Planning Inspectorate

Appeal Decision

Site visit made on 25 February 2025

by J Moore BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2025

Appeal Ref: APP/Z3825/W/24/3353984
Arundene Orchard, Loxwood Road, Rudgwick, West Sussex RH12 3BT

- 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 and Mrs A Leahy against the decision of Horsham District Council.
- The application Ref is DC/24/0933.
- The development proposed is Erection of detached two storey dwelling and detached double garage.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Among other things, the decision notice refers to the 'Rusper Neighbourhood Plan'. However, the evidence clearly indicates that the relevant document is the Rudgwick Neighbourhood Development Plan 2020-2031 (June 2021) (RNDP).

3. A revised version of the National Planning Policy Framework (the Framework) and the results of the 2023 Housing Delivery Test (HDT) were published on 12 December 2024, shortly after the Council had submitted its statement of case. In the interests of fairness and natural justice, the main parties were given an opportunity to make further comments on these matters, and I have considered the comments made. The further amendment made to the Framework on 7 February 2025 does not constitute a change to policy, and therefore no party is prejudiced by a lack of consultation on this amendment.

4. The evidence before me refers to policies of an emerging local plan (the Horsham District Local Plan 2019-36) (ELP) submitted for examination on 26 July 2024. The evidence indicates that the examination has been paused. The Council's website includes a letter from the examining Inspector dated 16 December 2024, which indicates concerns about the soundness and legal compliance of the ELP to be set out further in due course, and that further hearings have been cancelled. Consequently, I cannot be certain that the policies of the ELP (including proposed allocations) are in their final form, and therefore I attach limited weight to the policies of the ELP.

5. For the avoidance of doubt, I am the same Inspector for the previous appeal decision for a similar proposal at this site (Ref: APP/Z3825/W/22/3306347), which is referred to by the main and interested parties in this appeal. I have determined this appeal on its own individual planning merits having regard to all the evidence before me.

Main Issue

6. The main issue is whether the appeal site is an appropriate location for residential development, with particular regard to the spatial strategy of the development plan and the accessibility of services and facilities.

Reasons

7. The appeal site forms part of the large garden of its host, Arundene Orchard. In policy terms, the site is previously developed land and is within the open countryside, outside of any defined settlement boundary.

8. Taken together, Policies 2, 3 and 4 of the Horsham District Planning Framework 2015 (HDPF) seek to focus development within the main settlements of the district, with other growth in accordance with a settlement hierarchy. The priority is to locate appropriate development within built-up areas, with a focus on brownfield land. The rationale for this policy approach is to maintain the district's unique rural character and to ensure that the needs of the community are met through sustainable growth and suitable access to services and local employment.

9. HDPF Policy 4 allows for some growth outside of built-up areas, provided that the site is allocated in the local plan or in a neighbourhood plan and adjoins an existing settlement edge. Policy RNP1 of the RNDP states that outside of defined built-up areas, new residential development will only be supported on allocated sites or where they accord with the residential exception policies in the development plan. Within the countryside, HDPF Policy 26 restricts development to proposals which are essential to their countryside location, and the proposal is not made on this basis. Even if the proposal would not have any adverse impact upon the visual amenities of the countryside landscape and would not result in an isolated home in the countryside, the proposal conflicts with HDPF Policy 26 which seeks to protect the undeveloped nature of the countryside.

10. Although the restrictive nature of these locational policies would not be entirely consistent with the Framework, they seek to actively manage patterns of growth in accordance with a spatial strategy to achieve sustainable development. When judged against the policies of the development plan, the appeal site is not a suitable location for residential development and conflicts with its spatial strategy.

11. The Council's document Facilitating Appropriate Development (October 2022) (FAD) has not been formally adopted but sets out the Council's interim approach to development proposals pending progress on the ELP. The FAD maintains the overall spatial strategy of the HDPF but removes the requirement under HDPF Policy 4 for sites outside built-up areas to be allocated within a local plan or neighbourhood plan. ELP Policies 2 and 3 promote a similar development hierarchy within the defined built-up areas of the borough. In terms of the FAD and ELP, the proposal would not be in a suitable location for housing. However, these are interim or emerging policies which attract limited weight.

12. The appeal site is about 1.1km from Bucks Green and about 2.3 km from Rudgwick. Together, the built-up areas of Rudgwick and Bucks Green are classified as a medium village under HDPF Policy 3 and have a moderate level of services and facilities with some access to public transport and they provide for day-to-day basic needs. Local services and facilities at Rudgwick include a small village centre with a convenience store, primary school, and pharmacy, while

Bucks Green has a much more limited range. Nevertheless, collectively, they provide for day-to-day basic needs.

13. The private road at which the appeal site is located serves a small number of properties in residential use, together with some business uses including plant nurseries, a building company, a horse transportation company, and an on-line retailer. Such businesses and services are not commensurate with the provision of basic day-to-day needs, and there is no compelling evidence to demonstrate that the appellants' present home would meet a need for a local worker, nor to demonstrate that such persons would need to be located within the immediate vicinity. Therefore, it is not essential that the proposed development is located within the countryside. The impact of an additional dwelling would not result in a significant contribution to the enhancement and/or maintenance of vitality of the rural community.

14. The appeal site is not well served by public transport, with the closest stop on the A281 Guildford Road, some 1.5-1.8km distant, with services operating Mondays-Saturdays with connections to other settlements and rail stations. The appellants' Transport Assessment demonstrates the distances to various services, bus stops and facilities within the area. While such distances could seem reasonable for walking or cycling, the nature of the route via Loxwood Road is without a footway for some 0.8km and is unlit and subject to a 40mph speed limit. Alternative routes via Hornshill Lane, Pig Lane and/or the Mucky Duck Pub (now closed) would be safer, but longer and would include sections with little street lighting and without a full footway. While the site is connected to the public footpath network with routes towards the south, the routes towards Rudgwick and Bucks Green would be somewhat indirect, and it is not clear what the relevant walking time or cycling time might be via such a route.

15. Overall, such routes would be challenging and/or uninviting by foot or by cycle, and I note that the local highway authority sets out that cycling is viable for experienced cyclists. Consequently, walking and cycling would not be a realistic option for future occupiers, even more so in times of darkness and/or inclement weather. Future occupiers would therefore be largely dependent on private vehicles.

16. The Framework recognises that opportunities to maximise sustainable transport options vary between urban and rural areas. I appreciate that the transport patterns of the district indicate a strong reliance on private vehicles and that trip generation would be limited in scale. I note that the appellants intend to use an electric or hybrid vehicle and measures to improve sustainable modes of travel are proposed in accordance with certain parts of HDPF Policy 40 and would contribute to healthy lifestyles. However, the absence of reasonable and realistic options to private vehicles weighs against the proposal in the site context of this case.

17. Drawing all of the above together, I conclude that overall, the proposal would not be in an appropriate location for housing, having regard to the spatial strategy of the development plan and the accessibility of services and facilities. It conflicts with HDPF Policies 2, 3, 4 and 26 and RNDP Policy RNP1, whose objectives I have set out above.

Other Matters

18. The planning application form, accompanying details and CIL form[1] indicate that the proposal would be a self-build dwelling. I have no reason to doubt the appellants' intention to reside in the proposed dwelling. Indeed, the purpose of the proposal is to provide a retirement home (designed as a 'lifetime home') for the present occupiers of the host property. Although there is no adopted development plan policy before me regarding self-build housing, HDPF Policy 16 seeks to ensure a mix of housing types and the Framework supports the contribution of self-build housing in meeting housing needs and addressing housing mix.

19. The Council does not dispute the appellants' evidence that there is demand for self-build and/or custom build housing, and that such supply is stagnant. In this regard, the Council is not meeting its statutory duty under the Self-build and Custom Housebuilding Act 2015 (as amended) to give enough suitable development permissions to meet the identified demand. However, there is no proposed mechanism before to secure a suitable development permission for self-build housing. I note that the Design and Access Statement which accompanied the application notes my previous findings on this matter and indicates a willingness to enter into a s106 agreement to ensure that the dwelling is constructed and occupied as a self-build home. However, no such agreement is before me.

20. Although not suggested by any party, I have considered whether a planning condition would secure this matter. However, the Planning Practice Guidance makes clear that a positively worded condition which requires an applicant to enter into a s106 agreement is unlikely to pass the test of enforceability. In my judgement, a condition requiring occupation by the person(s) building the proposed dwelling would not pass the tests within paragraph 57 of the Framework. Consequently, this benefit attracts very limited weight in the absence of a mechanism to secure a suitable development permission for self-build housing.

21. The appeal site is located within the Sussex North Water Supply Zone (the zone), which includes supplies from groundwater abstraction. The River Arun and its floodplain contain habitats and species of international importance, recognised within the Arun Valley Special Protection Area, Special Area of Conservation and RAMSAR sites (The Arun Valley Sites). Natural England (NE) cannot with certainty conclude that water abstraction within the zone is not having an adverse effect on the integrity of the Arun Valley Sites and advises that further developments within the zone must not add to existing impacts, and that one way of achieving this is to demonstrate water neutrality.

22. The proposed development would result in additional water demand from the construction process and from future occupiers and this could have an adverse effect on the Arun Valley Sites. The submitted Water Neutrality Report dated 27 March 2024 (WNR) demonstrates water neutrality, provided the measures detailed within the WNR are implemented. The evidence before me indicates that NE raise no objection to the proposal, subject to the delivery, management and maintenance of measures identified in the submitted WNR. In such circumstances, there would be no adverse impact upon the integrity of the Arun Valley Sites.

[1] Community Infrastructure Levy (CIL) Form 7: Self Build Exemption Claim Form

23. Interested parties draw my attention to evidence pertaining to water neutrality assessments dated November 2021, but these relate to a previous proposal. Further concerns are raised regarding the accuracy of certain data within the submitted WNR. If I were to allow the appeal, I would need to consider this matter in further detail, seek further advice from NE and undertake my own Appropriate Assessment as the competent authority.

24. The proposed dwelling would be of a sustainable construction, to include renewable technologies and electric vehicle charging which can be secured by condition. Such matters would accord with HDPF Policy 37 and the Framework's objectives in tackling climate change. However, there is no compelling evidence that these features would be beyond policy requirements such that they would offer additional benefit.

25. Given the purpose of the proposal is to provide a retirement home for the present occupiers of the host property, I have had regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 and the impact of the proposal in relation to this matter. I am therefore required to balance the harm I find against the purpose of the proposal. The purpose of the proposal would be a positive consideration, in terms of eliminating discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons and fostering good relations between them and others. However, it has not been shown that the scheme before me is the only way of achieving the accommodation sought nor that it would represent the least harmful option. Therefore, from the details before me, it has not been robustly demonstrated that there is an over-riding reason to allow the proposal in order to meet the appellants' objectives. As such, this does not outweigh the conflict I have found in the main issue.

26. I have considered the appeal decisions submitted by the appellants. Decisions within the district demonstrate the application of national and local planning policy. Collectively, the submitted decisions demonstrate the range of factors considered including, but not limited to the distance to nearby settlements and services, the nature of services and facilities within nearby settlements, the nature of routes to those settlements, the availability/proximity of public transport and potential for the uptake of more sustainable modes of transport. In general terms, I consider my approach to be consistent with these decisions, having due regard to the site context, the planning merits of the application, the evidence before me and my own observations.

Planning Balance and Conclusion

27. I have found that the proposal would conflict with the development plan policies regarding the spatial strategy of the HDPF, which dates from 2015. Nonetheless, this represents a significant conflict with the development plan as a whole.

28. In accordance with the Framework, due weight should be given to existing policies according to their degree of consistency with the Framework. Although the spatial strategy of the HDPF is in general conformity with the Framework, the restrictive nature of locational policies for new housing in the countryside is not entirely consistent with it. The appellants' evidence indicates that the standard method to calculate housing need could result in a significant uplift in the annual requirement

for the district. Progress on the ELP appears to have stalled. For these reasons, I attach moderate weight to the conflict with the Council's spatial strategy.

29. I have also found that the absence of reasonable and realistic alternatives to the use of private vehicles weighs against the proposal, despite the distance to local services and the fact that the proposal would not result in an isolated home within the countryside. I attach moderate negative weight to this matter.

30. The Council cannot demonstrate a five-year supply of deliverable housing sites, with the supply given to be about 2.9 years, and the latest HDT results indicate that paragraph 11 d of the Framework applies, which concerns the presumption in favour of sustainable development (the presumption). The evidence indicates that NE raised no objection to the proposal at the determination stage, on the basis that the proposal demonstrated water neutrality. In such circumstances, there would be no strong reason for refusing the development in accordance with Footnote 7 of the Framework. However, if I were to further examine the concerns of interested parties in relation to this matter and the proposal was not found to be water neutral, then this would be a strong reason for refusing the development.

31. The proposal would support the government's objectives for the efficient use of land and to significantly boost the supply of land for homes. As a small site it could be developed quickly. Temporary economic benefits would arise during the construction phase, with permanent benefits thereafter from additional household expenditure. These benefits would each be limited by the scale of the development, but collectively these benefits attract moderate weight in favour of the proposal.

32. The proposal is intended as a self-build development, which could assist in meeting the Council's statutory duties for self-build and/or custom build housing and the Framework's housing objectives. However, in the absence of a suitable mechanism to secure a suitable development permission for self-build housing, I attach very limited weight to this potential benefit.

33. Drawing all of the above together, and if the proposal was found to be water neutral, it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations and making effective use of land, individually or in combination. The proposal would not therefore benefit from the presumption in favour of sustainable development as defined within the Framework and it would conflict with the similar provisions of HDPF Policy 1.

34. For the above reasons, I conclude that the proposal conflicts with the development plan and the material considerations including the Framework do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR