



Appeal Decision

Site visit made on 22 April 2024

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 03 May 2024

Appeal Ref: APP/C3810/W/23/3332326

Regal House, Shripney Road, Bognor Regis, West Sussex PO22 9NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jonathan Manhire of Manhire LLP against the decision of Arun District Council.
 - The application Ref is BE/71/23/PL.
 - The development proposed is 9 new residential units.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect that the proposed development would have on:
 - the character and appearance of the surrounding area, regarding trees,
 - the living conditions of the occupiers of the dwellings on Plots 5, 6 and 7, regarding sunlight and daylight, and
 - whether the proposed surface water drainage strategy would be acceptable.

Reasons

Character and appearance

3. The appeal site is situated amongst the few sporadic dwellings on good-sized plots and the recent terraced development at Orchard Place, which lie south of most development in the village of Shripney, north of Bognor Regis. The site is outside the built up area boundary of any settlement designated in the Arun Local Plan 2011-2031 (LP), so it is, in policy terms, in the countryside.
4. LP Policy C SP1 aims to recognise the intrinsic character and beauty of the countryside, and to permit development where it complies with one of several criteria. The proposal would satisfy none of those criteria, so it would be contrary to LP Policy C SP1. The proposal would also be contrary to LP Policy SD SP2, which aims for development to be focused within the built up area boundaries. Policy ES7 of the Bersted Neighbourhood Plan 2014-29 (NP) states that development outside the built-up area boundary will not be supported. So, the proposal would be contrary to NP Policy ES7.
5. The site includes the far end of the back garden of Regal House and an access strip from the roughly east side of the A29 Shripney Road. The gardens and grounds of nearby dwellings lie to roughly north, south and west, and beyond the ditch by the north east boundary lies mainly open countryside. Most of the

- main part of the largely grassed site slopes gently down from roughly west to east, but it is above the level of Shripney Road close by.
6. Specific trees within the site, near its north east boundary, are subject to Arun District Council Tree Preservation Order Individual and Group Order for 1 Pedunculate Oak and a group of 6 Hybrid Black Poplar trees at Regal House Shripney Road Bersted PO22 9NP Reference: TPO/BE/2/21 (TPO). The appellant's arboricultural impact and mitigation statement (AIA) includes a tree protection plan and an arboricultural method statement. The AIA identifies TPO individual (oak) tree T1 as T014, and the (hybrid poplar) trees in TPO group G1 as T008, T009, T010, T011, T012 and T013.
 7. Due to their siting, height and forms, the trees that are subject to the TPO (the Trees) are handsome features that are important to a wide range of public and private views from all directions, including northbound views from Shripney Road, westward views from the A259, which lies roughly south east, and from the nearby dwellings and their gardens. Because the Trees are prominent in the lengthy views across the mainly flat mostly agricultural landscape, and they provide a partial sylvan backdrop in views from the nearby development, they make a significant positive contribution to the character and appearance of the surrounding area, and thus, to amenity.
 8. The proposal would include 9 detached 2 storey pitched roofed dwellings in a range of forms and sizes, which would be sited by both sides and the east end of the proposed road within the main part of the site. The Trees would be included towards the far ends of the private gardens (back gardens) of the dwellings on Plots 5, 6 and 7, which would be sited by the east end of the road. The sylvan backdrop to these dwellings could be attractive to their occupiers initially, and the occupiers could enjoy countryside views through the gaps between the Trees' main stems.
 9. However, due to the form, scale, height and siting of the Trees, and their relationships with the dwellings on Plots 5, 6 and 7, the Trees would dominate the outlook from those dwellings and their back gardens. Whilst the outlook over the deeper back garden of the dwelling on Plot 7 could be acceptable, the dwellings on Plots 5 and 6 would be harmfully squeezed-in close to the Trees. The nearby Trees including T010 and T011 would be much taller than the dwellings on Plots 5 and 6, and their canopies would be uncomfortably close to the dwelling on Plot 6. So, in time, say, after having seen and heard the movement of the Trees in strong winds, the occupiers would be likely to see the nearby Trees as a threat to their homes and gardens due to the fear of falling branches or a Tree or Trees failing.
 10. Whilst the AIA identifies the Trees' root protection areas (RPAs), their root systems are likely to spread well beyond them. So, almost all of the back gardens of the dwellings on Plots 5 and 6, and much of the back garden at Plot 7, would offer little scope for the occupiers to grow plants of their choosing in their back gardens. The more intense residential activity in those back gardens would also be likely to cause soil compaction above the Trees' root systems, which would be likely to diminish the Trees' future health. Moreover, due to the Trees' canopies being close to the dwellings on Plots 5 and 6, the occupiers could find the inconvenience of dealing with the fallen leaves, twigs and other detritus associated with the Trees in much of their back gardens tiresome.

11. So, due to the nearby Trees' close relationships with the dwellings on Plots 5 and 6, and their effects on their homes and back gardens, the proposal would be likely to lead to repeated pressure on the Council for one or more of the Trees to be severely reduced or felled. If the Council were to find that those Trees harm the occupiers' living conditions, that pressure could be hard to resist.
12. Whilst all of the Trees are mature they still need room to grow, and the stress that repeated pruning would cause to the Trees would be likely to erode their stature, health and longevity. Moreover, as Trees T008 to T013 inclusive form a Group, each Tree within the Group is important to its integrity and to its character and appearance. So, for example, as the Trees within the Group are likely to resist matters such as wind loading as a group, the severe reduction or loss of one or more of the Trees within the Group could adversely affect the stability of other trees within the Group to the detriment of its integrity, and to the character and appearance of the area in the longer term.
13. The appellant has suggested that some matters could be dealt with by condition. However, as the RPAs of the nearby Trees would include almost all of the back garden at Plot 6 and much of the back garden at Plot 5, a condition withdrawing permitted development rights for, say, extensions and outbuildings, could not reasonably be imposed. So, because there would be insufficient space between the dwellings on Plots 5 and 6 and the nearby Trees, the proposal would be likely to cause their severe reduction or unjustified loss.
14. Therefore, I consider that the proposal would harm the character and appearance of the surrounding area, regarding trees. It would be contrary to LP Policy D DM1 which aims for all development to incorporate existing trees as an integral part of proposals, and LP Policy ENV DM4 and NP Policy ES6 which aim to protect, and to resist the loss of, trees protected by Tree Preservation Orders.

Living conditions

15. Due to their orientation, forms, scale and siting, and their relationships with the dwellings and their back gardens on Plots 5, 6 and 7, the Trees would overshadow these dwellings and/or parts of their back gardens for parts of most days during each year. However, as these homes and gardens would receive reasonable sunlight and daylight for the rest of those days, and as the intensity of overshadowing would be reduced when the Trees are not in leaf, the living conditions of the occupiers of those dwellings would be acceptable.
16. Thus, I consider that the proposal would not harm the living conditions of the occupiers of the dwellings on Plots 5, 6 and 7, regarding sunlight and daylight. It would satisfy LP Policy D SP1 which aims for proposals to reflect the characteristics of the site in their layout and LP Policy D DM1 which seeks a high standard of design.

Surface water drainage

17. The Council says that the proposed housing development is appropriate in flood risk terms in accordance with LP Policy W DM2. I see no reason to disagree. So, whilst LP Policy W DM2, which aims to avoid the risk of flooding, is included in the Council's reason for refusal 3, it is not the most relevant policy.

18. In response to concerns raised during the application process, the appellant has, amongst other things, revised its surface water drainage strategy, provided winter borehole monitoring data including an additional month, and carried out infiltration tests, where the results were more favourable than the initial assumptions made. The appellant's evidence shows that a reasonably deliverable sustainable surface water drainage strategy, which is reliant entirely on infiltration, could be achieved within the site without the need for drainage infrastructure to be built within the RPAs of the Trees. So, details of the surface water drainage scheme could reasonably be dealt with by condition.
19. Thus, I consider that, subject to the imposition of suitable planning conditions if the proposal were to be otherwise acceptable, the proposed surface water drainage strategy would be acceptable. It would satisfy LP Policy W DM3 and NP Policy ES2 which seek and support Sustainable Urban Drainage Systems. It would also satisfy the National Planning Policy Framework (Framework) which aims for development to incorporate sustainable drainage systems, unless there is clear evidence that this would be inappropriate.

Other matters

20. The Council cannot demonstrate a 5 year supply of deliverable land for housing. The shortfall is significant. The proposal would make efficient use of the site, which is in a reasonably accessible location, and its other benefits would include 9 welcome new homes and jobs during construction. However, as the harm identified in my first main issue would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, planning permission should not be granted.

Conclusion

21. I have found that the proposed development would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
22. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR