
Appeal Decision

Site visit made on 13 June 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2023

Appeal Ref: APP/C3810/W/22/3312864

Eastmere Stables, Eastergate Lane, Eastergate, West Sussex PO20 3SJ

- 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 and Mrs Langridge against the decision of Arun District Council.
 - The application Ref BN/99/22/OUT, dated 7 July 2022, was refused by notice dated 12 September 2022.
 - The development proposed is described as outline permission for 9No residential dwellings, with all matters reserved, other than access.
-

Decision

1. The appeal is allowed and outline planning permission is granted for 9 residential dwellings, with all matters reserved other than access, at Eastmere Stables, Eastergate Lane, Eastergate, West Sussex PO20 3SJ in accordance with the terms of the application, Ref BN/99/22/OUT, dated 7 July 2022, and subject to the attached schedule of conditions.

Procedural Matters

2. As the proposal seeks outline permission with all matters reserved except access, I have considered the Location Plan, and on drawing No 001 Proposed Site Plan Layout (No 001) only the details pertaining to the site access. All other submitted plans and additional layout details on drawing No 001 are considered illustrative.

Background and Main Issues

3. The Council did not refuse the planning permission on ecological grounds, however its statement of case contained belated comments from its ecology specialist. The appellant responded by submitting a Preliminary Ecology Assessment and Ecological Impact Assessment. On review the Council's ecology specialist has agreed that there is no objection on ecological grounds. Accordingly, I am satisfied the Council's initial response on this matter has not altered and the proposal's effect on ecology is not in contention.
4. Therefore, the main issues are whether the appeal site is a suitable location for the proposed development having regard to relevant local policies relating to land use in the countryside, and the effect of the proposed development on the character and appearance of the area.

Reasons

Location

5. Eastergate Road is one of the linking roads between the villages of Eastergate, Fontwell and Walberton. The appeal site is situated along this road beyond the built-up areas of the 3 villages and within the countryside. The site is divided into 2 sections. The front section is previously developed land relating to storage and distribution, and the rear section is part of a series of equestrian paddocks.
6. The appeal site is not designated within the development plan, however Policy C SP1 of the Arun Local Plan (LP) sets out specific types of development appropriate to the countryside. The proposal is for a residential use, and this is not one of the specified development types in LP Policy C SP1. Nor has it been shown that the proposal would comply with any other specific spatial or use policies within the development plan. On this matter the Council consider it a departure from the local plan and the appellant has not contested this point.
7. Consequently, the proposal would fail to comply with LP Policy C SP1, and therefore regarding relevant local policy the proposal is not a suitable land use for the appeal site's countryside location. However, the Council is unable to demonstrate a 5-year housing land supply (5YHLS), as required by the National Planning Policy Framework (the Framework), and this is a material consideration which I will return to below.

Character and appearance

8. Eastergate Road has reasonably high levels of development along its length. Predominantly this appears to be converted farm buildings and purpose-built commercial units, as well as various ongoing agricultural uses, interspersed with some residential properties. Notwithstanding the level of development, buildings are mainly set back from the road behind mature hedges which creates a reasonably verdant and rural character for the area.
9. The appeal site is located behind a residential property, beyond which there is a large commercial yard including low level buildings and large areas of hard standing. To the other side of the appeal site is another residential dwelling and an access road to a further house, some commercial uses, and the equestrian paddocks at the rear of the site. On the opposite side of Eastergate Road but set back from the road edge are 2 further residential properties.
10. The front section of the appeal site constitutes a series of single storey stable buildings now converted to storage and distribution uses, a large area of hard standing used for further storage, and car parking, all of which are directly accessible from Eastergate Lane. Whilst the rear portion is a section of the equestrian paddocks and separated from the front section by part of the gallops, a broadly oval track used for training horses. The gallops provide a defined and clear separation between the 2 sections of the appeal site which differ in terms of use, appearance and character.
11. There is nothing before me to state the existing storage and distribution use is limited in anyway. Therefore, I am satisfied that the proposed 9 dwellings are unlikely to intensify the usage of the front portion of the appeal site beyond that existing, in terms of traffic movement and general activity on the site.

12. However, when considering the rear section of the appeal site, the proposed use would not be appropriate. The open nature of the paddocks contributes to the rural setting of Eastergate Road, where pockets of development are surrounded by fields, hedges, and patches of woodland. The paddocks create one such pocket and provides the buffering between development which is characteristic of this area. The proposal would encroach into this space, reducing its capacity to provide a buffer, and harm both the character and appearance of the surrounding area.
13. It is shown within the illustrative site layouts that both the front and rear portion of the appeal site would be required to provide adequate parking, access, and outdoor space for the proposed 9 dwellings. Therefore, it is unlikely the 2 portions of the appeal site could be separated, and the proposed development still achieved.
14. It is acknowledged the Council has concerns relating to the indicative size of the proposed dwellings and the visual treatment of the access, although they do not consider the access harmful in terms of highway safety. However, as appearance, landscaping, layout, and scale are all reserved the Council would have full control over these elements.
15. Consequently, when considering the appeal site as a whole, the proposal would cause harm to the character and appearance of the area. It would, therefore, fail to comply with LP Policies D SP1 and D DM1 and Policies ES5 and ES6 of the Barnham and Eastergate Neighbourhood Development Plan (NP), as far as they seek to maintain an area's character and local distinctiveness.
16. The Council have also referred to 2 NP policies: H4, which specifically deals with green-field development between the built edges of existing villages and the surrounding countryside, and boundary treatments; and ES6 which has since been deleted from the NP post examination in 2021. As such these policies are not determinative in my decision.

Planning Balance

17. The Council cannot demonstrate a 5YHLS, with the main parties agreeing that the current housing land supply is 2.42 years. As such it is necessary for me to apply Paragraph 11 of the Framework.
18. Although the current housing land supply is significantly below the required 5 years, the Council infer that many houses have been approved recently and that an action plan is in place. However, there is nothing before me to show how this has improved the 5YHLS shortfall. Consequently, the housing policies which are most important for determining the application, including LP Policy C SP1, are out of date. As the site is not within, nor would affect any protected areas or assets, as set out in footnote 7 of the Framework, Paragraph 11 indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
19. The proposal would provide 9 new dwellings in an area of countryside where other residential dwellings are present, although it is acknowledged not highly accessible. The Framework seeks to significantly boost the supply of housing and has a positive approach to alternative uses of currently developed land. Therefore, whilst a relatively small-scale development this would provide a positive contribution towards housing supply. In addition, the proposal would

also provide limited social and economic benefits. Thus, when taking these matters together and considering the extent of the shortfall in housing land supply, the cumulative benefits of the scheme carry moderate weight.

20. The lack of harm to ecology, highways, flood risk, living conditions of existing and future occupants, trees, climate change, and dark skies are neutral factors so do not weigh for or against the proposal.
21. Nevertheless, I have found harm in relation to character and appearance of the area. However, this is restricted to the effect of development on the rear portion of the site only. With the Council able to retain control of details through the reserved matters, I find this harm marginal. Accordingly, the conflict with LP Policies D SP1 and D DM1, and NP Policies ES5 and ES6, in this regard, carries limited weight.
22. Consequently, I find the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal should be approved.

Other Matters

23. The main parties have both drawn my attention to various applications¹ and appeals² whereby the decision maker has considered the weighting given to the Council's lack of 5YHLS differently. These serve to confirm that each case should be considered carefully on its own merits.

Conditions

24. The Council has suggested several conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended them for consistency and clarity, and reduced pre-commencement conditions to a minimum.
25. In addition to securing submission of reserved matters and commencement with the relevant statutory timeframe (conditions 1, 2 and 3), I have imposed condition 4 requiring adherence to the approved plans but only in relation to the part of the proposed development considered within this outline proposal. All other matters are reserved. Condition 5 ensures specific details relating to the context of the site are submitted at reserved matters stage, and condition 6 will ensure the access to the site is constructed safely and maintained.
26. I have imposed condition 7 and 8 to ensure ecology and biodiversity are protected and improved, and condition 12 to ensure any future external lighting does not have a detrimental impact on protected species, such as bats. Condition 7 is required to be pre-commencement as it is fundamental that these details are agreed prior to works commencing, to manage any potential environmental impact from the proposal. The appellant has agreed to this.
27. Conditions 9 and 11 have been imposed to ensure surface water drainage and contamination are properly dealt with and condition 10 to secure a reduction in traditional energy requirements and carbon emissions.
28. To ensure that the living conditions of adjacent residential properties are not impacted during the construction phase, I have imposed condition 13. It is

¹ BN/46/20/PL and BN/144/22/OUT

² APP/C3810/W/20/3262770 and APP/C3810/W/21/3275037

noted that the Council considered to only limit noisy works on a Sunday, however this is not precise or enforceable, so I have altered the condition accordingly and the appellant is aware of these changes.

Conclusion

29. Although I have found the proposal would conflict with the development plan, for the reasons given above the presumption in favour of sustainable development is an important material consideration that, in this case, outweighs the limited conflict with the development plan. The appeal is, therefore, allowed.

RJ Redford

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (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 insofar as they are relevant to the location of the appeal site and the access, and all other elements are disregarded:
 - Location Plan; and
 - 001 Proposed Site Plan Layout.
- 5) Details pertaining to the reserved matters shall include, but are not restricted to: -
 - materials and finishes of external surfaces in relation to appearance;
 - vehicle and cycle parking, including electric vehicle charge points in relation to layout; and
 - Arboricultural Impact Assessment and Method Statement in relation to layout and landscaping.
- 6) No dwelling shall be occupied until the access onto Eastergate Lane and for Oak House has been constructed in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority, and thereafter maintained.

- 7) No development shall take place, including any ground works or works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority.

Thereafter the approved CEMP shall be implemented and adhered to in full throughout the entire construction period.

The CEMP shall include, but is not restricted to: -

- risk assessment of potentially damaging construction activities;
- identification of "biodiversity protection zones" based on any protected species survey results that are up to date;
- practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- the location and timing of sensitive works to avoid harm to biodiversity features;
- the times during construction when specialist ecologists need to be present on site to oversee works;
- responsible persons and lines of communication;
- the role and responsibilities on site of an ecological clerk of works or similarly competent persons;
- use of protective fences, exclusion barriers and warning signs; and
- containment, control, and removal of any invasive non-native species present on site.

- 8) No construction above ground level shall take place until a Biodiversity Enhancement Strategy (BES) has been submitted to and approved in writing by the Local Planning Authority. The approved BES shall be implemented prior to occupation and thereafter maintained in accordance with the approved details.

The BES shall include, but is not restricted to: -

- purpose and conservation objectives for the proposed enhancement measures including, but not limited by, those set out in the Ecological Impact Assessment by Lizard dated 12/01/2022
- detailed designs to achieve stated objectives;
- locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans (where relevant);
- persons responsible for implementing the enhancement measures;
- details of initial aftercare and long-term maintenance (where relevant);
- hard and soft landscaping details, notwithstanding those approved under the reserved matters; and
- details to demonstrate that the proposed development would achieve at least 10% net gain in biodiversity.

- 9) No construction above ground level shall take place until surface water drainage works have been implemented in accordance with details that first have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall thereafter be maintained.

Before any details are submitted to the Local Planning Authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version, or equivalent standards), and the results of the assessment shall be provided as part of the surface water drainage works details.

Where a sustainable drainage scheme is to be provided, the submitted details shall include: -

- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - include a timetable for its implementation; and,
 - provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 10) No dwelling shall be occupied until a scheme, to incorporate decentralised, renewable, and low carbon energy supply systems, has been implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be maintained in accordance with the approved details.
- 11) Any contamination that is found during construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.
- 12) Any external lighting shall be installed in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority, and thereafter maintained in accordance with the approved scheme.
- 13) Demolition or construction works shall take place only between 0800 and 1800 on Monday to Friday, between 0800 and 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

END OF SCHEDULE