



Appeal Decision

Hearing Held on 26 March 2024

Site visit made on 27 March 2024

by Jonathan Edwards BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th April 2024

Appeal Ref: APP/L3815/W/23/3333847

Land At Streamside Farm, North West Of Tumble Cottage, Lagness Road, Runcton, West Sussex PO20 1LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Streamside Farms Limited against the decision of Chichester District Council.
 - The application reference number is NM/21/03448/OUT.
 - The development proposed is erection of up to 30 dwellings; provision of public open space/play area; landscaping and modification of existing access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name of the appellant in the header is taken from the application form. It has been confirmed that the appellant's name on the appeal form is incorrect and I am satisfied the appeal has been made by an appropriate party. The site address in the header is from the Council's decision notice. It more accurately describes the location than the address on the application form.
3. The application sought outline planning permission with all matters reserved for future consideration apart from details of access. At the hearing, it was confirmed that approval was only sought for the access details as shown on drawing numbered 19082 C06 revision C. I have treated the information on the other drawings as being submitted for illustrative purposes only.
4. A completed planning agreement dated 9 April 2024 (hereafter referred to as the planning agreement) has been received. This contains planning obligations that require (i) the provision of 9 affordable houses as part of the proposal, (ii) the payment of a 'recreation disturbance mitigation contribution' to address the impacts of the development on Chichester and Langstone Harbour Special Protection Area and Pagham Harbour Special Protection Area (the SPAs), (iii) the approval and implementation of a landscape and ecological management plan including an ecological corridor and bat buffer zone on the appeal site, and (iv) the provision of open space land, new woodland habitat and wildflower meadow as indicated on an attached plan. The planning agreement also includes an obligation on the management of the areas referred to in (iii) and (iv).

5. In addition to the planning agreement, 2 unilateral undertakings under section 106 of the Act have been provided by the appellant. Both are dated 9 April 2024 and require the payment of a highway network contribution to be used towards improvements to the A27 road. One of the undertakings requires a payment based on a case made by the appellant (the appellant's preferred UU) and the other requires a payment based on the case made by the Council (the Council's preferred UU). I have had regard to the planning agreement and the 2 unilateral undertakings in my assessment.

Policy Context

6. Since the appeal was lodged a revised version of the National Planning Policy Framework (the Framework) has been published. The parties have had the opportunity to submit comments on the Framework and it was discussed at the hearing. The appeal has been considered in light of the Framework.
7. The development plan relevant for the appeal site consists of the Adopted Chichester Local Plan: Key Policies 2014-2029 (the LP). The Council's refusal reasons also refer to its Interim Position Statement for Housing Development November 2020 (IPHS). This does not form part of the development plan but it is used by the Council as guidance when assessing housing proposals. I have had regard to the IPHS but I am mindful it has not been through the formal scrutiny required for development plan documents.
8. The Council is preparing a revised local plan (eLP), with the intention to submit a draft document for examination later this year. I have had regard to the referred to eLP policies although they have not been through any formal examination and they are subject to unresolved objections. The eLP attracts limited weight as I cannot be certain it will be adopted in the form provided to me. Also, I attach little weight to a draft neighbourhood plan referred to by the appellant as I am told work on its production has ceased.

Main Issues

9. While not raised by the Council, an interested party has submitted concerns that the proposal would be unacceptable in light of the Framework's policy on flood risk. The appellant has had an opportunity to respond to these concerns through the appeal process and the matter was discussed at the hearing.
10. Bearing in mind this concern and the Council's submissions, I consider the main issues are (i) the effect of the development on the character and appearance of the area, (ii) whether it would be in a suitable location having regard to LP policies, the Framework and accessibility to services, (iii) whether it would be acceptable having regard to flood risk, and (iv) whether adequate provision is made for in terms of highway infrastructure.

Reasons

Character and appearance

11. The appeal site is on the north side of Lagness Road with North Mundham to the west and Runcton to the east. A parking area and buildings associated with the equestrian use of the site can be seen from the road through a gated access. Open paddocks behind the buildings allow views from the roadside pavement of a belt of trees on the western boundary, albeit that trees to the front of the site provide partial screening. A stream with vegetation on its

banks flows along the eastern boundary. The agricultural style of the buildings, the expanse of open grazing land and mature trees and hedges near the boundaries all give the site a distinctive rural feel.

12. As it passes the appeal property, the character of Lagness Road is influenced to a degree by views of houses on Canal Mead on the southern side of the highway. Also, the locality is not tranquil as the road is busy and the area is affected by traffic noise. Even so, the site lies between an open field and stream to the east and playing fields beyond the belt of trees to the west. Therefore, it is in a recognisable open gap between Runcton and North Mundham and to the north of Lagness Road. This land is not recognised as being of landscape value but it has an intrinsic character and beauty that is distinct from the built up extents of the villages and the large glasshouses and agricultural businesses in the wider area. The appeal site makes a significant contribution to the rural aspects of the locality.
13. The introduction of up to 30 dwellings with associated infrastructure, lighting and domestic activities would result in a marked change in the appearance and character of the site. The replacement of the barns and paddocks by housing would undermine the rural nature of the land.
14. The plans show the dwellings would be located towards the western part of the site and so behind the line of trees along the roadside. However, these trees are not within the appeal site and so the appellant is not in a position to secure their retention. In any event, vegetation cannot be relied upon to screen the houses indefinitely. Moreover, the plans show the development would extend a significant distance back into the site and it seems likely housing would be visible through the proposed access, particularly when walking along Lagness Road. Also, it is probable the houses would be seen from the playing fields, although these would be filtered views through the belt of trees. Therefore, the development would have a noticeable but localised visual effect. Where it is seen, the introduction of the houses and associated infrastructure would be perceived as an encroachment of built development into the countryside.
15. The Council's Landscape Capacity Study 2018 (LCS) identifies the site as falling within the North Mundham pastures sub-area, which is classed as having a medium capacity to accommodate further development. However, the LCS indicates that this should be adjacent to an existing settlement boundary or around existing clusters of buildings. The site is set away from the built up extents of North Mundham and Runcton, particularly on the north side of Lagness Road. Also, the development would not be constructed around current buildings. As such, the LCS's conclusions on the sub-area offer no firm support for the proposal.
16. The development would abut open land on either side and so it would not visually or physically integrate with either North Mundham or Runcton. Consequently, the housing would not be perceived as a logical expansion of either of the villages and so, in these regards, it would be incongruous. As open space on either side of the site would be unaffected, the development would ensure North Mundham and Runcton remain as separate identifiable settlements. In these regards it would accord with criterion 3 of the IPHS. Nonetheless, it would undermine the predominantly open but fairly narrow gap between the villages and so it would be contrary to part 5 of LP policy 48. The fact that a landscape gap assessment has not recognised the area between

North Mundham and Runcton as being worthy of protection fails to override or address the erosion of space and the identified conflict with LP policy.

17. The Council's representative raised a concern at the hearing over the inappropriately high density and cramped form of the development. However, through careful design secured through the reserved matters process it could be laid out in a similar pattern and grain to the housing at Canal Mead and elsewhere in the local villages. As such, the density of the development would be appropriate. Also, the dwellings could be of a form and style that reflects the local vernacular. These aspects of the proposal would be acceptable.
18. The removal of parking associated with the current use would be a visual improvement to the site, although the development itself is bound to result in parking and vehicular movements. Proposed woodland, wildflower meadow and other planting would in itself reinforce the countryside character of the area. However, additional vegetation would be viewed behind or alongside the proposed housing. The indicative plans suggest the built development would have the most notable visual effect and so new planting would not ensure the housing integrates sensitively into the landscape. Also, the benefits of additional vegetation to the visual qualities of the area would not offset the identified adverse effects of the built elements of the scheme.
19. For these reasons, I conclude the development would harm the character and appearance of the area. In these regards, it would be contrary to LP policies 33, 47 and 48. Amongst other things, these look to ensure development recognises and respects local character. I note the point that any new housing is likely to affect the appearance of a site and its surroundings. However, the identified harm attracts significant weight given the permanent loss of part of the countryside and subsequent detriment to its intrinsic character and beauty.

Suitability of location

20. The site is outside of any settlement boundaries as defined in the LP. Under LP policies 2 and 45, development within such areas is restricted to that which requires a countryside location, meets an essential rural need or supports rural diversification. The proposed development would not comply with any of these identified exceptions and so it would be contrary to the LP policies.
21. The development would be close to North Mundham and Runcton and so it would not represent isolated homes as restricted under paragraph 84 of the Framework. Also, the pavement on Lagness Road would provide a convenient walking link from the proposed housing to the school, village hall and recreation facilities in North Mundham and the pub and restaurant in Runcton. Due to the short separation distances, I envisage occupiers of the dwellings would walk to and use these local services. Therefore, the development would be located so as to maintain or enhance the vitality of rural communities, in accordance with paragraph 83 of the Framework.
22. Furthermore, the nearest bus stops on Lagness Road would be a short walking distance from the development. These would provide residents with convenient access to fairly frequent bus services running between Elmer, Bognor Regis, Pagham and Chichester. There would be meaningful opportunities for occupiers of the development to access a broad range of facilities in the nearest towns by means other than the private car. In these respects, the proposal would promote the use of sustainable modes of transport.

23. For the above reasons, I conclude the development would be in an unsuitable location having regard to the development strategy set out in LP policies 2 and 45. However, the harm caused by this conflict with LP policies is tempered by the proposal's compliance with the Framework's provisions on the location of rural housing and sustainable transport. I have been referred to LP policies 4 and 5 in respect of this matter but these relate to the amount of housing required and broad distribution strategy rather than the location of development. Therefore, I find no direct conflict with these policies.

Flood risk

24. The Environment Agency (EA) flood map for planning submitted at the hearing shows the appeal site is entirely in flood zone 1 and so has a low probability of flooding. However, this relates only to flooding from rivers and the sea. The EA letter included as appendix E of the appellant's flood risk assessment advises that the site is subject to surface water flooding. This is consistent with the EA map provided as figure 4 of the appellant's surface water drainage strategy that shows the south east part of the site as being at medium or low risk of surface water flooding, as opposed to being at very low risk. Furthermore, a consultation response from West Sussex County Council as Lead Local Flood Authority indicates the appeal site is at high risk of groundwater flooding. No evidence is before me that contradicts this advice.
25. Paragraph 168 of the Framework explains the aim of the sequential test (ST) to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposal in areas with a lower risk of flooding. The Planning Practice Guidance (PPG) reiterates the aim to avoid as far as possible development in medium and high flood risk areas including those at risk of surface water flooding¹.
26. There is no evidence of a search to ascertain whether reasonably available alternative sites for the proposed development exist and that are at a lower flood risk compared to the appeal site. Consequently, I am unable to conclude that the ST has been met.
27. At the hearing, the appellant suggested the built up elements of the proposal would be outside the parts of the site identified as being at surface water flood risk. However, the proposed access would fall within the identified flood risk area and so it seems that at least part of the development could be affected by surface water flooding. Also, it is unclear from the evidence as to which parts of the land are subject to groundwater flood risk. As such, there is uncertainty as to whether the development would avoid buildings on land subject to flooding.
28. I note the proposed surface water drainage system and the claim that the development could be accommodated on the site without worsening the risk of flooding in the area. However, the aforementioned part of the PPG explains that the ST still needs to be satisfied even where it can be shown that development can be made safe without increasing flood risk elsewhere. Therefore, I conclude the proposal would be unacceptable having regard to

¹ Planning practice guidance, Flood risk and coastal change, Paragraph: 023 Reference ID: 7-023-20220825, Revision date: 25 08 2022

flood risk and it would be contrary to paragraph 168 of the Framework in these regards.

Highway infrastructure

29. The appellant accepts that traffic generated by the proposal would have residual impacts on the A27. There is no dispute over the need for a financial contribution to be secured towards addressing capacity issues on this highway. The contention between the parties relates to the appropriate level of contribution. The Council suggests it should be based on eLP policy T1 and the formula set out in its supporting text as well as in a draft supplementary planning document (draft SPD). The appellant favours the approach set out in the Council's adopted Planning Obligations and Affordable Housing Supplementary Planning Document 2016 (SPD).
30. The appellant refers to 3 recent appeal decisions² to support their case. The local planning policy context relating to highway infrastructure contributions has not changed since the issuing of these decisions. Each of the Inspectors highlight that eLP policy T1 and the draft SPD have not been tested under formal examination and they have not been adopted. As such, to use these as a basis for calculating the required highway contribution would go against the PPG advice that policies for planning obligations should be set out in plans and examined in public. I find no reason to disagree with the previous Inspectors' views and comments on this issue.
31. I understand the level of contributions required under the SPD would fail to provide sufficient funding for the planned capacity enhancement works to the A27. However, there is a significant level of uncertainty over whether eLP policy T1 would be adopted so as to require the level of contributions suggested by the Council. Moreover, I am unsure how accepting a lower contribution for the appeal scheme would prejudice the delivery of the housing as proposed in the eLP and the associated contributions towards A27 works.
32. Within this context, I find the appropriate level of contribution towards A27 enhancement works is as set out in the adopted SPD. The appellant's preferred UU provides for such a contribution to be paid and so I conclude adequate provision is made for in terms of highway infrastructure. In these respects, the development would accord with LP policies 8 and 9. It follows that the highway network contribution as required under the Council's preferred UU is not fairly related in scale to the proposed development and so it fails one of the tests for planning obligations as set out as regulation 122(2) of the Community Infrastructure Levy Regulations 2010. Accordingly, this obligation does not constitute a reason for granting planning permission and it is given no positive regard in my assessment of the appeal.

Other considerations and planning balance

33. For the reasons as set out under the first 2 main issues, I have found the proposal would conflict with the LP when read as a whole. It follows to consider whether other factors justify granting planning permission contrary to the development plan.

² Appeal decisions reference numbers APP/L3815/W/23/3322020, APP/L3815/W/23/3319434 and APP/L3815/W/23/3320481

34. The Council's position is that, under paragraph 226 of the Framework, it is required to demonstrate 4 years' supply of deliverable sites for housing. From a base date of 1 April 2023, the Council claims it can show 4.19 years' worth of such sites and so in excess of the Framework's requirement. The appellant contests the Council's land supply figures and the deliverability of some of the identified sites. Instead, the appellant suggests a 3.51 years' supply of sites can be shown. Also, the appellant contends that the most important policies for determining the appeal are out-of-date.
35. If either or both of the appellant's contentions are accepted then paragraph 11(d) of the Framework becomes relevant. This says planning permission should be granted unless the circumstances set out in paragraphs 11(d)(i) or 11(d)(ii) of the Framework apply. I have already found under the third main issue that the development would be unacceptable in light of the Framework's provisions on flood risk. Having regard to footnote 7 of the Framework, this conflict with flood risk policy provides a clear reason for refusing the proposed development. As such, the circumstances at paragraph 11(d)(i) exist and so the presumption in favour of granting planning permission at 11(d) of the Framework is not engaged.
36. Nonetheless, the development would make a meaningful contribution towards the housing stock. This is a significant benefit, particularly if the appellant's contentions in respect of housing land supply are accepted. Moreover, the parties acknowledged at the hearing that there is a considerable need for affordable housing in the Council's district. The inclusion of such dwellings as secured by the planning agreement adds to the social benefits of the scheme.
37. The development would generate construction employment and associated economic benefits. Also, residents of the dwellings would support local businesses and services. These factors add support for the proposal.
38. Through the terms of the planning agreement, the development would include measures to mitigate adverse effects on the biodiversity value of the site. The appellant claims the scheme would lead to an enhancement of biodiversity although there is no evidence such as a biodiversity metric that quantifies any improvement above the site's existing value. In any event, the development is required to include features that enhance biodiversity under LP policy 49. Acceptability in these regards attracts limited weight in support of the scheme.
39. The proposal would include public open space and a play area. It is more likely that these would be used by residents of the development rather than by the wider community, particularly as the nearby playing fields already provide recreation space for the local population. The benefits of the proposed facilities attract limited weight.
40. The appellant has referred to other housing schemes at North Mundham and Runcton that have recently been granted or that the Council has resolved to approve subject to completion of legal agreements. Whilst similar issues would have been considered in the assessment of these schemes, the appeal proposal relates to a different site. Also, the development would have particular effects that would not be exactly the same as the other referred to schemes. To arrive at a different conclusion on this appeal would not be inconsistent with these other decisions.

41. The appeal development would have several benefits that attract significant weight overall. However, the proposal would be contrary to the LP policies that relate to the first 2 main issues and also it would be at odds with the provisions of the Framework on flood risk. The collective harm that would be caused in these regards is the overriding factor. The benefits of the development even when considered together would be of insufficient weight to justify granting planning permission contrary to the LP and the Framework.

Other Matter

42. The appeal site lies within the zones of influence associated with the SPAs. It is likely that the proposed houses and subsequent increase in residents would lead to more recreational visits to the SPAs, which could cause disturbance to bird populations. The planning agreement requires contributions towards measures to address the harmful effects on the integrity of the protected sites. However, there is no need to consider this matter further as I am minded to dismiss the appeal for other reasons. A finding that the scheme would be acceptable in these regards would not affect my overall conclusion.

Conclusion

43. For the reasons given above, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stephen Jupp	Planning Consultant
Vanessa Ross	Landscape Architect
Jon Gateley	Planning Consultant Savills

FOR THE LOCAL PLANNING AUTHORITY:

David Cronmer	Planning Consultant
Alicia Snook	Planning Officer
Alex Roberts	Planning Consultant

INTERESTED PERSONS

Adrian Childs-Clarke	Objector
David MacLean	North Mundham Parish Council, objector
Simon Oakley	West Sussex County Councillor, objector

LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

1. Chichester District Council Interim Position Statement for Housing Development November 2020
2. Undated and unsigned planning agreement
3. Statement of Common Ground between Chichester District Council and Streamside Farms Ltd March 2024
4. Environment Agency flood map for planning created 25 March 2024.
5. Statements of Common Ground Site Development Progress Forms 2023 West of Chichester SDL (Phase 2) (S28)
6. Email from Stephen Jupp dated 25 March 2024 with attachments, update report for Charmans Field application, appeal decision reference number APP/L3815/W/23/3319434 and appeal decision reference number APP/L3815/W/23/3320481.