



Appeal Decision

Site visit made on 19 April 2023

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2023

Appeal Ref: APP/L3815/W/22/3303937

1 New Cottages, Coach Road (South), Shopwhyke, Oving PO20 2BG

- 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 Mrs H Terry against the decision of Chichester District Council.
 - The application Ref O/22/00073/FUL, dated 16 October 2021, was refused by notice dated 16 May 2022.
 - The development proposed is a two-storey detached 2 bedroom dwelling
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I consulted the parties, the Environment Agency and Natural England with reference to the implications of the latter's "Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites", due to the District being one of those covered by the advice. I cover these matters in more detail, where necessary, below.

Main Issues

3. The main issues in this case are firstly, whether the appeal site would be a suitable location for new housing in the light of the development plan; secondly, the effects of the proposed development on the character and appearance of the area; and thirdly, the effects of the proposed development on the living conditions of the occupiers of 1 New Cottages with particular reference to privacy and outlook.

Reasons

Site, surroundings and proposed development

4. The appeal proposal relates to a roughly triangular shaped portion of the garden of 1 New Cottages, a semi-detached dwelling in reasonably generous, but irregularly shaped grounds, which is set back from Coach Road. Other houses addressing this part of Coach Road are also situated in relatively spacious plots which serves to impart a largely verdant character to the appeal site's environs. Across the road from the appeal site lies the parking area for Westbourne House School, separated from the road by a strip of landscaping, which includes mature trees. To the rear of the appeal site, the back gardens and elevations of houses on the Shopwhyke Lakes development are present.
5. The proposed development, as described in the banner heading above, would introduce a two-storey dwelling onto the appeal site. On a roughly L-shaped

footprint, the dwelling's rear elevation and garden would be orientated toward the flank wall of No 1, and its front would look towards a roughly triangular area adjacent to Coach Road which would be given over to access and parking arrangements for the site.

Whether a suitable location

6. Taken together Policies 2, 45 and 48 of the Chichester Local Plan: Key Policies (the Local Plan) set the development strategy for the District, which identifies the locations where development and infrastructure are to be located, and requires development to maintain the actual or perceived individual identity of settlements. The National Planning Policy Framework (the Framework) (at paragraphs 12 and 47) highlights the statutory status¹ of development plans, such as the adopted Local Plan, as the starting point for planning decision making.
7. The appeal site is outside of the settlements as defined by the Local Plan. Moreover, as the appeal scheme would provide general needs housing, albeit that the appellant's intention is for family members to occupy the proposed dwelling, it would not fall within one of the exceptions to the restrictions pertaining to development in such locations set out by the Local Plan (in Policies 2 and 45), which are those that require a countryside location, meet an essential local rural need or support rural diversification. In these terms, the proposed development would be in clear conflict with the development strategy for the District as established in Policy 2 of the Local Plan.
8. The appellant considers that Shopwhyke Lakes and other nearby developments call into question the appropriateness of the established settlement boundary. However, the Shopwhyke Lakes scheme in particular relates to a strategic development location identified in the Local Plan in Policies 2 and 16. My attention has also been drawn to consultation material produced in support of an emerging plan showing potential alterations which could include the appeal site within the settlement boundary. However, in the context of the Framework (at paragraph 48) I attach only minimal weight to this factor due to the relatively early stage of plan preparation.
9. Accordingly, these latter matters do not alter my conclusion on this main issue that the proposed development would conflict with the development strategy of the Local Plan and thus not be a suitable location for housing in these terms. The proposed development would therefore conflict with the above-cited policies of the Local Plan insofar as, taken together, and amongst other things, they seek to locate development within identified settlements, and maintain their individual identities.

Character and Appearance

10. In its current state the appeal site contributes to the overall spaciousness of the area's character, including as it does only low scale ancillary structures. The appeal scheme would introduce a two-storey house onto the site, on a plot which is considerably narrower than those of other residential properties in its environs. Consequently, the proposed dwelling would be located much closer to the roadside than adjacent two-storey houses. This combined with the overall scale and massing of the proposed house, the expansive area to its

¹ As set out in s38(6) of the Planning and Compulsory Purchase Act 2004

front given over to access and parking, and the lack of boundary treatments and landscaping proposed adjacent to that area would impart a dominant and assertive character to the appeal scheme. These aspects of the appeal scheme, taken together with the proposed dwelling's tight relationship with the site's boundaries, would impart an intensively developed appearance to the plot, which would offer a strong contrast to the looser pattern of development in its surroundings. For these reasons, the proposed development would be a discordant and incongruous addition to the immediate streetscene.

11. Although the appellant considers the parking area and structures associated with Westbourne House School to provide a context for the proposed development, buildings at that site are largely set well back from Coach Road, and there is a landscaped strip, including some mature trees between the car parking and the highway opposite to the appeal site. These aspects of the school site soften its associated visual impacts, and help to assimilate it into the streetscene, in a way that would not be achieved by the proposed layout of the appeal scheme. Similarly, the distance of the Shopwhyke Lakes houses from Coach Road, and the presence of trees, gardens and landscaping within the resultant gap, impart a sense of spaciousness that the proposed development would lack.
12. I note the appellant's assertion that new dwellings generally have smaller gardens than those associated with the houses facing Coach Road. However, despite this general view no specific comparable examples have been drawn to my attention, and accordingly this matter does not serve to justify the proposed development's harmful effects in character and appearance terms. Whilst the proposed development would employ facing materials and an eaves height and pitched roof style that would echo design details of houses in its surroundings, these aspects would not successfully address the overall incongruity of its plotting and layout.
13. Accordingly, taking the above considerations together leads me to the clear conclusion on this main issue that the proposed development would cause material harm to the character and appearance of the area. For these reasons, the proposed development would conflict with Policy 33 of the Local Plan, which amongst other things, seeks to ensure that residential development respects and where possible enhances the character of the surrounding area and site and its setting in terms of siting, layout and density.

Living Conditions

14. The bedroom window on the rear of the proposed dwelling would not meet the 19m to 21m distance to the upper windows of No 1, which the Council considers to be an acceptable minimum. However, the existing and proposed dwellings would have an oblique rather than a direct relationship with each other, which would considerably limit the depth of intervisibility between the rooms that the windows serve. Moreover, the orientation of the existing and proposed buildings, taken together with the filtered views that would be available from their windows as a result of intervening landscape and boundary features would act to minimise overlooking of the garden areas. For these reasons, the proposed development would not lead to a material reduction to the privacy available to the occupants of No 1. Similarly, the orientation of the two dwellings would ensure that the flank windows of No 1 would have an outlook that encompassed the mature trees to the rear of the garden, and

other landscape elements with the proposed development being a visible, but not an unduly enclosing feature. Consequently, the proposed development would not result in a harmful reduction in the outlook available to the occupants of that existing property.

15. Accordingly, taking the above considerations together leads me to the conclusion on this main issue that the proposed development would not lead to material harm to the living conditions of the occupants of 1 New Cottages with particular reference to privacy and outlook. For these reasons, the appeal scheme would not conflict with Policy 33 of the Local Plan, insofar as, amongst other things, it requires new residential development to respect neighbouring amenity.

Planning Balance

16. The Council cannot demonstrate a 5 year supply of deliverable housing sites. Neither this matter, nor the Council's estimate of the amount of deliverable supply (equating to some 4.74 years of its requirement, with a shortfall of some 176 dwellings) are contested by the appellant. In these terms, the Framework is clear (at paragraph 11, footnote 8) that the development plan policies most important for determination of an application are deemed to be out of date. The Council refers to its Interim Position Statement for Housing Development, which aims to manage housing delivery and maintain a five-year supply of housing, and indicates that the proposed development would not accord with this insofar as its location away from a settlement is concerned. Be that as it may, this document does not appear to have development plan status, and does not override the implications of the Framework in terms of housing supply issues, and policies that are to be deemed out of date.
17. The appeal site is not within an area identified as a Special Area of Conservation, Special Protection Area (SPA) or Site of Special Scientific Interest, and the Council and Natural England confirmed that the proposed development would be located outside of the fluvial catchment area for the Chichester and Langstone Harbours SPA/RAMSAR. Furthermore, the Environment Agency has not objected, either at the application or appeal stages to the proposed package treatment plant for the appeal scheme. On this basis, I am satisfied that the proposed development would avoid significant adverse effects either alone or in combination with other plans or projects to European Sites, insofar as increased nutrients arising from wastewater is concerned. On this basis, the application of policies in the Framework that protect such areas does not provide a clear reason for refusal, and I will therefore consider whether any adverse impacts of granting permission would significantly and demonstrably outweigh any benefits, when assessed against the policies of the Framework taken as a whole (per paragraph 11(d)(ii) of the Framework).
18. The proposed development would supply an additional house in an area with reasonable access to A roads providing links to Chichester and Bognor Regis, with Westbourne House School close by. Moreover, the proposed development, subject to implementation of appropriate measures for foul water treatment, would avoid harm to biodiversity interests. In addition, the appeal site does not appear to be within the setting of any listed buildings, and is not located in the National Park or any Areas of Outstanding Natural Beauty.

These matters point to a relative lack of planning constraints relating to the appeal site.

19. The Framework (at paragraph 60) points to the Government's objective of significantly boosting the supply of homes, and the importance of a sufficient amount and variety of land coming forward where it is needed. In addition, as the Framework points out (at paragraph 69) small sites, such as the one subject to this appeal, can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly.
20. Although the appellant has occupied the appeal dwelling for some 45 years, they now consider the appeal site to be redundant space, as the expanse of garden is not needed due to family members no longer residing at No 1. As the appeal site is not within a "built up area", and is somewhat detached from the wider settlement, and mindful of the relevant Court judgement² on this matter, I concur with the appellant that it could meet the definition of previously developed land given in the Framework. Consequently, whilst the single dwelling proposed would not substantially increase the area's housing supply, the use of the site to assist meeting the need for homes in the area (per paragraph 119 of the Framework), when taken together with the other housing supply factors outlined above, carries moderate weight in favour of the appeal scheme.
21. The intention is for the appellant's family members to occupy the proposed house, and this could facilitate support for the appellant in future years without them having to move into care provision or similar. This aspect of the proposal attracts some support from the Framework insofar as it expects that planning decisions should aim to achieve healthy, inclusive and safe places (at paragraph 92). Whilst this is the intention, the appeal scheme is for a new separate dwelling, and no mechanisms have been presented as part of the appeal that would restrict its occupation to family members of the appellant. Neither is it clear that other measures, which could facilitate similar outcomes in support terms, would be unavailable to the appellant. Consequently, whilst this matter weighs in favour of the appeal scheme it does so to a limited degree.
22. I have found that the proposed development would not cause material harm in relation to living conditions. However, this is a neutral factor which neither weighs in favour of nor indeed against the appeal scheme in the overall planning balance.
23. Weighed against the above is the material harm that the proposed development would cause in character and appearance terms. In these respects, the Framework is clear that the environmental objective of sustainable development is served by the protection and enhancement of the built environment (paragraph 7) and that the creation of high quality places is fundamental to what the planning and development process should achieve (paragraph 127). Furthermore, the Framework expects development to be sympathetic to local character, and visually attractive as the result of, amongst other things, its layout and appropriate and effective landscaping (paragraph 130). For the reasons set out above, the proposed development would fail to

² Dartford Borough Council v The Secretary of State for Communities and Local Government and Ors [2017] EWCA Civ 141

meet these requirements of the Framework, and this is a matter that attracts considerable weight in this case.

24. Accordingly, taking these matters together leads me to the view that the proposed development's adverse character and appearance impacts are the prevailing consideration in this case, which significantly outweigh its benefits, when assessed against the policies of the Framework taken as a whole.
25. As a result, material considerations (including the Framework) do not justify a decision other than in accordance with the development plan with which, in terms of the above-cited Local Plan policies relating to settlement strategy and character and appearance matters, the appeal scheme would clearly conflict.

Conclusion

26. Accordingly, for the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR