



Appeal Decision

Site visit made on 3 October 2023

by Hollie Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2023

Appeal Ref: APP/D3830/W/22/3308571

Hurst House, Copthorne Common, Copthorne RH10 3LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Richard & Mrs Gisela Crane against the decision of Mid Sussex District Council.
 - The application Ref DM/22/0525, dated 14 February 2022, was refused by notice dated 13 April 2022.
 - The development proposed is demolition of existing Dwelling and redevelopment with 6 x 2-bedroom flats and 1 x 3-bedroom self-build dwelling, together with improved access and parking within curtilage of site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal application was made in outline form with detailed layout, scale and appearance. Access and landscaping are matters reserved for future consideration. Whilst plans depicting access arrangements and landscaping have been treated as indicative, the Appellant submitted a plan with the appeal (Ref A, dated 23.03.2022) which shows amended indicative access arrangements. Given the limited changes detailed therein, I have accepted this plan and do not consider that doing so is prejudicial to the Council's case considered in the context of the Wheatcroft¹ principles.
3. The Council refused permission for eight separate reasons. In light of information and a S106 planning obligation submitted with the appeal, the Council has confirmed that it no longer wishes to pursue the following reasons for refusal (RfR):
 - fourth RfR relating to arboricultural issues;
 - fifth RfR relating to the absence of a planning obligation securing necessary infrastructure contributions;
 - sixth RfR relating to the need to meet the minimum Nationally Described Space Standards; and
 - eighth RfR relating to noise conditions for future occupiers.
4. The submitted S106 planning obligation is dated 27 April 2023. I am satisfied that the terms of the S106 would be the minimum necessary in-order to make the development acceptable in planning terms. Therefore, to consider these matters further is not required.

¹ Wheatcroft Ltd V SSE [1982]

Main Issues

5. The remaining RfRs are therefore framed as the main issues in this appeal, as follows:
- whether the location of development accords with the development plan;
 - whether future occupiers would have access to facilities by a range of means other than private vehicle;
 - whether the development would be safe over its lifetime and avoid increasing the risk of flooding elsewhere; and
 - whether or not the development would result in prejudicial effects on highway safety.

Reasons

Location of development

6. The site is based along Copthorne Common Road; the A264, across the road from a petrol filling station which incorporates a small convenience store. Due to the disparateness of the houses and businesses along the A264 set amongst pockets of verdant open space, it is clear that the area falls outside of a built-up area. Visually, the area has a semi-rural character, despite the near-consistent flow of traffic on the A264. The nearest settlement is Copthorne, located a modest distance to the west of the site.
7. The proposal seeks to demolish the existing dwelling and to construct a building containing 6 No 2-bed flats and a separate 3 bed dwelling to house the Appellants, constructed on a 'self-build' basis. There would therefore be a net increase in 6 No dwellings.
8. In policy terms, the *Mid Sussex District Plan 2014-2031* (adopted 2018) (District Plan) sets out in Policy DP6 that the growth of settlements will be supported where it meets identified local housing, employment and community needs. Under the Policy, expansion of settlements outside of the defined built-up area boundaries will only be permitted where either the site is allocated² or for fewer than 10 dwellings and where it is contiguous with an existing built up area of the settlement and demonstrated to be sustainable, including by reference to the settlement hierarchy.
9. Copthorne is listed as a Category 2 larger village under Policy DP6 which means that it benefits from a good range of services and facilities. However, the site is not within the defined built-up area limit of the village and nor is it contiguous with it. A large swathe of Copthorne Common and a neighbouring dwelling separate the site from the nearest part of the built-up area boundary. Therefore, the site is in the countryside in policy terms.
10. The notion of the site being outside of the settlement of Copthorne is also evident in the designation of character areas in the Copthorne Neighbourhood Plan (2021) (CNP). The site falls within the CA3: Copthorne Common and Woodland character area, whereas the built limits, to the west of the locally designated Local Green Space, Copthorne Common, falls within CA5: Post-War Copthorne.

² In either the District Plan or a Neighbourhood Plan

11. District Plan Policy DP12 offers support to development outside of built-up area boundaries where it is either necessary for the purposes of agriculture, or is supported by a specific policy reference elsewhere in the Plan. The proposal does not qualify under this Policy. Similarly, Policy DP15 provides for new residential development in the countryside in certain circumstances, such as where it is essential to enable agricultural, forestry and certain other full time rural workers to live at, or in the immediate vicinity of, their place of work; or where it comprises affordable housing in accordance with Policy DP32: Rural Exception Sites. The proposal does not accord with this Policy either.
12. The CNP, in Policy CNP2, sets out criteria against which proposals for redevelopment and infill will be considered where within the defined built-up area. The CNP does not however provide any policy support for development outside the built-up areas. The District Plan Policy CP6 allowed flexibility for neighbourhood plans to allocate sites for development should it have been considered desirable, but the CNP has not done so, and therefore, the policy conflict arises even if there appears to be support for the development at Parish Council level.
13. My attention has been drawn to a number of developments that have been approved in the locality³. Given the limited details provided in relation to such, it has been difficult to draw comparisons with the appeal scheme. However, one obvious factor may be that there has been a recent material change in circumstances with the adoption of the current development plan, in 2018 and then the CNP in 2021, and possible future changes afoot. Any development approved prior to these dates may not have been considered under the same policies and certainly development considered by another local planning authority is hard to compare against a scheme under consideration in the context of another authority's development plan.
14. The care home development which was allowed on appeal⁴ under the current development plan was based on a specific type of development for which there appeared to be specific emerging policy support and a significant unmet need for registered care homes in Mid Sussex. A range of different factors influenced the planning balance and final outcome of that case that are not particularly relevant in this case.
15. Drawing all of these aspects together, it is clear that the location of development does not accord with the development plan, in particular, Policies DP6, DP12 and DP15 of the District Plan and Policy CNP2 of the CNP.

Sustainable transport

16. Whilst the Council has cited Policy CNP15 of the CNP in the second RfR relating to sustainable transport, that Policy relates to car parking so has been assumed to be incorrect. Policy CNP14 relates to sustainable transport and requires that development should demonstrate that adequate sustainable transport links already exist, or new sustainable transport links will be provided as part of the development, to Important Community Facilities⁵ and open spaces. These

³ DM/22/0129; DM/22/1989; Tandridge District Council Ref DA/2019/610 and Newlands Park, reportedly approved at various points since the 1960s

⁴ Appeal Ref: APP/D3830/W/21/3281350 dated 12 April 2022

⁵ Important Community Facilities are those set out in Policy CNP4: Copthorne Surgery; Copthorne C of E Junior School; Fairway Infant School; Copthorne Village Hall; Delmar Morgan Centre; Copthorne Parish Hub; St John the Evangelist C of E Church; Copthorne Post Office; Copthorne Social Club; Copthorne Scout & Guide Centre

policy requirements broadly echo the requirement in District Plan Policy DP21 and the more general sustainability provisions of the National Planning Policy Framework (the Framework).

17. The evidence details that the Appellants have used the local convenience shop attached to the petrol filling station for the length of their long tenure in the host dwelling. I observed for myself that there are footways on either side of the A264 with a number of central pedestrian islands between the carriageways to facilitate this. In addition, there are bus stops in close proximity of the site on either side of the road which offer regular services to a range of destinations other than on Sundays and public holidays.
18. Despite the close proximity of the busy A264 linking the M23 with the A22, convenience shop and the existence of the pedestrian infrastructure, I consider it unlikely that residents would be incentivised to make journeys to other facilities by means other than private vehicle or potentially by bus. Whilst I appreciate that there are a range of rural business parks and premises in the wider surroundings, these do not combine to create a coherent community that would offer future residents the opportunity to walk to day-to-day facilities in close proximity of one another, such as healthcare centres or community buildings. The nearest settlement of Copthorne is only a relatively short distance away but access to facilities within it would most likely be made by car. The need to make a journey by car, even if only a short journey, means that the site is located in an area which is inherently less sustainable than those areas which fall within the built-up area limits. The recent growth of online grocery shopping habits does not materially change this principle.
19. I note that one of the Appellants is a keen cyclist and indicates that despite being busy, the local road network is suitable for journeys by bicycle. Be that as it may, in my view, the A264 is not currently optimised for cyclists and the speeds, volume and nature of the traffic along the route makes it an intimidating environment for anyone other than experienced cyclists.
20. For the reasons set out above, the proposal does not meet with the expectations of District Plan Policy DP21 and CNP Policy CNP14 which seeks to ensure that development is located to minimise the need for travel and to promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport.

Surface water drainage

21. The Council's District Plan Policy DP41 requires that as part of the redevelopment of brownfield sites, any surface water draining to the foul sewer must be disconnected and managed through sustainable urban drainage system (SuDS) following the remediation of any previously contaminated land.
22. The appeal application was submitted with limited detail in relation to surface water drainage, save for the confirmation in the application form that it would be disposed of via SuDs. No such details are shown in the proposed site plan.
23. The appeal was submitted with a *Flood Risk Assessment & Preliminary Surface Water & Foul Water Drainage Strategy*⁶ (FRA) which was previously prepared for a larger site encompassing the appeal site and two adjoining dwellings and

⁶ PRP, 2015

their respective gardens. The FRA indicates that the site is within flood zone 1 and is at low risk of flooding. However, it fails to provide much detail on the actual drainage strategy beyond stating that infiltration measures alike those currently employed on site would be used and that permeability tests should be undertaken to support the detailed modelling.

24. The Council's own information appears to suggest that the area has a high infiltration potential. However, there is still a lack of detail specific to the proposed fixed layout to leave such to condition. Thus, in the absence of robust evidence to the contrary, the proposal conflicts with District Plan Policy DP41 which seeks to ensure that development avoids increasing flood risks elsewhere and provides for a SuDS method of surface water disposal.

Highway safety

25. Copthorne Common is subject to a 50mph speed limit. In the vicinity of the site, the alignment of the road is relatively straight, and visibility is relatively unobstructed.
26. The outline application does not seek approval of access at this stage, but there is an existing access to serve Hurst House and the plans indicatively show this access being widened and adapted to serve the new development.
27. In my view, the creation of 6 additional dwellings will not create such a level of additional traffic that it would result in a severe effect on the highway network, provided that the access point is designed to meet visibility requirements. The revised plan shows the existing entrance being set back, widened to 4.5 metres and with clear visibility splays 160m metres in both directions set back 2.4m from the carriageway edge, largely within the confines of the assumed public highway. In my view, the visibility in these directions seemed reasonable and achievable.
28. In any event, such detail, and any refinement of any visibility splays required in relation to speed surveys demonstrating the 85th percentile speeds as was requested by the Highways Officer could be secured at reserved matters stage and by way of planning conditions. Thus, the proposal does not conflict with Policy DP21 of the District Plan which, amongst other things, requires that new development protects the safety of road users and pedestrians.

Other Matters

29. My attention has been drawn to the CNP's support for homes for older people in Policy CNP3 and the Appellant's assertion that the scheme would deliver housing to which more elderly people could downsize. Though there would be nothing to specifically limit the occupation of the units, nor any particular accessibility credentials, I accept that the scheme would deliver a housing type that is likely to be less prevalent in the area that may allow some changes within the local housing stock. I attribute this aspect little weight.
30. I have had regard to the Appellant's position concerning the outdatedness and thermal inefficiency of the current dwelling, and inability to sell it despite endeavours to do so over the years. I attribute these factors limited weight. Similarly, despite the absence of any restrictions in the submitted S106 to ensure that the proposed dwelling was built on a self-build basis rather than sold on, this aspect attracts a limited degree of weight in favour of the scheme.

Planning balance and conclusion

31. For reasons owing to its location outside of the built-up area boundary, the sustainability credentials of such and the absence of clear evidence to indicate that the development would be safe from flooding and avoid increasing the risks of flooding elsewhere, the scheme is in conflict with the development plan when taken as a whole.
32. There would be public benefits from the creation of new housing to add to the local housing stock and economic benefits from both the construction phase and subsequent occupation. I attribute these moderate weight in favour of the scheme, commensurate with the scale of the development.
33. The absence of visual, ecological or other harms are neutral factors in the overall planning balance.
34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that the development plan should be the starting point for determination of any proposal unless material considerations indicate otherwise. The importance of the planning system being plan-led is also enshrined in the Framework.
35. The Council claim that it has an adequate supply of housing land sufficient to demonstrate the requisite five years' worth with relevant buffer. This is not disputed by the Appellant. The absence of such could form a material consideration of such weight that it could fundamentally change the outcome of the planning balance.
36. However, the material considerations and public benefits from this scheme are not of such collective weight that they indicate that a decision should be taken other than in accordance with the development plan.
37. For the foregoing reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR