



Appeal Decision

Site visit made on 16 January 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2023

Appeal Ref: APP/D3830/W/21/3287226

South View, Top Road, Sharpthorne, East Grinstead RH19 4HU

- 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 Leader Express Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/20/4436, dated 25 November 2020, was refused by notice dated 8 October 2021.
 - The development proposed was described as 'demolition of existing dwelling and erection of apartment building containing 8 apartments with associated private parking, private amenity balconies and shared amenity courtyard garden'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted an executed unilateral undertaking (UU) dated 9 May 2022. It relates to financial contributions towards the provision of infrastructure and for mitigation measures in respect of the Ashdown Forest Special Protection Area (SPA). An executed UU dated 27 January 2023 updated a financial contribution for the SPA.
3. The appellant has referred me to a planning application DM/22/1384 for 'the adjacent site' with a determination date of 2 August 2022. No other details were provided. Hyperlinks to the Council's website are not acceptable to the Planning Inspectorate. In any event, I have not been informed about an outcome to this application.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for the proposed residential development having regard to planning policy for the provision of housing;
 - the effect of the development on the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty;
 - its effect on the internal and external living conditions of the occupiers of The Coach House and Middle House, having regard to outlook and privacy; and
 - whether the proposal would make satisfactory provision for infrastructure.

Reasons

Location

5. Though not cited in its reason for refusal, I have been provided with a copy of the Mid Sussex District Plan March 2018 (the DP) policy DP6. Sharpthorne is a 'category 3 medium sized village' in the settlement hierarchy. It provides essential services to meet the needs of its residents and surrounding communities. Future occupiers of the development would be able to access and support local facilities and services in Sharpthorne by walking or cycling as an alternative to the car. The proposal would also help meet a need for two and three-bedroom homes in West Hoathly Parish for young and older people.
6. However, South View is on the fringe of Sharpthorne in the countryside. It is part of a small group of sporadic buildings beyond the Council's defined built-up area settlement boundary for the village (the boundary). While the site is not isolated this group of buildings is not a community as such and the proposal is not for rural workers, affordable housing or a rural exceptions development. It does not therefore meet any of these DP exceptions for new housing development in the countryside. The site is not allocated for housing development but the proposal is for fewer than 10 dwellings, so in principle acceptable in the countryside as a potential windfall site provided, in this case, the site is contiguous with the boundary.
7. The West Hoathly Neighbourhood Plan April 2015 (the NP) allocates housing sites at Sharpthorne for up to about 55 new homes, including on the west side of the site (part of a woodland) and to the north (some fields). Both of these planned enlargements of the village have yet to be developed but a significant part of the NP and DP plan period to 2031 remains. There is no evidence that the allocated sites will not be developed or that local housing need will not be met by this means or growth by infill housing within the village. Meantime, there is no evidence that the boundary encapsulates the allocated sites which therefore remain in the countryside. The DP post-dates the NP and it did not update the boundary as shown in the NP. Any change to the boundary is a matter for the plan making process.
8. The site is not, therefore, contiguous with the built-up area settlement boundary of Sharpthorne. As a result, the expansion of this village by the proposed residential development on the site is not supported by the Council's development plan housing spatial strategy.
9. I find that the site is not a suitable location for the proposed residential development having regard to planning policy for the provision of housing. The proposal does not comply with DP policies DP6, DP12 and DP15 or with NP policies WHP7 and WHP8. These policies seek to protect the intrinsic character and beauty of the countryside from unnecessary development and restrict new housing in it unless there is a special justification, including a location contiguous with a defined built-up area settlement boundary.

High Weald Area of Outstanding Natural Beauty (the AONB)

10. The AONB is a nationally designated landscape. It has the highest status of protection in relation to conserving and enhancing its landscape and scenic beauty. Its distinctiveness includes an unobtrusive dispersed settlement

pattern along ridges interspersed by fields and vegetation, long views towards skylines, remoteness, locally recognisable building styles and a sense of place.

11. The main two-storey part of South View has a relatively limited, mainly square floor plan with a tall, large projecting gable at the front on one side and a less pronounced gable on the other side. It gives a vertical emphasis and a stepped roof profile front and rear reduces in height to the west including single-storey outbuildings. This irregular shaped floor plan and varied elevation and roof form articulates the building. Though subservient in scale and massing to Middle House and Little Cookhams, South View is an integral part of this terraced building which was historically a single house and with red brick elevations and large chimneys is a distinctive feature on the ridge along Top Road. Sited mostly behind intervening buildings it is largely out of public view on the approach into or out of the village. Though its fabric and structure require some maintenance South View makes a positive contribution to the landscape and scenic beauty of the AONB.
12. The apartment block would be inherently high-quality in design and external materials. The L-shaped floorplan would broadly reflect that of South View and its outbuildings taken with an extant planning permission DM/20/1217 which includes a swimming pool building, albeit not yet built. However, its regular L-shape would otherwise have little articulation and little significant variation in roof levels. Sited to the west and behind the building lines formed by the front and rear elevations of Middle House and Little Cookhams it would be visually and physically detached from this part of the remaining terrace.
13. The front wing would be narrow and long with a uniform main ridge and eave lines and heights and no chimneys. Despite the small gable roofs at either end or the central projecting gable, this part of the building would have a clear horizontal emphasis. The rear wing would extend no further in depth on the site than the approved pool building and either be the same width or slightly narrower (there is a variance in the submitted plans). Either way, it would be no further west than the approved pool building and marginally subservient in height to the front wing. Despite a one and a half-storey form it would nonetheless have taller eaves and ridge heights and more extensive side elevations and roof slopes than the very shallow dual pitched roof and gables of the pool building. This difference in built form on this part of the site would be more pronounced and disparate in relation to the lower-level wall that encloses most of this part of the site and does not extend back so far in depth.
14. Traditional white render painted brick or weatherboarding and tile hanging is used in buildings elsewhere in the surrounding area. However, these materials are at odds with South View, Middle House and Little Cookhams. There is no evidence that they are present in the other buildings next to the site at The Coach House and Cookhams Cottage. These materials would jar with the prevailing red brick of South View and these other properties and erode the collective visual coherence of this existing group of buildings.
15. The proposal would not, therefore, respect important features of South View and its immediate context or be well-designed in these regards.
16. Though a smaller footprint overall, the apartment block would have greater building volume than South View and the pool building combined. Its increased height and overall scale and massing towards the west side of the site, at the front and in-depth to the rear, would result in appreciably more built form

where there is currently little. This would erode spaciousness. The significant increased density of residential development would have an overly urbanising effect at the site, including a greater spread of domestic use and activity such as car parking on the west boundary. This gradual suburbanisation of this part of the landscaped outskirts of the village would adversely affect the visual amenity of the site in relation to its immediate rural surroundings and erode the character and appearance of this part of the countryside.

17. This incremental village expansion would not be particularly evident in viewpoints from the Sussex Border Path public right of way or Horsted Lane that I have been referred to (including in the general direction of a viewpoint to the south of Top Road into the village referred to under NP policy WHP1). This is due to distance, topography or intervening landscape features. However, a significant part of the development would encroach into public views from the pavement on the north side of Top Road near the driveway entrance, especially in winter months when trees are not in leaf. It would also interrupt the extent of longer views across this currently more open part of the site towards a skyline. Proposed tree planting along the west edge of the driveway would not close this gap.
18. Albeit in a small way, the proposal would erode sense of place and remoteness and not protect the historic pattern of the village and its setting, including the loss of a locally distinctive building style and the appearance and arrangement of built form in this group of buildings. It would sever the linked visual and spatial relationship of South View to Middle House and Little Cookhams and diminish the value of this terrace as a relic of the original single house. The negative impact on the landscape and character of Sharpthorne would undermine the integrity of the AONB and the way in which it is experienced. Proposed landscaping to screen the development and the absence of greater public visibility would not alter the intrinsic harm to the AONB.
19. I have been referred to planning permission HO/04/00624/FUL granted by the Council in 2004 at Mulberry House further to the east of the site. However, although it was significantly larger, this replacement dwelling did not result in a net gain of new homes, thus no enlargement of Sharpthorne village in this sense. It was also considered under a previous development plan context. It is not therefore directly comparable.
20. I find that the development would not conserve or enhance the landscape or scenic beauty of the AONB and cause significant harm to the AONB. It does not comply with DP policy DP16 which includes that development in the AONB should conserve or enhance natural beauty.

Living conditions

21. The apartment block would not restrict main perpendicular views to the west or angled views to the north from ground and first floor windows in the front elevation of The Coach House. However, it would intrude into angled views to the south. It would be taller and wider than the single storey buildings and close enough to have a limited overbearing effect in relation to front rooms and the front garden courtyard. Reciprocal angled views from new north facing windows would limit the extent of overlooking towards these windows. The front garden courtyard is the least private space and overlooking of this area or increased domestic activity on the site next to it would not be overly

intrusive. Intervening boundary planting would have a partial screening effect, though less so in winter months when not in leaf.

22. The apartment block would be too distant and to one side to adversely affect outlook from rear windows of Middle House; and for these reasons views from windows in the east side elevation of the rear wing of the apartment block towards these rear windows would cause no harm. There would be similar angled views of the rear garden from the rear elevation windows of the apartment block as already exist from South View. However, windows in the east side elevation of the rear wing, especially first floor, would give perpendicular views across the most private part of the garden closest to the back of this house and result in actual and perceived overlooking. This rear garden is quite wide and the main communal garden area would be further to the south. However, the courtyard garden would be next to this most important part of the garden with potential significant increased domestic activity and use of this space by the residents of the development. There is no evidence that it being sunken down would have any appreciable mitigating effect on potential increased noise or disturbance.
23. I find that the development would cause limited harm to the internal and external living conditions of the occupiers of The Coach House having regard to outlook and privacy; and cause moderate harm to the external living conditions of the occupiers of Middle House, having regard to privacy. It does not comply with DP policy DP26 which includes that development should not cause significant harm to the amenities of existing nearby residents.

Infrastructure

24. The Council's Development Infrastructure and Contributions Supplementary Planning Document July 2018 (the SPD) defines the names of infrastructure contributions and what they would be used for in precise terminology. It also specifies future indexation measures and requires payment prior to commencement of development. However, the first UU does not entirely incorporate the SPD terminology, uses a different indexation measure and would pay 50% of the contributions on commencement and 50% prior to occupation. It is also not clear to me whether some contributions have been calculated on the basis of a net gain of 6 or 7 residential units, given that South View contains a separate unit of living accommodation.
25. I appreciate that it is a UU and the appellant considers it is internally logical and transparent against the provisions of the SPD. Nevertheless, it would run with the land, so potentially a new landowner. The alternative wording causes a lack of clarity and creates future uncertainty against the provisions of the SPD. Even if the appellant's index is used by other Council's and is readily available there is no evidence it would deliver the same level of contributions as would this Council's indexations. Nor is there any objective evidence that front loading all the contributions would be a large financial burden for the landowner or to justify that the development would otherwise not be viable or deliverable; nor to confirm that a significant proportion paid on occupation would result in timely provision of infrastructure without any lag.
26. Notwithstanding the above, this UU contains the wrong company number. The appellant states this is why the Council's Companies House check shows Leader Express Limited is a dissolved company. I have been provided with an up-to-date office copy entry from Land Registry to confirm this company is the

owner of the site. However, the appellant has not explained the origin or provenance of what appears to be a screenshot that it relies on to suggest this company is live, not dissolved. In any event, even if this UU has been correctly executed it can thereafter only be varied using the procedure set out in s106A¹. It is not possible for an Inspector or the Planning Inspectorate to make a handwritten amendment and strike out the company number as the appellant suggests, even if this were agreed by both main parties, and it is not a 'blue pencil' clause. A new deed would be required.

27. I am not, therefore, satisfied the appellant has demonstrated that this UU would achieve its intended effect to make appropriate provision for infrastructure having regard to the council's requirements, which are otherwise not in dispute, nor that it has been correctly executed and is legally sound. The UU would therefore not be reasonable, necessary and proportionate or make the proposal acceptable in planning terms. As such it would not accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 or the tests for planning obligations set out in the National Planning Policy Framework and relevant Planning Practice Guidance. In these circumstances, the proposal does not comply with DP policy DP20 which requires developers to contribute towards infrastructure made necessary by the development.
28. Consequently, in this appeal there are no public benefits in terms of helping to deliver local off-site children's play space, a community hub building, education, sport, library and transport improvements or the other specified community services and facilities. Even if this UU was acceptable in all respects, this would not be determinative because it would not overcome the harm that would be caused by the development.

Planning Balance

29. The Government seeks to significantly boost the supply of homes. A net gain of 6 residential units on this windfall site would make an effective and efficient use of previously developed land and be a notable contribution to the provision of new homes in the District. It would also help to meet a local housing need and support local services and facilities in a rural area. The economic and social benefits associated with building and occupying the development are factors which I consider have moderate weight in favour of the proposal.
30. However, there is conflict with the development plan. This countryside location is not suitable for the proposed residential development, a matter that I consider carries substantial weight. The proposal would not protect a valued landscape whereas great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty. The adverse impacts on the living conditions of some residents in this appeal carry significant weight.
31. The benefits do not, therefore, outweigh the environmental and social harm.
32. Since I intend to dismiss the appeal for these reasons, there is no need for me to consider the Ashdown Forest SPA and related UUs any further. To do so would not affect my decision or alter the outcome of the appeal.

¹ Town and Country Planning Act 1990 (as amended)

Conclusion

33. The development does not accord with the development plan taken as a whole. There are no other considerations to indicate that the decision should not be made otherwise than in accordance with the development plan.
34. Consequently, for the reasons given above the development is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR