

SUPPORTING STATEMENT

Introduction

1. This statement is written in support of an application made by MJH Property Developments Ltd for the erection of one detached chalet dwelling in the manner shown on the submitted Drawing No: 1221.PL:01.

The Site

2. The site measures circa 561 sq metres in area and comprises land which currently forms part of an unused garden area belonging to the owners of Normandie Toddington Lane and an area of land owned by MJH Developments Ltd which is surplus to that required in order for them to complete their adjoining development in accordance with the detailed planning permission granted on appeal (Decision attached) and the subsequent condition discharge consent granted under ADC Ref: LU/197/20/DOC and no change to that permission is required in order to facilitate the erection of the new dwelling proposed.

The Proposed dwelling

3. The new dwelling will match the style, design and size of those under construction on the existing development site and will utilise the same internal private access, surface water and foul drainage systems being installed for that development as all have sufficient capacity to accommodate same without alteration.

Residential Amenity

4. The proposed dwelling is to be sited and orientated on a plot of sufficient size so as to ensure that the existing residential amenities of all adjoining properties would be safeguarded and future occupiers of the new dwelling would enjoy the same high standard of residential amenities as the future occupiers of those dwellings already under construction in accordance with the planning permission granted.

Conditions

5. None are considered necessary so as to ensure that the development proposed is acceptable in planning terms as all information necessary to demonstrate same is provided on the submitted plan and/or as part of the approved development under construction. (See attached appeal decision) and a plans condition would ensure that the development proceeded in accordance with same.

Appeal Decision

Site visit made on 20 January 2020

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 25 March 2020

Appeal Ref: W/4000248

Inglecroft, Toddington Lane, Littlehampton BN17 6JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr P Collins against the decision of Arun District Council.
 - The application Ref LU/210/19/PL, dated 3 July 2019, was refused by notice dated 30 August 2019.
 - The development proposed is demolition of the existing vacant dwelling and workshop and the erection of 10 dwellings (9 dwellings net).
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing vacant dwelling and workshop and the erection of 10 dwellings (9 dwellings net) at Inglecroft, Toddington Lane, Littlehampton BN17 6JU in accordance with the terms of the application, Ref LU/210/19/PL, dated 3 July 2019, subject to the conditions in the attached schedule.

Preliminary Issues and clarification

2. I have amended the description of the development slightly to appropriately reflect the proposal, I am satisfied that this amendment is not material, and does not prejudice either party.
3. The Council has no objection in principle to the development proposed, having visited the site and in assessing the evidence I see no reason to come to a different conclusion regarding the principle of the development.
4. The reasons for refusal relate solely to the submission of additional information. A previous appeal was determined for the same scheme before me and I have had regard to the findings of that Inspector¹. I shall revert to the history of this scheme later in my reasoning.
5. Paragraph 55 of the National Planning Policy Framework (the Framework) advises that planning conditions should be kept to a minimum, and only used where they satisfy 6 tests. These are; the condition must be necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects.
6. The Planning Practice Guidance (the PPG) states that pre-commencement conditions should only be used where there is a clear justification, which is

¹ APP/C3810/W/19/3232378

likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission.

Main Issue

7. The main issue is whether adequate information in respect of drainage, construction management and contamination has been provided in order to permit the proposal without the need for associated pre-commencement conditions.

Reasons

Drainage

8. The appeal site and the surrounding properties are shown as being within Flood Zone 1. The evidence indicates that surface water drainage for the integral private road would be addressed by way of a private drainage system leading to a natural ground infiltration soakaway in accordance with Document H – Drainage and Water Disposal. The dwellings would be served by driveways surfaced with permeable materials, and the proposed landscaped areas (including gardens) would include individual soakaways for each property located within the garden area and in accordance with Document H Drainage and Waste Disposal.
9. The Supplementary Drainage Statement (June 2019) provided winter ground monitoring and the testing results demonstrate that the proposal soakaways would provide adequate ground infiltration such to effectively address surface water drainage. On assessing the Proposed Site Layout and Hard Landscaping Plan 01509 PL01A it is clear that sufficient space is available within the site to enable provision of the proposed soakaways at a minimum 5 metre distance from each of the proposed dwellings and the site boundaries.
10. The Local Lead Flood Authority, West Sussex County Council, identifies that the site is at a low risk from flood, however requested that a pre-commencement condition requiring a Surface Water Management Plan (SWMP) should be imposed on any permission granted for this scheme. Whilst it is reasonable for statutory consultees and other third parties to suggest conditions to make a development acceptable in planning terms, the decision as to whether it would be appropriate to impose such a condition rests with the decision maker.
11. I am satisfied on the basis of the location of the site and the information submitted that the proposal would not result in an increased risk in flooding either on the site or on the adjacent properties. I find that, subject to a condition securing compliance with the Supplementary Drainage Statement (June 2019), the proposal would comply with Policies WDM2 and WDM3 of the Arun Local Plan 2018.

Construction management

12. The appellant submitted a Supplementary Construction Management/Delivery Statement dated 20 June 2019. That document identifies the route of access, storage of construction vehicles and space for site operatives along with a number of other construction related issues. The site is accessed via a public highway and there is good visibility along Toddington Lane. The appeal site has

an entrance directly at the end of that Lane which reinforces the relative accessibility of the site.

