



Appeal Decision

Site visit made on 25 October 2011

by Sheila Holden BSc MSc CEng TPP MICE MRTPI FCIHT

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 November 2011

Appeal Ref: APP/C3810/A/11/2158287
18 Durban Road, Bognor Regis PO22 9QT

- 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 P Hudson and P Meredith against the decision of Arun District Council.
 - The application Ref BR/341/10, dated 3 November 2010, was refused by notice dated 26 May 2011.
 - The development proposed is demolition of derelict 2 storey office building and erection of 8 No 2 bed flats and 6 No 1 bed flats with ground floor parking bin and cycle storage and children's play area.
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Application for Costs

1. An application for a partial award of costs was made by Messrs Hudson and Meredith against Arun District Council. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Procedural matters

3. The application form, the decision notice and the appeal form all refer to the address of the appeal property as 17/18 Durban Road. However, the Council subsequently corrected the address to 18 Durban Road as the adjoining owner at No. 17 drew attention to the error of including his property in the address. The appellant's statement refers to No. 18 and the Council requested that the appeal decision should state the corrected address. This has been done accordingly.
4. The application was in outline with matters of access, layout and scale for determination at this stage. Only appearance and landscaping were reserved for future consideration. The appellant submitted a revised application with the appeal upon which the Council was provided with an opportunity to comment. I am satisfied that taking this revised plan into account would not prejudice any third party interests and I have determined the appeal on this basis.

Main issues

5. The main issues are the effects of the proposed development on the:
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- a) supply of employment land in the District;
- b) living conditions of the future occupiers of the proposed flats in relation to the provision of amenity space.

Reasons

- 6. The appeal site is situated at the junction of Durban Road and Ash Grove on the edge of the South Bersted Industrial Estate. It is occupied by a commercial building that has been vacant for a several years. The proposal seeks to demolish this and replace it with a high-density residential development.

Loss of employment land

- 7. The site has been the subject of previous applications for residential use and a previous appeal was dismissed in 2008, Ref: APP/C3810/A/08/2079561. The previous Inspector concluded that the loss of this site would not be harmful to the supply of land and premises for employment use within the District. He arrived at this conclusion even though it was acknowledged at the time that there was a shortfall in the District's employment floor space and a study had suggested that the amount to be provided should be increased. However, the study's recommendations had not been incorporated into development plan policies then and no policy changes have been agreed since. There is, therefore, no specific policy that identifies this site as critical to the Council's objective of promoting economic growth and regeneration and no policy was referred to within this reason for refusal on the Council's decision notice.
- 8. The Council has drawn my attention to Policies RE3 and SCT3 of the South-East Plan in support of its case. Policy RE3 provides advice on how policies for employment land provision should be developed within local development documents (LDDs). Since no policies have been developed, this Policy is of little relevance. Policy SCT3 seeks to improve and upgrade existing industrial estates and business areas to bring them up to modern standards required by business. From the evidence presented, including the previous appeal decision, the existing derelict building is unlikely to meet modern business needs and its redevelopment appears to be unviable. In view of this and the planning history the appellants are seeking permission to have it demolished. A change of use at this vacant site would therefore not undermine the aims of Policy SCT3.
- 9. Notwithstanding the lack of local planning policies, the Council has a vision for encouraging economic development within Bognor Regis with a view to improving employment opportunities in the area. In August 2011 the Council submitted a bid for an Enterprise Zone in which the appeal site is on the extreme western edge of the area identified for investment. Although the bid was unsuccessful the Council has resolved to continue its commitment to improve the economic prospects of the area, recognising that the wards immediately adjacent to the site are amongst the most deprived in the country. Whilst such aspirations are laudable no further evidence was provided as to why or how this specific site could contribute to this strategy, or why the loss of this site would undermine investment in other properties or sites elsewhere on the Bersted Estate. I therefore attach limited weight to these matters.
- 10. The previous Inspector took account of the specific circumstances pertaining to this site when concluding that the previous proposal for residential use would

not harm the supply of land and premises for employment use. In this situation I do not consider it necessary for the appellant to justify a change of use. On the contrary, it is for the Council to demonstrate that the situation has changed and that the site is now needed. However, the absence of policy support for the retention of this site, the unsuccessful Enterprise Zone bid and the lack of other specific evidence do not persuade me that there has been a material change since the previous appeal decision.

11. I therefore conclude that the change of use of this site from employment to residential would not be harmful to the supply of employment land in the District or contrary to the aims and objectives of the development plan.

Living conditions

12. The original proposal sought outline consent for 8 one-bedroom and 6 two-bedroom dwellings. The layout shown within the Design and Access Statement shows a three-storey building with a shallow pitched roof. There would be 14 car parking spaces, including 9 garages and ground floor storage for 30 bicycles. The scheme submitted showed a small, enclosed children's play area on the ground floor. The Council consider this to be inadequate for the needs of future occupiers and I concur with this assessment.
13. The revised layout submitted with the appeal attempted to address this issue. It showed an additional amenity area that would abut the parking and storage areas within the site on two sides and the area of soft landscaping and the footway on Ash Grove on the remaining sides. It would be close to a public footpath, which leaves Ash Grove near the eastern boundary to the site. The highway authority has not raised any objection to the amended proposal but has made a number of observations on the practicalities of the layout.
14. The Council does not have specific requirements for the quantity of amenity space in relation to residential development. Nevertheless, it seems to me that even with the revised scheme the area would be small for the number of dwellings. Furthermore, it would reduce the amount of space on the site previously allocated for landscaping, car parking and manoeuvring of vehicles. The amenity area would appear squeezed into a corner where it would either be exposed to view from the street or, as suggested by the appellants, enclosed by boundary fencing. Its proximity to Ash Grove and the public footpath would reduce its usefulness to future residents as somewhere that they could enjoy privacy, peace and quiet. In this respect it would be materially different from the amenity area associated with the recent residential development on the opposite side of Durban Road, where the space was not only larger but also to the rear of the building and away from the public highway.
15. Saved Policy GEN7 of the Arun District Local Plan requires development to create attractive places and spaces with the needs of people in mind, which respect and enhance local distinctiveness. In my view the proposed amenity area, both in terms of its quantity and quality, would not meet these objectives. Instead it appears to be an after-thought rather than a pleasant place that would adequately serve the needs of future residents. Its location would make it difficult, if not impossible, for any vehicle to manoeuvre in and out of the parking space adjacent to the eastern boundary as well as reducing

the area available for vehicles to turn around on the site. In their comments on the revised layout the highway authority has raised both these issues. Furthermore, it would significantly reduce the area available for landscaping the site and would be likely to result in planting being replaced by hard landscaping and fencing. These changes would adversely affect the integration of the development into the surrounding area.

16. These factors combine to demonstrate that the proposed layout would appear cramped and that the proposed amenity area would be unsatisfactory. I therefore conclude that it would be harmful to the living conditions of future residents contrary to Local Plan policy to create attractive spaces that serve the needs of occupiers.

Planning obligations

17. The appeal proposal is accompanied by a unilateral undertaking, which has been accepted as satisfactory by the Council. It sets out a series of payments for infrastructure and service contributions to education, library, fire-service and affordable housing provision. Saved Policy GEN8 of the Local Plan seeks provision of supporting infrastructure and Policy H3 of the South East Plan supports contributions towards affordable housing. The Council provided evidence of local housing need and the justification for the remaining contributions were set out in a detailed statement from West Sussex County Council, which related to this site. I am therefore satisfied that the monies requested are directly related to the proposed development and necessary to make the development acceptable in planning terms. The undertaking would therefore meet the tests set out in Circular 5/2005 and those of Regulation 122 of the Communities Infrastructure Levy Regulations 2010. I have therefore taken the undertaking into account in determining this appeal.

Conclusions

18. The appeal site has been under-used for several years and it has been established through this and a previous appeal decision that there is no substantiated reason why it should be retained for employment use. In these circumstances a residential development is acceptable in principle provided this can be achieved without harm to the local environment.
19. The previous appeal was dismissed on the grounds that the site lies within an area at risk of flooding and therefore it should not be developed for housing if other sites, with a lower risk could be made available. Evidence presented with the appeal demonstrated to the satisfaction of the Environment Agency and the Council that this criteria had been met. The appellant has provided a unilateral undertaking in relation to contributions to infrastructure and other services, which I have taken into consideration.
20. However, I have found that the proposed layout would be cramped and would result in the provision of a limited amount of poor quality amenity space, which would be unsatisfactory for future residents. For this reason, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR