure obscure glass and restrict the extent windows could be opened. Any views from the rear first floor windows towards gardens would be oblique and at some distance. Accordingly I find no unacceptable impact on privacy development.
15. I conclude the proposal would have a harmful effect on the living conditions of occupiers of neighbouring properties. There would be conflict with those principles of Policy 33 of the HDPF and the 2021 Framework that seek a good standard of amenity for occupiers/users of nearby property and land.

Character and appearance

16. Nearby existing residential properties are a mix of sizes, styles and designs. The appeal site is set back along a relatively narrow access without a frontage directly onto East Street. However, this would not be dissimilar to other development such as Naldretts House which has no frontage onto East Street.
17. The proposal would introduce a relatively large house and a large garage into what appears to have been a paddock. To that extent it would intrude into an open area. However, other than towards the boundary with the Steele Close properties, there would be substantial open space retained around the buildings. Given there are houses all around the site, albeit some at very low densities, the area cannot be described as so rural open and spacious that the addition of a dwelling and garage would cause unacceptable harm to its character and appearance.
18. The proposed two storey dwelling house would be of traditional design. The appearance and external materials would be of similar to those of Naldretts House. Due to the distances and orientation it would not have an unacceptable relationship with Naldretts House or intrude into views from East Street.

19. The proposed dwelling would have a larger footprint than the nearest pair of houses on Steele Close and would have greater volume appearing of significantly greater bulk particularly at roof level. However, due to the intervening distance, and as the proposed dwelling would have the side elevation facing the existing houses, the proposed house would not in my judgement visually compete with the existing houses to any significant extent.
20. I conclude that the proposal would not have a significantly harmful effect on the character and appearance of the area. I therefore find no conflict with those principles of Policies 25, 32 or 33 of the HDPF or those principles of the 2021 Framework that seek to ensure development is of a high standard of design that complements and respects the character and appearance of the surrounding area.

Protected species and biodiversity gain

21. A revised Mitigation Strategy² was submitted with the appeal. This recognises that part of the appeal site was used as the Steele Close Receptor Site for reptile relocation when that development took place and concludes that the proposed development would impact on a medium-sized reptile population. In mitigation it proposes that an appropriate receptor site, of similar size and condition to the site used as the Steele Close Receptor Site, and suitable to accommodate slow-worms needs to be found and made available with an appropriate management regime. No such location has been identified and no s106 agreement to deliver such mitigation has been provided.
22. The Mitigation Strategy recognises that bats will forage and feed across the site. No information to enable an Appropriate Assessment has been supplied and in the absence of evidence to the contrary I cannot confidently conclude that the proposal would not impact on or sever flight lines for Barbastelle Bats in the wider conservation area for the Mens SAC.
23. The Mitigation Strategy recognises the potential to retain the wildflower meadow area at the south of the site. However, this exists already and there is little by way of measures put forward to secure its future retention and maintenance. Accordingly it would add little by way of biodiversity enhancement or gain.
24. For the reasons set out above I conclude that it has not been demonstrated that the proposal would not have a harmful effect on effect on protected species or that there would be biodiversity gain. Accordingly there would be conflict with Policy 31 of the HDPF and Section 15 of the 2021 Framework which together seek to avoid harm to protected species and SACs; to provide mitigation as appropriate; and to enhance to biodiversity.

Other Matters

25. An additional dwelling within the Sussex North Water Supply Zone would increase water demand from groundwater abstraction at Hardham. NE's position statement makes clear that, given the requirements of the Conservation of Species and Habitats Regulations 2017, proposals for development must demonstrate water neutrality. Development with potential to give rise to likely significant effects on the Arun Valley sites need to be assessed against the requirements of Regulation 63 before any permission is

² Ecological Assessment, Reptile Survey and Outline Mitigation Strategy 9 December 2021

granted. The consideration of any measures to avoid or reduce the harmful effects upon the Arun Valley and achieve water neutrality can only be taken into account at the Appropriate Assessment.

26. The appellant has requested that, as this matter was raised at a late date, it should be dealt with by way of a planning condition. The Planning Practice Guidance on Appropriate Assessment advises that mitigation measures should be sufficiently secured and likely to work in practice. At present there is insufficient certainty as to how water neutrality can be achieved and so it would not be reasonable to impose a condition, even if a wording could be devised that met the other tests in Paragraph 56 of the 2021 Framework.
27. If I had come to a different conclusion on the main issues, it would have been necessary for me as a competent authority to undertake an 'Appropriate Assessment' as to the effect on the Arun Valley and the likely effectiveness of any mitigation measures. No information to enable an Appropriate Assessment has been submitted and no measures are included within the proposal to mitigate the impact or to secure water neutrality.
28. As I have found against the appellant on the main issues, and therefore planning permission is to be refused, this matter need not be considered any further in this case.
29. There are two Grade II Listed Buildings at Naldretts Farm which are listed as 16th and 17th century timber framed houses. The distance between these and the proposed development and intervening trees mean the proposal would not affect the Listed Buildings or the setting in which they are appreciated.

Planning Balance and Conclusion

30. The proposal would have a harmful effect on the living conditions of occupiers of adjacent properties. It has not been demonstrated that the proposal would not have a harmful effect on effect on protected species; no satisfactory mechanism for mitigation has been put forward; and no biodiversity gain has been demonstrated. I give these matters significant weight.
31. Water neutrality has not been demonstrated. There is likely to be an adverse effect on the integrity of the Arun Valley sites and, notwithstanding the housing land supply position and the contribution that one additional unit would make, this weighs against the proposal.
32. There would be some conflict with the spatial strategy but for the reasons set out above I give this relatively little weight in this case. The development would give rise to some economic benefits during the construction phase and future residents would provide support to the local community and local services. There would be a contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area. However, these benefits are moderated by the small scale of the proposal.
33. I conclude that the identified adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. In failing to comply with a number of development plan policies the proposal cannot be said to comply with the development plan as a whole. There are insufficient other material

considerations including the Framework to outweigh that finding. The appeal should be dismissed.

S Harley

INSPECTOR