13. The construction will be for a temporary period, and the information submitted is adequate to demonstrate that the site will be managed during construction to avoid disruption to neighbouring occupiers. Whilst there would be some additional traffic movements during this time there is no evidence to suggest that this cannot be accommodated within the terms of the 2019 Statement.
14. As such, subject to specifying that the development be carried out in accordance with the 2019 Statement, and a restriction upon hours of working, I find that a pre-commencement condition requiring further information would not be necessary in this case.

Contamination

15. The appeal site is a former horticultural nursery however it is no longer used for that purpose, and the existing dwelling is vacant. Whilst it is possible that there may be some localised soil contamination within the site due to the previous use as a nursery, there is no evidence to suggest that this is the case or that any issues relating to pollution were previously raised at the site.
16. The PPG is clear that conditions requiring compliance with other regulatory regimes will not meet the test of necessity. The PPG advises that the implications of contamination for development should be considered through the planning process to the extent that it is not addressed by other regimes. Approved Document C under the Building Regulations identified that localised soil contamination due to chemical spillage can be dealt with by compliance with Site Preparation and resistance to contaminants and moisture: Approved Document C.
17. There is very limited evidence to suggest that the site is contaminated, and I am satisfied that, subject to a condition requiring that the scheme comply with Building Regulations, it is not necessary to require additional information at a pre-commencement stage.

History of the site

18. The appeal site was subject to a previous appeal decision in 2019, at which point the Inspector dismissed the appeal and in doing so refused to grant planning permission. The previous Inspector did not consider that the information provided was satisfactory to allow them to allow the scheme without the use of pre-commencement conditions. This was following an invitation for comments by the parties.
19. In reaching my decision I have had the benefit of also considering those comments alongside the advice in the Framework and the PPG.
20. Whilst I have reached a different conclusion, I have done so in accordance with the relevant policy and guidance, and I am not bound to reach the same decision as a previous inspector. It is a matter of judgement for the decision maker based on their assessment of the evidence.

Conditions and Conclusion

21. The local planning authority has provided a list of suggested conditions, the appellant has subsequently commented on those conditions and provided their

own list of suggested conditions. I have considered both and am mindful that in addition to the tests relating to the use of conditions, each individual condition should be drafted to contain the necessary components to enable the condition to achieve its purpose. I have therefore amended the proposed conditions as necessary for clarity and to avoid duplication.

22. I consider that, in addition to the commencement condition, it is necessary to impose a condition stating the relevant plans for certainty. A condition relating to soft landscaping is necessary as, unlike hard landscaping, it is not shown on the plans and details are necessary in order to ensure the development sits comfortably within the character of the area. A condition restricting the future construction of windows on plots 1, 2 and 10 is necessary as these plots are located adjacent to existing dwellings for which the occupiers should have the retention of their privacy retained. A condition requiring compliance with the Construction Management/Delivery Statement and the restriction on hours of construction is necessary to protect the amenity of surrounding occupiers. A condition requiring charging points is necessary to ensure that the site is equipped for future sustainability. A condition requiring the retention of parking and turning spaces is necessary to ensure that the development does not have a detrimental impact on highway safety due to restricted parking for future occupiers. It is necessary to impose a condition securing the compliance with the Supplementary Drainage Statement dated 20 June 2019 to ensure that the proposal does not result in flooding on site or increase the risk off site.
23. I have not imposed individual conditions relating to external materials or access as these are dealt with in the plans and associated documents. I have not imposed a condition relating to cycle parking as the dwellings have garages and I do not consider additional cycle parking to be necessary.
24. For the reasons above I find that the proposal would comply with the development plan when taken as a whole. Subject to the conditions set out in the schedule below I conclude that the appeal should succeed.

J Ayres

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site location Plan - SP01
Block Plan – 0519.SP02
Floor Layout Plans and Elevations – 0519.PL02 rev A
Proposed Hard Layout and Hard Landscaping Plan 0519.PL01 rev A
- 3) Demolition and construction of the development shall be carried out in accordance with the Supplementary Construction Management/Delivery Statement dated 20 June 2019 and no demolition or construction works shall take place other than between 08:00 - 18:00 hours Monday to

Friday; 08:00 - 13:00 hours on any Saturday and not at all on any Sunday, Public or Bank Holiday.

- 4) No development above damp proof course (DPC) level shall take place until there has been submitted to, and approved in writing by, the local planning authority a landscaping scheme including details of soft landscaping to include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 5) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the Floor Layout Plans and Elevations – 0519.PL02 rev A.
- 6) No windows shall be constructed at first floor or above in the west side elevation of plot 1, east side elevation of plot 2 and west side of plot 10 hereby permitted.
- 7) None of the dwellings hereby permitted shall be occupied until it has been provided with a charging point for electric vehicles, the location of such to be agreed in writing with the local planning authority.
- 8) None of the dwellings hereby permitted shall be occupied until the vehicle parking and turning spaces have been provided in accordance the approved Proposed Hard Layout and Hard Landscaping Plan 0519.PL01 rev A and these spaces shall be retained for their respective uses.
- 9) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 10) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with Document H of the Building Regulations.
- 11) None of the dwellings hereby permitted shall be occupied until the surface water drainage system has been installed and made operational in accordance with the Supplementary Drainage Statement dated 20 June 2019 and Document H of the Building Regulations.

END OF SCHEDULE