



Appeal Decisions

Site visit made on 16 October 2023

by J E Jolly BA (Hons) MA MSc MCiH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Appeal A Ref: APP/D3830/W/22/3303070

Palmers Autocentre Tyres, Turners Hill Road, Crawley Down, West Sussex RH10 4HQ

- 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 Paul Hunt (Redwood Land Investments Ltd) against the decision of Mid Sussex District Council.
 - The application Ref: DM/22/0867, dated 14 March 2022, was refused by notice dated, 10 May 2022.
 - The development proposed is for the demolition of all existing buildings on-site, currently used for MOT/Garage/Tyre centre (B1/B2 Sui Generis), to be replaced with 5 dwellings (Residential C3) and associated parking.
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Appeal B Ref: APP/D3830/W/22/3310322

Palmers Autocentre Tyres, Turners Hill Road, Crawley Down, West Sussex RH10 4HQ

- 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 Paul Hunt (Redwood Land Investments Ltd) against the decision of Mid Sussex District Council.
 - The application Ref: DM/22/2589, dated 18 August 2022, was refused by notice dated, 11 October 2023.
 - The development proposed is for the demolition of all existing buildings on-site, currently used for MOT/Garage/Tyre centre (B1/B2 Sui Generis), to be replaced with 4 dwellings (Residential C3) and associated parking.
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Decision

Appeal A:

1. The appeal is allowed, and outline planning permission is granted for the demolition of all existing buildings on-site, currently used for MOT/Garage/Tyre centre (B1/B2 Sui Generis), to be replaced with 5 dwellings (Residential C3) and associated parking at Palmers Autocentre Tyres, Turners Hill Road, Crawley Down, West Sussex RH10 4HQ, subject to the conditions set out in Annex A.

Appeal B:

2. The appeal is allowed, and outline planning permission is granted for the demolition of all existing buildings on-site, currently used for MOT/Garage/Tyre centre (B1/B2 Sui Generis), to be replaced with 4 dwellings (Residential C3) and associated parking at Palmers Autocentre Tyres, Turners Hill Road, Crawley Down, West Sussex RH10 4HQ, subject to the conditions set out in Annex B.

Procedural Matters

3. As set out above there are two appeals before me. They differ in that application DM/22/0867 seeks to construct 5 dwellings and application DM/22/2589 seeks to construct 4 dwellings on the appeal site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. For clarity and consistency, I have used the appeal address given on the Council's decision notices.
5. The proposals were submitted in outline with appearance, layout, scale and access to be considered at this stage, and landscaping reserved for later consideration. I have considered the appeals on the same basis and so consequently, landscaping has been treated indicatively under the appeal.

Background and Main Issues

6. Subsequent to the Council's decision notice for Appeal A, the appellant submitted additional evidence related to ecology and sustainability. In addition, the main parties have signed a Planning Obligation (S106 agreement), dated 2 February 2023. Consequently, the Council no longer wishes to contest the associated reasons for refusal that were given on its decision notice.
7. Therefore, the main issues in both appeals are:
 - whether the appeal proposals are appropriate development in the countryside,
 - the effect of the proposals on the character and appearance of the area, with particular reference to the pattern of development nearby; and,
 - whether the proposals are in a suitable location.

Reasons

Development in the countryside

8. The appeal site is a tree and hedge lined former garage and MOT centre. The site is occupied by several unused commercial and store type buildings/containers that surround a hardstanding. The site is accessed via a gated service road that opens onto Turners Hill Road (B2028).
9. The built form along the B2028, and in the immediate surrounding area, is typified by loose clusters of development some of which face on to the highway, including the Grade II listed building known as Chelsea Cottage. The town of Crawley is approximately 10 km away, while around 0.5km to the south of the appeal site the settlement of Crawley Down can be found.
10. The main parties agree that, for the purposes of planning, the proposals would be located in the countryside. As such, I acknowledge that Policy DP12 of the MSDP is clear that the countryside will be protected in recognition of its intrinsic character and beauty.
11. Nonetheless, the appellant has brought to my attention that the appeal site, which was formerly known as 'Steton Works', has been used over a number of decades for commercial purposes.

12. Indeed, at my site inspection I noticed that the site not only had a range of derelict workshop and garage type buildings but also extensive areas of hardstanding that included paving, concrete, and tarmac for the likely purpose of parking, storing and turning of vehicles.
13. As such, notwithstanding that the Council can demonstrate a 5 Year Housing Land Supply, I am persuaded by the appellant's evidence that the relatively modest proposals, which not only include garden spaces but also opportunities for increased biodiversity on the site and a reduction in hard surfaces, would not only maintain, but also enhance the quality of the rural landscape and character in this very specific location. Indeed, the proposals would be more akin to the surrounding residential dwellings and gardens and therefore, likely to have a minimal effect on the countryside in comparison to the previous comings and goings of the utilitarian and alien character of the abandoned and redundant commercial premises.
14. I acknowledge that the site lies outside any recognised settlement boundary and that the Council has relied upon Policies DP6, DP12 and DP15 of the MSDP in support of its case, which say amongst other things, that the countryside will be protected. However, the proposals are for four and five dwellings respectively and would be a minor addition to the dwellings that already exist to the front and rear of the appeal site, such as, but not limited to, Down Park South and West, The Lodge Down Park, Down Park Coach House, Stubbits, Valhalla, Smoke Tree House, Thorne House, Chelsea Cottage, The Gables, and Mascotte. Moreover, to my mind, the benefits of the residential proposals on previously developed commercial land would substantially outweigh any conflict with the policies relied upon by the Council.
15. I conclude therefore, that proposals would meet the aims of Paragraph 119 of the National Planning Policy Framework (the Framework) which says, amongst other things, that planning policies and decisions should promote an effective use of land in meeting the need for homes.

Character and appearance

16. I note the Council's concerns that cul-de-sac type development is not typified in the nearby area. Rather that it is found at some distance from the appeal site, for example at Wychwood, The Pheasantry and Woods View. Moreover, that the pattern and scale of the developments proposed, is not typical for the former grounds of Down Park Farm (Down Park), which is found directly to the rear of the appeal site.
17. I find to the contrary. To my mind, the layout and scale of the proposals in both schemes would be similar to the pattern of development found in Down Park. Indeed, at my site visit I noticed a cluster-type pattern of development in Down Park, particularly for the built form which includes converted farm buildings.
18. Moreover, in my view, the modest number of dwellings proposed would be relatively well spaced with gaps in between and, while not road facing, would have a generous separation from the properties facing onto the B2028. In addition, the traditional style development would be softened by the existing mature trees and hedges surrounding the site, which I concur with the appellant would only be briefly glimpsed from the road.

19. Overall, I conclude that the proposals would accord with the character and appearance of the area and meet the aims of Policy DP26 of the MSDP and Policy CDNP05 of the Crawley Neighbourhood Plan 2016, (CNP), and Paragraph 130 of the Framework which together say that developments should be visually attractive as a result of good architecture and layout.

Suitable location

20. The main parties agree that the proposed dwelling is located outside a settlement boundary, including that of nearby Crawley Down. Nonetheless, from the findings at my site visit and the evidence before me, the site appears to be served by a nearby Metrobus transport route which leads to the larger settlements of Burgess Hill, Haywards Heath, Brighton and Crawley where there are rail links for longer journeys such as commuting and leisure trips.
21. I note previous proposals for residential development on the opposite side of Turners Hill. The proposals were determined to be unacceptable by the Council because of, amongst other things, its concerns related to the absence of a continuous footway and the reliance on private motor vehicles by future occupiers of the proposed dwellings. However, there is a footway on the appeal site side of the B2028 that leads directly to Turners Hill and Crawley Down where some day-to-day shops and services can be found. I acknowledge that the well-used highway and unlit pathway is likely to be less attractive to some pedestrians at certain times of the day and during the colder months of the year, and as a consequence the larger range of shops and services of Crawley would be more likely to be accessed by the occupiers of the new dwellings by using a motor vehicle. However, the number of journeys generated by four or five additional dwellings, in addition to journeys generated by the existing properties along this part of Turners Hill Road, would be relatively modest.
22. Moreover, due to their proximity to Crawley Down, the proposals would likely offer some short-term economic and social benefits such as employment associated with the construction, and the patronage of local services.
23. Accordingly, I conclude that the proposals meet the aims of Policy DP21 of the MSDP and Policy CDNP10 of the CNP, as well as Paragraph 79 of the Framework which says housing should be located where it will enhance or maintain the vitality of rural communities.

Other Matters

24. Chelsea Cottage is a Grade II listed building which is located directly adjacent to the appeal site. The setting of a listed building contributes to its significance. Therefore, I have had special regard to Section 66(1) and S16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
25. Chelsea Cottage is a dwelling of high architectural merit with its significance informed by its historic interest as a two-storey, weatherboard clad building, with the retention of key features such as a slate roof and a gabled porch with a garden to the front which is shielded from the road with a mature hedge.

26. Indeed, these elements of the older style dwelling contribute to the setting of the listed building which is typified by modest dwellings to the front of Down Park. However, the extent of a heritage asset's setting is not fixed and may change as the asset and its surroundings evolve. Indeed, in this case there are a number of more contemporary style dwellings nearby on this side of Turners Hill. However, as the appeal site is to the rear of Chelsea Cottage and the dwelling is a road facing property, relatively unfettered views of the listed building can still be appreciated, particularly to the front elevation, which forms an important part of the dwellings' architectural merit and setting. As such the development would not adversely affect the setting of the listed building and so would preserve its significance.

27. I acknowledge representations from interested parties in respect of the proposal, which in addition to the main issues and matters covered elsewhere, included concerns related to, previous and future uses of the site, affordable housing, housing need, garden sizes, proximity to neighbouring properties, and trees. However, given my findings above, including consideration of the submitted technical evidence, and the suggested conditions provided by the Council, I have found no justification to dismiss the appeals, or the benefits associated with the provision of either 4 or 5 windfall dwellings.

Planning Obligations

28. The parties have completed a Section 106 agreement in conjunction with Mid Sussex District Council which includes a number of obligations to come into effect if planning permission is granted for the schemes. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010.

29. The infrastructure contributions relate to:

- Leisure: £6,800 for a formal sport contribution, £4,988 for a kickabout area and £5,938 for play-space,
- Community Buildings: £3,900,
- Local Community Infrastructure: £4,400,
- Education: £27,754 for Primary Education, £29,870 for Secondary Education and £6,997 for Sixth Form Education; and,
- Library provision: £2,490.

30. The S106 agreement also contain obligations to pay sums West Sussex County Council in respect of the costs of monitoring. These sums will be calculated in accordance with the formulas as set out in the agreement. The obligations are compliant with Regulation 122 of the CIL Regulations in that they are fair and reasonably related to the development in scale and kind and the sums to be paid do not exceed the costs of monitoring over the lifetime of the planning obligations that relate to the development. These contributions would accord with Policy DP20 of the MSDP, which is clear that that development is accompanied by the necessary infrastructure in the right place at the right time to support development and sustainable communities. Indeed, as the proposals include family sized households who are likely to use these services, it seems to me that these obligations are directly related to the developments and are fairly and reasonably related in scale and kind to the developments proposed.

Conditions

31. I have considered the Council's suggested conditions against Paragraph 56 of the Framework and the national 'Planning Practice Guidance' and for certainty imposed the following conditions: a requirement for the submission of details related to reserved matters, a standard time limit condition associated with reserved matters and a standard time limit condition related to the commencement of the developments hereby approved. To protect the character and appearance of the area I have included conditions related to the approved drawings.
32. I have also considered whether it is necessary to impose any of the other suggested conditions. As such, there is a construction method statement pre-commencement condition, that includes demolition and times of operation. This is imposed to ensure the amenity of the area and highway safety during construction.
33. Pre-commencement conditions related to surface water drainage and sewerage have been included to protect the site from surface water and pollution run off. There is also a pre-commencement condition for contamination to ensure that the risks from land contamination are minimised in the interests of human health. Similarly, there is a pre-commencement condition for materials to protect the character and appearance of the area. Pre-commencement conditions are also necessary for the protection of ecology and biodiversity. As well as a condition for lighting related to bats and other wildlife. The pre-commencement conditions have been agreed by the appellant in writing.
34. For highway and pedestrian safety, conditions have been included related to parking and refuse and recycling. To encourage sustainable methods of transport, conditions for cycle storage and the installation of electric vehicle charging points are needed.
35. For Appeal B only, to ensure that the dwellings are accessible to a range of occupiers there is a condition in respect of Part M4(2) (accessible and adaptable dwellings) of Schedule 1 of the Building Regulations 2010.
36. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Therefore, I have not imposed the suggested conditions related to solar panels or the Sustainable Design and Construction Statement, as in respect of the purposes of the 'six tests' set out in Paragraph 56 of the Framework, I have no evidence to suggest such conditions would be necessary or enforceable.

Conclusions

37. For the reasons given above, Appeal A should succeed and planning permission be granted, subject to the conditions set out in Annex A.
38. For the reasons given above, Appeal B should succeed and planning permission be granted, subject to the conditions set out in Annex B.

J E JOLLY

INSPECTOR

Annex A – Appeal A

Conditions

- 1) Details of landscaping, hereinafter called "the reserved matters", shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan - CSW:348/100
 - Existing & Proposed Block Plans – CSW:348/101
 - Access Provision/Sight Lines – CSW:348/102
 - Proposed Site Plan – CSW: 348/103
 - Proposed Ground Floor Plan and Proposed First Floor Plan (Plots 1 & 2) – CSW: 348/104
 - Proposed Elevations (Plots 1 & 2) - CSW:348/105
 - Proposed Ground Floor Plan and Proposed First Floor Plan (Plots 3 & 5) – CSW:348/106
 - Proposed Elevations (Plots 3 & 5) – CSW:348/107
 - Proposed Ground Floor Plan and Proposed First Floor Plan (Plot 4) – CSW:348/108
 - Proposed Elevations (Plot 4) – CSW:348/109
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Construction Method Statement shall be adhered to throughout the construction period for the development. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - delivery, demolition, and construction working hours.

- 6) No development shall take place until foul and surface water drainage works have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.
- 7) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether it originates on the site or not.
- 8) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the development is occupied.
- 9) No development shall commence until details/samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 10) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (David Archer Associates, March 2022) and the Ecological Impact Assessment (David Archer Associates, June 2022), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This includes a Non-Licensed Great Crested Newt Method Statement and a Non-Licensed Hazel Dormouse Method Statement which avoid impacts on European Protected Species.

- 11) No development above ground floor slab level shall commence unless and until a Biodiversity Compensation and Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be implemented as approved and retained as such thereafter.
- 12) No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for parking.
- 13) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority.
- 14) Prior to the occupation of any of the dwellings hereby permitted, details of the facilities for charging plug-in and other ultra-low emission vehicles shall be submitted to and approved by the Local Planning Authority. The scheme shall be constructed in accordance with the approved details.
- 15) No part of the development shall be first occupied until a lighting design scheme for biodiversity, particularly bats, shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme.
- 16) Prior to the occupation of any dwellings hereby permitted, a scheme for the collection of refuse and recycling collection must be submitted to and approved in writing by the Local Plan Authority. These details must be implemented as approved.

***** End of Conditions Appeal A*****

Annex B – Appeal B

Conditions

- 1) Details of landscaping, hereinafter called "the reserved matters", shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan – CSW:348/200
 - Existing & Proposed Block Plans – CSW:348/201
 - Access Provision/Sight Lines – CSW:348/102
 - Proposed Site Plan CSW:348/203 Colour
 - Proposed Ground Floor Plan and Proposed First Floor Plan (Plot 1) – CSW:348/204
 - Proposed Elevations (Plot 1) - CSW:348/205
 - Proposed Ground Floor Plan and Proposed First Floor Plan (Plots 2 & 4) – CSW:348/206
 - Proposed Elevations (Plots 2 & 4) – CSW:348/207,
 - Proposed Ground Floor Plan and Proposed First Floor Plan (Plot 3) – CSW:348/208
 - Proposed Elevations (Plot 3) – CSW:348/209
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Construction Method Statement shall be adhered to throughout the construction period for the development. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - delivery, demolition, and construction working hours.

- 6) No development shall take place until foul and surface water drainage works have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.
- 7) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether it originates on the site or not.
- 8) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the development is occupied.
- 9) No development shall commence until details/samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 10) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (David Archer Associates, March 2022) and the Ecological Impact Assessment (David Archer Associates, June 2022), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This includes a Non-Licensed Great Crested Newt Method Statement and a Non-Licensed Hazel Dormouse Method Statement which avoid impacts on European Protected Species.

- 11) No development above ground floor slab level shall commence unless and until a Biodiversity Compensation and Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall be implemented as approved and retained as such thereafter.
- 12) No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for the parking of vehicles.
- 13) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority.
- 14) Prior to the occupation of any of the dwellings hereby permitted, details of the facilities for charging plug-in and other ultra-low emission vehicles shall be submitted to and approved by the Local Planning Authority. The scheme shall be constructed in accordance with the approved details.
- 15) No part of the development shall be first occupied until a lighting design scheme for biodiversity, particularly bats, shall be submitted to and approved in writing by the local planning authority. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme.
- 16) Prior to the occupation of any dwellings hereby permitted, a scheme for the collection of refuse and recycling collection must be submitted to and approved in writing by the Local Plan Authority. These details must be implemented as approved.
- 17) A minimum of 20% of the units hereby permitted shall be part M4(2) (Adaptable and Accessible) compliant and retained thereafter. No dwelling shall be occupied until a verification report confirming compliance with category M4(2) has been submitted to and agreed with the Local Planning Authority.

***** End of Conditions Appeal B*****