



Appeal Decision

Site visit made on 7 August 2023

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

an Inspector appointed by the Secretary of State

Decision date: 30 August 2023

Appeal Ref: APP/Z3825/W/22/3303126

Keepers Cottages, West Chiltington Lane, Coneyhurst RH14 9DL and land at Coolham Road, Coolham RH13 8GT

- 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 Francis Pulvermacher, Christ's Hospital Foundation, against the decision of Horsham District Council.
 - The application Ref DC/21/2563, dated 10 November 2021, was refused by notice dated 25 January 2022.
 - The development proposed is demolition of existing Keepers Cottages, and erection of one residential dwelling, access, landscaping and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is to replace a building which is currently derelict and uninhabitable, known as Keepers Cottages (which I will refer to as the Cottages), with a new dwelling on a site some two kilometres away (the new dwelling site). The application form describes the site location as West Chiltington Lane, Coneyhurst RH14 9DL. The appellant has confirmed that RH14 9DL is the postcode for the Cottages. The new dwelling site is on land at Coolham Road, Coolham RH13 8GT. For clarity I have added this to the banner heading above. The Cottages are in Billingshurst Parish whereas the new dwelling site is in Shipley Parish.
3. Mention is made in the Council's Statement of Class Q Prior Approval and two new dwellings but it is clear from the application form and the accompanying information that the proposal is for full planning permission for a single four-bedroom dwelling and I have determined the appeal on this basis.
4. Planning permission Ref DC/17/0112 was granted for the renovation and reinstatement of two 2-bed semi-detached cottages back into residential use at Keepers Cottages (the Cottages permission). The Council considers this has been implemented by the installation of a foul water drainage pipe and two inspection chambers.
5. A Water Neutrality Statement dated May 2022 (the WNS) was submitted with appeal. The Council has had the opportunity to consider its contents.

Background and Main Issues

6. The main issues are: whether the new dwelling site is an appropriate location for a dwelling taking into account local and national spatial planning policy; the

effect of the proposal on the character and appearance of the area taking into account the proposed new dwelling and the demolition of the Cottages; and the effect on the integrity of the Arun Valley Special Area of Conservation, Special Protection Area, and Ramsar Site (the Arun Valley sites).

Reasons

Spatial Strategy

7. 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 new dwelling site is outside any defined built-up area boundary and is in the countryside for planning policy purposes. Policy 26 seeks to protect the rural character and undeveloped nature of the countryside against inappropriate development. The proposal is not one where a countryside location is essential. The HDPF pre-dates the latest 2021 National Planning Policy Framework (the Framework) but generally conforms to the principles set out in the Framework.
8. The new dwelling site is not allocated in any Plan and is a significant distance from any defined settlement edge. In these respects, it does not attract support from Policy 4 of the HDPF which allows for housing outside the built-up area boundary subject to criteria. Nor does the proposed dwelling require a countryside location in terms of Policy 26. The new dwelling site is part of an agricultural field so is not previously developed land; it is some distance from the main part of Coolham village; and a new dwelling would not amount to infill as the nearest buildings are some distance away. The proposed new dwelling would therefore not be supported by Policy Ship HD1 of the Shipley Parish Neighbourhood Plan 2020 (the NP).
9. The replacement of dwellings outside the defined built-up area can be acceptable in certain circumstances. However, as the new dwelling site is not within the curtilage of the Cottages the proposal gains little by way of support from Policy 28 of the HDPF.
10. Coolham amounts to a small unclassified settlement for Policy 3, the lowest tier of the spatial hierarchy, those being defined as having few or no facilities or social networks and limited accessibility, and that are reliant on other villages and towns to meet the needs of residents. There are some facilities in Coolham including schools, village hall, playing fields and public house some 0.5km away and the nearest bus stops are near Slaughter Bridge Farm approximately 350 metres away. The new dwelling site is therefore more accessible by means other than the private vehicle than many.
11. However, traffic speeds along Coolham Road outside the site are high and there is no footpath or streetlighting so walking or cycling is unlikely to be attractive especially during the winter months or inclement weather. It seems likely that future residents of the proposed new dwelling would primarily rely on the private vehicle for day-to-day services and facilities.
12. Billingshurst, a secondary centre has a good range of services and facilities including a train station. It is approximately 3.6 kilometres away from the new dwelling site as the crow flies but the vehicle route is somewhat longer and more circuitous.

13. I conclude that the new dwelling site is not an appropriate location for a dwelling in terms of local and national spatial planning policy as it conflicts with those parts of the Policies 2, 3, 4, and 26 of the HDPF; Policy Ship HD1 of the NP and those principles of the Framework that seek to direct development to the most accessible locations, to protect the countryside from inappropriate development and to reduce reliance on the private vehicle.

Character and appearance

14. The appeal sites fall within the Low Weald and the Horsham District Landscape Character Assessment 2003 - Landscape Character Type J2 Broadford Bridge to Billingshurst Farmlands. These areas are characterised as predominantly pastoral farming with many densely wooded areas interspersed with small, scattered towns and villages.
15. Coolham Road is characterised by scattered linear development including residential, commercial and agricultural units separated by fields which are bounded by hedgerows and ribbons of trees. The new development site is a corner of a grassland field. To the southern edge is a track between fields which leads to Baileys Farm. The new dwelling site has a hedgerow to the roadside but otherwise is largely uncontained.
16. The proposed dwelling would be a new large, two-storey, man-made structure which would intrude upon the open agricultural character of the field and the area in a prominent position on a through route between settlements even if set back in the site. The proposed design would not be out-of-keeping with other buildings in the wider locality. However, it would reduce the gap between existing buildings and have a suburbanising effect on a currently open green field. The appellant's Landscape Appraisal concludes there would be Moderate and Substantial Adverse visual effects from some viewpoints. I would concur.
17. In mitigation the Landscape Appraisal suggests that the Cottages be demolished as the derelict nature of the building detracts from the rural landscape setting which is characterised by arable fields, hedgerows, mature trees and woodland. However, the Cottages are some considerable distance away and the removal of that building in a position barely visible from public viewpoints, whether or not accompanied by additional planting, would not address the harm caused by a dwelling in a much more prominent position on Coolham Road. Moreover, the fact that the Cottages have been allowed to fall into such disrepair is not sufficient reason to allow an otherwise unacceptable development elsewhere and the appellant has the option by way of the Cottages permission to refurbish the Cottages.
18. I conclude the proposed new dwelling would have a harmful effect on the character and appearance of the area which would not be mitigated by the demolition of the Cottages. The proposal would therefore conflict with Policies 25, 26, 32 and 33 of the HDPF. These together, amongst other things, seek to protect, conserve and enhance the rural undeveloped countryside landscape character and to maintain settlement separation.

Effect on the Arun Valley Sites

19. The appeal site is within the Sussex North Water Supply Zone (the SNWSZ). The Environment Agency is responsible for issuing abstraction licences and the water companies deliver water through water mains. However, Natural England

- (NE) have advised that developments must not add to the impact of water abstraction on the Arun Valley Sites¹.
20. These protected Sites are low-lying wetland areas that offer a variety of ecological conditions which provide internationally important habitats with rich flora, fauna and invertebrates and which support important numbers of wintering birds. For proposals where increased demand for water resources is the only pathway for impacts, NE's Position Statement 2021 is that such developments without mitigation will result in a likely significant effect on the Arun Valley Sites either alone or in combination with other developments in the SNWSZ. As it cannot be concluded that the existing abstraction within SNWSZ is not having an impact on the Arun Valley Sites, developments within this zone must not add to this impact. Therefore, such applications, even where mitigation is proposed, must progress to Appropriate Assessment.
21. NE has identified that one way to mitigate the impact would be for development to achieve water neutrality which is ensuring that the use of water in the supply area before the development is the same or lower after the development takes place.
22. The WNS provides an overview of water demand relating to the Cottages compared to the water demand likely to arise from the proposed dwelling. The WNS indicates that the difficulty of getting services to the Cottages would be likely to prevent effective water efficiency measures being implemented in them. However, as it appears the Cottages need complete refurbishment, I see no good reason to suppose that water efficient taps, showerheads, toilets, white appliances and water re-use systems would not be installed. Indeed, they would be likely to be required to meet the pre-commencement Condition 5 of the Cottages permission which requires water usage in each of the Cottages to be limited to 110 litres per person per day. I have seen no evidence to indicate this Condition has been discharged and the Building Regulations require that the average water usage should match that required as part of a planning permission. For these reasons I have significant reservations about the calculations in the WNS and therefore cannot confidently conclude water neutrality has been demonstrated.
23. The appellant acknowledges that the WNS did not take account of the updated Council guidance² published on 13 April 2022 and the existing baseline was not calculated in accordance with the Building Regulations Part G calculator. In March 2023 the appellant provided a Water Neutrality Rebuttal (the WN Rebuttal). Part 16 the Procedural Guide: Planning Appeals – England 13 June 2023 is quite clear that the appeal process should not be used to evolve a scheme. It states it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and interested parties at the relevant application stage.
24. The Council's guidance was published before the WNS was submitted even if that was only a short time before. The Council and others have not had an opportunity to consider the WN Rebuttal so in the interests of fairness I cannot accord the WN Rebuttal weight in the context of this appeal. In any event even

¹ Natural England's Position Statement for Applications within the Sussex North Water Supply Zone – September 2021 Interim Approach

² <https://www.horsham.gov.uk/planning/water-neutrality-in-horsham-district/water-neutrality-and-planning-applications>)

if I had accepted the WN Rebuttal some of my above reservations would also apply to it.

25. On the basis of the available information and in the absence of confirmation from NE that the approach is appropriate and robust, and that water off-setting would not be required, I cannot confidently conclude that water neutrality has been demonstrated or that the proposal, alone or in combination with other plans and projects, would not contribute to adverse effects on the integrity of the Arun Valley Sites by way of water abstraction. As such Regulation 63 prevents me, as the competent authority for this appeal, from granting permission.
26. The burden of proof is high and on the basis of the available evidence, I cannot confidently conclude the integrity of the Arun Valley Sites would not be adversely affected. I therefore find conflict with Policy 31 of the HDPF, the environmental objectives of the Framework and the Regulations in this respect.

Other Matters

27. The Council advises it cannot demonstrate a five-year supply of deliverable housing land and indicates the land supply is some 4 years. I have seen no evidence that would lead me to consider differently. Accordingly in terms of Paragraph 11 of the Framework, which is a material consideration, those policies most important for the appeal are deemed to be out-of-date unless the effect on assets of particular importance provides a clear reason for refusal. Footnote 7 explains this includes impacts on designated sites such as protected habitats.
28. The appellant owns both sites at present and considers that the new dwelling site is more accessible than the Cottages by means other than the private vehicle. A Grampian condition is proposed to secure the demolition of the Cottages which the appellant considers would achieve an overall better level of accessibility and would also have the benefit of reducing water demand.
29. I note however that, whilst there is currently no right of access over it, there is at least one alternative, shorter, physical means of vehicles approaching the Cottages. This route would be more accessible to the services and facilities in Billingshurst and may be attainable in the future. The appellant also owns or controls other nearby land across which more convenient access may be available. Moreover, there is no mechanism before me to prevent the Cottages being sold before any development that may have been permitted on the new dwelling site was implemented.
30. Nor do I consider a Grampian condition would necessarily be sufficiently robust to prevent the implementation of the Cottages permission. This is because of the substantial physical separation of the two sites and as it would be physically possible to carry out both developments. In my experience a planning obligation³ would normally be necessary if the proposal were to be otherwise acceptable.
31. I concur that a 'fall-back' development may be a material consideration for an alternative development⁴ and I note that a small amount of work has taken place to implement the Cottages permission. However, the appellant has

³ under s106 of the Town and Country Planning Act 1990

⁴ Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314

strongly advanced arguments against the completion of the Cottages including: it is difficult to get access to the original site which currently relies on narrow unmade private track which is said to be unusable during periods of heavy rain; it would be expensive to re-furbish the track; the Cottages are very isolated; there would significant reliance on the private vehicle; and there would be conflict with farm vehicles and construction traffic and domestic vehicles. To my mind these matters, advanced by the appellant, cast considerable doubt as to whether there is a real prospect of the development being completed.

32. The Cottages are in a poor state of repair and detract from the visual appearance of the area but lack of maintenance is not a reason for allowing an unacceptable proposal elsewhere. There has been some growth of vegetation habitat in and around the Cottages and it is not clear as to what "existing state" the Cottages might be returned. In the absence of further information it is difficult to attribute more than little weight to any likely biodiversity gain.
33. For the above reasons I give the proposed trade-off of the Cottages permission for the proposed new dwelling and the fall-back position little weight in my considerations of this appeal.
34. I am told other sites were considered and the appellant considers this to be the most accessible and sustainable location with existing residential development and infrastructure in the vicinity but I have seen no information about these. The Christ's Church Foundation is a charity that aids education for children principally those with social, financial and other specific needs. Development of the Foundation land could no doubt help provide capital for the charity objectives but this is not sufficient justification for an otherwise unacceptable proposal as funds can be raised in a variety of ways. Neither of these matters lead me to any different conclusions in respect of the appeal proposal.
35. The new dwelling site is separated from Bailey's Farmhouse, a Grade II Listed Building of historical architectural interest, by a field and trees. There is little intervisibility between them and I conclude the proposed new dwelling would have no effect on the Listed Building or the setting in which it is appreciated.

Planning Balance and Conclusion

36. The proposal would result in the demolition of a building with the potential, and an extant permission, for two dwellings. The proposal would overall reduce the housing land supply by one and I have seen little evidence to indicate that there is a particular unmet need for a single four-bedroom dwelling. Compared to the implementation of the Cottages permission the economic benefits arising from the construction of dwellings and spend in the local economy and the social benefits associated with additional occupiers would be likely to be fewer as there would be one dwelling in place of the two Cottages. The overall effects would be relatively small, and I have reservations about whether the fall-back would be implemented, so I give these matters relatively little weight against the proposal but equally these matters do not act in favour of the proposal.
37. The new dwelling site is not ideally located in terms of accessibility to day-to-day facilities and the location conflicts with the spatial strategy for the District. I consider the construction of the proposed dwelling would be harmful to the character and appearance of the area and the potential demolition of the Cottages to be neutral in this respect. More particularly I have found that I

cannot conclude that the development would not be harmful to the protected habitats of the Arun Valley Sites. These matters together attract very great weight and outweigh the benefits identified.

38. In failing to comply with Policies 2, 3, 4, 25, 26, 31, 32 and 33 of the HDPF; and Policy Ship HD1 of the NP; the proposal cannot be said to comply with the development plan taken as a whole. I have found insufficient material considerations, including the Framework, to justify a decision other than in accordance with the development plan. The appeal should be dismissed.

S Harley

INSPECTOR