



Appeal Decision

Site visit made on 17 November 2025

by **C Coles MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 December 2025

Appeal Ref: APP/C3810/W/25/3371832

Longacre, The Street, Walberton, West Sussex BN18 0PY

- 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 Chris Southcott of Maxwell Homes Winchester Ltd against the decision of Arun District Council.
 - The application Ref is WA/102/24/PL.
 - The development proposed is erection of 6 no. new dwellings with car ports and car parking along with new ecology and open space area and use of existing access onto The Street.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for the proposed development with reference to the spatial strategy in the development plan;
 - The effect of the proposal on the retained trees; and
 - The effect of the proposal on flood risk.

Reasons

3. The appeal site is located on The Street and comprises the rear garden of two residential dwellings with various outbuildings on the site. Access to the site is taken directly from The Street and is an existing access between two dwellings. The site is screened to the rear and sides by fencing, hedging and mature trees.
4. The surrounding area is predominantly residential comprising traditional detached two-storey housing along The Street with detached bungalows to surrounding estates and some backland development. There is a housing allocation to the north which is currently being built out.

Location

5. The site lies outside the Built-Up Area Boundary (BUAB) within a countryside location as defined by Policies SD SP2 and CSP1 C SP1 of the Arun Local Plan 2011-2031 (ALP) and Policy HP1 of Walberton Neighbourhood Development Plan 2015-2035 (W NDP). Outside the BUAB, development will only be permitted for specific uses, of which open market residential development such as proposed here is not one.

6. The WNDP sets out several key aims including prioritising the use of brownfield sites for housing, avoiding large development sites in the countryside and dispersing new housing on several small sites to avoid urbanising the villages. To this end, Policy HP1 of the WNDP states that proposals for development within the BUAB of Walberton and Fontwell will be supported, as will proposals outside the BUAB where they accord with the countryside policies of the ALP.
7. The BUAB runs through the site with the access being within the BUAB and the land on which the dwellings would be located being outside the BUAB. Consequently, the principle of the proposal conflicts with the ALP and WNDP due to the sites predominant countryside location.
8. In conclusion, the appeal site is not in a suitable location for the proposed development with reference to the spatial strategy in the development plan. As such there would be conflicts with Policy HP1 of the WNDP and SD SP2 and CSP1 C SP1 of the ALP which seek to resist development for new dwellings outside the BUAB unless the Plan has made specific provision for those proposals.

Surface water drainage

9. The Council Drainage Officer (DO) raises objection to the proposal. It is unfortunate the response from the Council Drainage Officer was not made available to the appellant prior to determination of the application, however, the objections raised are fundamental to the scheme and ultimately could result in various aspects of the proposal requiring a redesign.
10. The objections relate to the uncertainty over the achievability of the connection to the culverted watercourse. In particular, no evidence has been supplied regarding permission in principle to connect and conditions surveys of agreement to remediation. This is particularly important as if connection cannot be made here then there are no clearly articulated means of draining surface water from the appeal site. If no sustainable disposal location is achieved, then flood risk would be increased elsewhere.
11. It is also apparent that interception drainage has not been properly considered. Revised proposals have been submitted via the appeal process, including the provision of green roofs and the repositioning of the northern boundary fence to allow the 3 metre easement required for the watercourse. However, these are still not sufficient to address the DO's concerns on this matter and I see no reason to disagree.
12. The issue with this and the continued uncertainty regarding greenfield run off rates is relevant as any alterations to these could have implications for the overall design of the scheme through the need to incorporate such landscape features as swales, bioretention areas or detention basins. While a bioretention area has been proposed, this has the potential to conflict with the proposed ecological enhancement area.
13. The appellant acknowledges that additional information and design changes will be required to address the Council concerns regarding drainage and based on the information available to me I have no reason to take a different view. Consequently, I do not consider that the imposition of planning conditions, including a Grampian condition, can overcome the concerns raised which go to the heart of the permission.

14. In conclusion, on the basis of the submitted information I cannot be certain the proposal would not lead to an increased risk of flooding elsewhere. The proposal conflicts with Policies W DM1, W DM2 and W DM3 of the ALP and Policy VE7 of the WNDP which support development that takes account of flood risk and that Sustainable Urban Drainage Systems have been fully designed into the scheme.

Trees

15. Policy ENV4 DM4 of the ALP states trees protected by a Tree Preservation Order (TPO) should not be damaged or felled unless the development meets certain criteria, including that the benefits outweigh the loss of trees.
16. Policy VE3 of the WNDP permits development where it can be demonstrated that trees and hedgerows contributing to local amenity will not be damaged or destroyed.
17. There is a TPO on site (TPO/WA/4/23) which relates to a Beech to the front garden and an Oak to the far eastern corner. These trees are shown as being retained and suitable tree protecting fencing would be installed to protect their root protection area (RPA). The Oak would be within the rear garden of Plot 6 and due to the large size of the garden, I do not consider there would be future pressure to heavily prune or remove the tree from the occupants of the proposed dwelling.
18. The Council expands on its reason for refusal by focusing the concern on the RPA of three trees adjacent to the existing access where some widening and upgrading of the access would be required. The TPO Beech tree in the front garden of the host dwelling would have its RPA protected by tree protection barriers. The access would however be in the RPA of a Magnolia and Birch tree. Despite this, it is likely the Magnolia and Birch trees have rooted in the neighbouring gardens away from the existing access where conditions are more favourable. It would also be possible to utilise suitable surfacing to overcome concerns with regard to the impact on the RPA. No comments have been received from the Council Tree Officer.
19. I have not been provided with sufficient information to demonstrate the extent of the works would result in additional harm and that protective barriers and ground protection measures would not safeguard the RPA of the trees on the access drive. Such measures can be controlled by condition.
20. In light of the above, I am satisfied that the proposed access and layout arrangements would not result in harm to the existing retained trees or encroach upon their RPA. The proposal would accord with Policy ENV4 DM4 of ALP and VE3 of the WNDP which seek to protect local amenity by protecting existing trees from damage or being destroyed.

Other Matters

21. Third party comments in relation to traffic, scale, design and environmental impact, living conditions and ecology have been addressed in the planning officers report. I have no reason to take a different approach.

Planning Balance and Conclusion

22. An appeal should be determined in accordance with the development plan unless material considerations indicate otherwise. The benefits of the scheme and the provisions of the Framework are important considerations in this instance. The

Council is currently only able to demonstrate a housing land supply (HLS) of 3.41 years. This is well below the five years required by the Framework. In such circumstances, the Framework advises that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

23. Paragraph 14 of the Framework provides added protection to areas covered by a neighbourhood plan. It states that in situations where paragraph 11d of the Framework is engaged, the adverse impacts of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits if the neighbourhood plan is less than five years old and it contains policies and allocations to meet its identified housing requirement. In other words, a conflict with the neighbourhood plan is a matter of considerable importance and is likely to be decisive. However, this is not the prescribed outcome of the planning balance and contextual circumstances may be such that a conflict with a neighbourhood plan would not be decisive.
24. The site has reasonable access to public transport services and infrastructure facilities, and the scheme would result in benefits to the local and wider area such as new housing and biodiversity enhancements. Given the lack of a 5-year HLS the weight to be applied to the contribution of housing development to the HLS, on a relatively accessible site, is significant. The site would also provide development on brownfield land which provides moderate weight in favour of granting permission as paragraph 124 of the Framework states decisions should promote an effective use of land in meeting the need for homes and make as much use as possible of brownfield land, albeit it is not within the settlement boundary as per paragraph 125c of the Framework. There would also be moderate economic benefits from the construction of the dwellings and the spend associated with future occupiers.
25. The main adverse impacts would relate to the issue of surface water flooding and the failure of the appellant to demonstrate the proposal would not increase the risk of flooding elsewhere and the conflict with policies W DM1, W DM2 and W DM3 of the ALP and Policy VE7 of the WNDP. Given the emphasis of the Framework on climate change mitigation, I have attached these harms considerable weight.
26. Although there would be a conflict with the development plan arising from the site's location outside the BUAB, no practical harm would arise due to the fact that the site is adjoined on its boundaries by existing and approved development. Some of the site is brownfield land and while open in nature, given the surrounding development, the site is read as sitting more comfortably within the existing settlement than the open countryside. As a result, the development would be closely associated with existing built form. Furthermore, the lack of housing land supply means that policies relating to the spatial strategy are out of date. Consequently, I give the conflict with these policies limited weight.

27. For the reasons set out above, the conflicts with the spatial strategy in the development plan attract limited weight. However, in the overall assessment the combined harms from this, and the more significant flooding concerns would be sufficient to significantly and demonstrably outweigh the benefits of the proposal. Consequently, the proposal does not benefit from the presumption in favour of sustainable development. As such, material considerations do not indicate a decision other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Coles

INSPECTOR