



Appeal Decision

Site visit made on 8 August 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2023

Appeal Ref: APP/Q3820/W/22/3304097

9 Mill Road, Three Bridges, Crawley RH10 1NB

- 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 Ridley against the decision of Crawley Borough Council.
 - The application Ref CR/2021/0844/FUL, dated 10 November 2021, was refused by notice dated 13 July 2022.
 - The development proposed is the erection of 1 x attached three bed dwelling in side garden space, and erection of single storey side and rear extension and internal alterations to existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. One of the reasons for refusal relates to the lack of a legal agreement to secure contributions towards both affordable housing and water neutrality measures. I deal with the issue of water neutrality later in my decision.

Main Issues

3. The main issues are therefore a) the lack of legal agreement addressing the provision of affordable housing; and b) whether or not the proposed development needs to provide on-site parking.

Reasons

Affordable Housing

4. The appellant contends that the provision of a contribution towards affordable housing is contrary to Government policy. However, the appellant's appeal statement also indicates a willingness to enter into an agreement to provide a contribution. Correctly, there is no suggestion that it would be appropriate to address this matter through a planning condition.
5. Policy H4 of the Crawley Borough Local Plan 2015 (CBLP) seeks a commuted sum towards the provision of 40% off-site affordable housing for sites of 5 dwellings or less. However, this approach is not consistent with the Government's Written Ministerial Statement of 2014, now incorporated into the National Planning Policy Framework 2021 (the Framework), which states that affordable housing should only be sought from major residential developments i.e. sites of 10 or more homes.

6. The Council refers to its 'Affordable Housing' Supplementary Planning Document 2017 (SPD), which outlines its position. From the evidence presented with this appeal it is apparent that there is an ongoing need for the provision of affordable housing in Crawley. Furthermore, a significant proportion of all housing within the borough is delivered through small developments. In these circumstances, I consider that the approach to affordable housing provision set out in the Framework is not a material consideration that outweighs the requirements of the development plan.
7. However, the appellant points to an inconsistency between the SPD and the Framework in their respective definitions of what would constitute a small (or non-major) site. The SPD includes sites of 10 houses or less whereas the Framework considers sites of less than 10 to be non-major. To my mind it would seem unlikely that many sites would have been included in the Council's figures because they were delivering exactly 10 units and so were categorised incorrectly. Indeed, the SPD identified just 3 sites between 2010/11 and 2015/16 which delivered exactly 10 houses and so fell outside the Framework's definition of a small site but within the Council's definition.
8. Given the above, I am satisfied that there are exceptional circumstances in terms of affordability and housing need in Crawley that justify the approach taken by Policy H4 of the Local Plan and supported by the SPD. Any inconsistency between the SPD and the Framework is not, in my opinion, so large as to invalidate the overall findings of the SPD and so alter my overall conclusions in this regard. An affordable housing contribution is therefore justified in this case.
9. As noted above, the appellant states a preparedness to enter into an agreement albeit the size of the required affordable housing contribution is queried. Importantly, there is no legal agreement or unilateral undertaking before me. The 'Procedural Guide: Planning appeals – England' requires the appellant, in cases such as this appeal, to submit an executed and certified copy of any planning obligations at the time of making the appeal. It explains that the Inspector will not delay the issue of a decision to wait for an obligation to be executed unless there are very exceptional circumstances.
10. Although I appreciate that the appellant was in discussions with the Council regarding the appropriate mechanism for the contribution, matters were not progressed following the Committee's decision. The situation has not subsequently changed. This does not constitute very exceptional circumstances.
11. Accordingly, I conclude that the proposal does not make appropriate provision for affordable housing. Therefore, in relation to this main issue, the proposal does not accord with Policy H4 of the CBLP.

Parking

12. Policy CH3 of the CBLP sets out various requirements that new developments are expected to meet. These include but are not limited to ensuring developments meet the requirements for their safe and proper use; and protect the environment of existing residents. The policy, together with Policy IN4, also require developments to comply with the relevant Supplementary Planning Documents (SPD) produced by the Council.

13. The Council's 'Urban Design' 2016 SPD indicates that there would be a requirement of between 3.2 – 4.5 car parking spaces to serve the existing and proposed dwellings. There would not be any on-site parking provision. Consequently, there is likely to be an increased demand for on-street parking.
14. Mill Road is a one-way road with no pavements. It is located close to Three Bridges station and therefore the area is subject to a controlled parking regime during the day. Residents have indicated that there are on-going problems with on-street parking capacity in Mill Road and the surrounding area. Residents are concerned with the effect this would have on their ability to park and undertake their normal activities. The Council is principally concerned that any additional demand would impede the operation and safety of the highway although it also acknowledges that it would impede existing residents' ability to park their cars.
15. The appellant has not undertaken a parking stress survey. Instead, the appellant relies on the officer report and previous approvals for extensions to the existing dwelling which accepted an absence of parking on the site, albeit for one large dwelling as opposed to two separate dwellings.
16. Officers undertook four site visits which indicated that there was spare capacity on street during the day when the parking restrictions were applicable. My own site visit was also during the day when the restrictions were in operation. Although my visit is only a snapshot, my observations were similar to those of officers in that there appeared to be sufficient on-street parking capacity near the appeal site to accommodate the likely demand from the development.
17. An evening site visit by officers was said to also show on-street capacity. However, I am not aware that this visit was during the night (00:30 to 05:30) when parking demand is reasonably expected to be at its highest and when a parking stress survey would ordinarily take place.
18. Substantive evidence is therefore limited. However, the officer report does note that 80% of permits for this zone have been issued. This suggests that there is scope for additional permits to be issued and thus capacity for additional cars to be parked during the restricted hours. This broadly tallies with both the officer observations and my own.
19. I do not doubt from the representations made by interested parties that there are instances when levels of demand make finding available on-street parking difficult. However, in light of the foregoing, this is likely to be most apparent outside of the restricted hours.
20. Importantly, the Highway Authority has indicated that it does not anticipate the additional on-street parking demand that would arise from the development would have an adverse effect on highway safety. I have no doubt that the Highway Authority would have been mindful of local on-street parking pressures, the extent to which any overspill parking might lead to poorly parked vehicles in congested streets and the extent to which this could raise highway safety concerns.
21. I accept that one consequence of additional demand for on street parking outside of the restricted hours is that existing and future residents of the area would to some extent be inconvenienced by an increased competition for the available spaces. This would manifest itself in terms of taking longer to find a parking space, or residents having to park further away from their homes.

Whilst I acknowledge that this would be an inconvenience, there is not sufficient evidence to indicate that this would amount to an unacceptable impact on their living conditions.

22. Given my reasoning above, I conclude on this main issue that the proposed development does not need to provide on-site parking.
23. Although I am unable to find that the scheme accords with the CBLP in terms of compliance with the SPD, I am satisfied that the proposal can be justified given this breach would not be unduly harmful. On balance, I find that the proposal accords with the overall objectives of Policy CH3 of the CBLP insofar as it allows the development to meet the requirements for its safe and proper use and that the environment of the existing residents would be sufficiently protected.

Other Matters

24. Natural England's Position Statement for Applications within the Sussex North Water Supply Zone – September 2021 Interim Approach, expressed concerns about groundwater abstraction within this Zone. It is said this is having a detrimental impact on the protected features of the Arun Valley. As such, developments within the Zone must not add to this impact. One way of dealing with this is for developments to demonstrate that they would achieve water neutrality and so avoid further pressure for water abstraction.
25. Even if I were to conclude that a pre-commencement condition was appropriate in this instance, I have found the proposal to be unacceptable for another reason. Therefore, it is not necessary for me, as the competent authority for the purposes of the Conservation of Species and Habitats Regulations 2017 (as amended), to pursue the matter further or undertake an appropriate assessment.
26. I have not had further regard in this decision to concerns over how the Council handled the application as this is an administrative matter to be taken up directly with them. I have focused on the planning merits of the scheme in regard to the main issues of the case.

Conclusion

27. The provision of a new dwelling that is well located to facilities and services would attract positive weight. I have found the absence of on-site parking would not cause harm, but this would be a neutral factor in the overall balance. However, any positive weight in support of the scheme would not be sufficient to outweigh the harm that the proposal would have on the provision of affordable housing in the Borough.
28. The proposal would therefore conflict with the development plan when read as a whole. Accordingly for the reasons given above, and having had regard to all other material considerations, I conclude that the appeal should be dismissed.

Stewart Glassar
INSPECTOR