
Appeal Decision

Site visit made on 8 April 2019

by **Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 06 June 2019

Appeal Ref: APP/C3810/W/18/3210153

Sunny Corner, Copse Lane, Walberton BN18 0QH

- 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 and Mrs Steve Holden against the decision of Arun District Council.
 - The application Ref WA/75/17/PL, dated 12 October 2017, was refused by notice dated 12 July 2018.
 - The development proposed is to erect 9 houses, with associated car parking, bin storage and landscaping and to create a new access road from the existing access onto West Walberton Lane.
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Decision

1. The appeal is allowed and planning permission is granted to erect 9 houses, with associated car parking, bin storage and landscaping and to create a new access road from the existing access onto West Walberton Lane, at Sunny Corner, Copse Lane, Walberton BN18 0QH in accordance with the terms of the application, Ref WA/75/17/PL, dated 12 October 2017, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The decision notice referenced both policies from the Arun District Local Plan (ADLP), and from the 'emerging Local Plan'. The Arun Local Plan 2011-2031 (2018) (the Local Plan) was adopted shortly after, and has replaced the ADLP. Therefore I have considered the appeal with reference to the policies quoted from the Local Plan.
3. I have edited the description of the development to remove unnecessary reference to location details otherwise provided by the site address.

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the area, including with regard to lighting; and
 - whether the site is a suitable location for residential development in respect of the potential for future occupants to access everyday local facilities and services and facilities, by a range of modes of transport.

Reasons

Character and appearance

5. The site is currently a field. This is located between West Walberton Lane and Copse Lane, immediately adjacent to the edge of the developed area of Walberton. Existing residential development with boundaries abutting the site, is located to the south, the east, and to the north-east. Woodland to the north, and field boundaries to the west, otherwise provide a high degree of visual and physical containment. This is further accentuated by the fact that only a small sliver of land containing the main access to the site links it to West Walberton Lane, with other spaces lying between.
6. Considered in relation to the existing layout of Walberton, development of the site would, for the above reasons, effectively achieve a 'rounding off' of the northern boundary of the settlement. Given very limited visibility of the site from West Walberton Lane, the development would furthermore have no significant effect on the existing 'gap' between Walberton and Fontwell as viewed from the lane.
7. Existing development along both Copse Lane and the adjacent part of West Walberton Lane consists of ribbons of housing which are generally suburban in character, and mostly comprise bungalows on large plots. The proposed development would involve generally smaller plots, and consist of 2-storey houses. This would find ready comparison in existing housing developments in Walberton, but nonetheless contrast with housing adjacent to the site. This contrast would not however be readily perceived within either Copse Lane or West Walberton Lane, on account of the fact that the scheme would not form a component of the streetscenes of either. The established character of both Copse Lane and West Walberton Lane would therefore be largely unaffected.
8. Insofar as the site layout has been generated to incorporate a large buffer on the north side of the development, in addition to garden spaces, a sense of spaciousness on the 'rural' fringe of Walberton would be retained. Further details of landscaping could be obtained by condition.
9. Street lighting appears to be absent from Copse Lane and the adjacent part of West Walberton Lane, and is only sporadically present within Walberton more generally. Sources of artificial lighting within and around the settlement are therefore less frequent than within more urban areas. This is recognised in Policy VE 8 of the Walberton Neighbourhood Development Plan 2015-2035 (2016) (the NP), and forms an important aspect of the character of Walberton. The South Downs Dark Skies Reserve (the DSR), whose boundary is located around 650 metres to the north of the site, has additionally been designated in recognition of low levels of artificial light pollution.
10. As the site is currently a field, artificial light levels would inevitably increase as a result of the development. Whilst light spill from within dwellings and from vehicles would be largely unavoidable, the plans submitted with the application do not show any external lighting. The appellants furthermore indicate that street lights are not proposed, and comments from the Highways Authority also do not indicate a need for street lighting.
11. Even if external lighting was to be installed, this could be specified with regard to minimising light spill and intrusion, in accordance with Policy VE8 of the NP.

Except insofar as external lighting would be required to meet separate standards maintained by the Highways Authority, which are presumably informed by designations such as the DSR, its specification could be secured by condition. Such a condition is indeed proposed by both parties. Subject to this condition it appears unlikely that the development would have an adverse impact either locally, or on the setting of the DSR.

12. For the reasons outlined above I conclude that the development would not have an unacceptable impact on the character and appearance of the area, including with regard to lighting. The development would therefore comply with Policy D SP1 and Policy D DM1 of the Local Plan and Policy HP13 of the NP, which each seek secure development that reflects the characteristics of the site and local area; Policy VE8 of the NP which seek to restrict development that would detract from the unlit environments of the Parish; and the National Planning Policy Framework (the Framework).

Location and Transport

13. The Local Plan seeks to direct development to sites within 'built-up area boundaries' (BUABs). Policy C SP1 of the Local Plan sets out the Council's approach to development outside these boundaries, restricting the types of development which may take place within such 'countryside' locations. Policy H SP3 sets additional criteria for rural exception sites. Policy HP1 of the NP similarly seeks to resist development outside BUABs. The development type and location proposed would each be inconsistent with the criteria set out in these policies. In this regard however, the Council's particular concern in reaching its decision was that the location of the development would cause future occupants to rely on transport by car to access services, leading to environmental harm.
14. The Framework identifies a range of relevant considerations with regard to rural housing. In this context paragraph 78 of the Framework states that housing should be located where it will enhance or maintain the vitality of rural communities, particularly where development in one village may support services in a village nearby. Paragraph 102 of the Framework further states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.
15. In terms of its location, the proposed development would be sited some distance from the edge of the BUAB, but, as outlined above, would be directly adjacent to existing housing which forms an identifiable part of the developed area of Walberton. Services in Walberton are few in number and scale, but given their proximity to the development they would see likely use by future occupants. This could help to sustain these services, benefitting the broader rural community. Similar would also be true of services available in nearby Barnham and Fontwell.
16. There is disagreement between the parties over the extent to which services and bus stops located in Walberton could be accessed from the development on foot. The walk from the site along West Walberton Lane would take a matter of minutes. It would however require that some of the journey was undertaken along a road which lacks a pavement, or consistent verges, and is unlit..

17. I did nonetheless see a pedestrian walking along West Walberton Lane during my site visit, and see no reason to consider that this was an unusual occurrence, or indeed that the occupants of dwellings living along both West Walberton Lane and Copse Lane don't occasionally undertake the walk. In this regard the submissions show no past record of accidents. In view of my reasons above, the lack of street lighting would furthermore not itself be unusual. Therefore, even though this route presents some hazards to the pedestrian, I can accept that future occupants of the proposed development could make use of it to walk into Walberton.
18. The appellants note the availability of a cut-through from the development onto Copse Lane, which is a bridleway, and appears to offer a less well-trafficked, and therefore safer route into Walberton. However there is no certainty that this route would be available to future occupants of the development. This is because the cut-through is not included within the site boundary, and its future use has not been otherwise secured.
19. Six numbered bus services run from the bus stop in Walberton. Three of these serve local schools, and others connect the village to Bognor Regis and Chichester. This is not an unreasonable level of service for a rural location. I see no reason to consider that these bus services could not be utilised by future occupants of the development. Use of the bus could itself help to support continued operation of the service, which would generally benefit the rural community.
20. Future occupants would be able to cycle the short distance to access services in Walberton both rapidly and with ease. Whilst the journey to Fontwell would be similarly short, it may be a little more challenging given that much of the outward journey would be uphill. Barnham, which contains additional services and a railway station supplied with cycle racks, could also be quickly and easily reached by cycle. I further note that the route along West Walberton Lane is specifically signposted for use by cyclists, and that part of the marked route to Barnham follows an off-road trail. Cycling to access services, including the rail network, would therefore represent a realistic and practical option for future occupants of the development.
21. In the event that cars were in fact to be used to access local services, including dropping passengers off at the nearest bus stop in Walberton, the environmental effects of the journeys involved would be very modest on account of the very short distances involved. It is furthermore reasonable to consider that journeys to larger settlements such as Chichester and Bognor Regis, would be no more likely to occur than had the development in fact been located within the BUAB of Walberton. There would indeed be very little difference in the distances involved, or therefore the environmental impact.
22. I have finally taken into account the fact that, notwithstanding their objections to the proposed development, both the Council and Parish Council have each identified a substantial proportion of the site as a suitable location for housing in the recent past. In this regard, whilst I acknowledge the Parish Council's unsuccessful attempt to seek an allocation for affordable housing in its NP, the transport and environment implications arising from housing development of any type would have been similar to those of the development proposed.
23. Exercising my duty under section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended, and taking into account paragraph 213 of the

Framework which states that due weight should be given to existing policies depending on their degree of consistency with the Framework, I conclude that whilst the location of the development would conflict with Policy C SP1 of the Local Plan, and Policy HP1 of the NP, the development would help to support local vitality, and occupants would have a good level of access to sustainable transport solutions, in each regard consistent with advice in paragraphs 78 and 102 of the Framework. Taking the development plan as a whole, the scheme would as such furthermore comply with Policy T SP1 of the Local Plan, which amongst other things requires provision of safe access to the highway network and promotion of promotes sustainable transport; Policy T DM1 of the Local Plan which amongst other things requires that development must be located within easy access of public transport services and existing pedestrian and cycle networks; and Policy SD SP1 of the Local Plan which generally promotes sustainable development. I conclude therefore that the location is appropriate, and would result in no unacceptable harm to the environment as a result of travel to access facilities and services.

Other Matters

24. Part of the site across which the main access would run is located within Flood Zones 2 and 3. The dwellings would however be located within Flood Zone 1, and the appellants' submitted Flood Risk Assessment (FRA) sets out a drainage strategy, including 'bridging' of Flood Zones 2 and 3. As such I am satisfied that these matters can be addressed by the imposition of a suitably worded condition.
25. The site lies adjacent to an area of ancient woodland, and supports a population of dormice and slow worms, each of which are protected species. Detailed survey work has however been undertaken and a mitigation strategy produced. The site plan also incorporates a 15 metre buffer with adjacent ancient woodland. Subject to the implementation of the mitigation strategy and provision and maintenance of the 15 metre buffer, each of which can be secured by condition, no unacceptable adverse impacts should arise. Though interested parties have also made reference to the possible presence of newts, no protected species were identified on site during the survey.
26. The lack of contributions towards provision of off-site play/informal recreation space was a reason for refusal of the planning application. The appellants have subsequently provided a number of Unilateral Undertakings (UUs) to pay the requested sum, and the Council has indicated its satisfaction. As all but the second version of the document dated 18 February 2019, and identifiable by the corrections in part 7 of the document, are either incomplete or contain errors, I have based my decision on this UU.
27. Policy OSR DM1 (part 2a) of the Local Plan provides the basis for collection of the contribution, with supporting guidance set out in the Open Space, Sport and Recreation Standards Supplementary Planning Guidance 2000 (the SPD), and the Open Space, Sport and Recreation Study 2009. The SPD indicates that facilities funded should normally be within walking distance of the development. The facility identified is the Walberton Parish Play area. In view of my findings above, the facility would be accessible to residents alongside the services and other facilities located in Walberton. The funding is required in order to reflect increased levels of use of the facility likely to be generated by the development. I am satisfied therefore that the contribution would meet the

tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations), and paragraph 56 of the Framework.

28. As the Council does not currently operate the Community Infrastructure Levy, and given that the facility for which funding is sought can be categorised as 'infrastructure', I have sought further information regarding pooling in order to establish compliance with Regulation 123(3) of the CIL Regulations. I am satisfied that as the contribution would only be the third such contribution, it not breach pooling restrictions.
29. I conclude therefore that the UU meets the tests set out in Regulation 122 of the CIL Regulations, and paragraph 56 of the Framework, and that I can therefore take it into account in making my decision.
30. Interested parties raise a number of additional concerns which include pressure on local schools and medical facilities, noise pollution, possible parking in West Walberton Lane, and the safety of the access. The Council does not share these concerns, and with particular regard to the scale and location of the development, and the comments of the Highways Authority, I see no reason to disagree. Whilst further concerns regarding flooding are addressed by the submitted FRA, conditions can be imposed to secure implementation of a scheme of surface water drainage.
31. It is accepted by both parties that the Council can now demonstrate a 5-year supply of deliverable housing sites. The Council indicates that the 9 houses proposed are not therefore required. However, whilst I acknowledge that the site is not included amongst the 'deliverable housing sites' referenced in relation to the Council's housing supply set out in Table 12.1 of the Local Plan, the development would nonetheless make a positive contribution towards the local supply of housing. This lends modest weight in favour of the scheme.

Conditions

32. In addition to standard conditions which provide a timescale for the commencement of the development, and specify the approved plans for sake of certainty, the Council has recommended a number of planning conditions. I have considered these in light of advice contained within the Planning Practice Guidance (PPG). In allowing the appeal I shall impose conditions accordingly, improving precision where necessary in accordance with the advice in the PPG.
33. As the site is considered to hold archaeological potential, I have imposed a condition requiring agreement and implementation of a scheme of investigation. I have restricted the works that can take place in relation to the development prior to agreement and/or implementation of the scheme rather than using a pre-commencement condition. This is in recognition of the fact that excavation could damage any archaeological deposits on site, whereas harm would be unlikely to arise in relation to other above ground works.
34. In order to safeguard protected species on site I have imposed a condition requiring that the development is carried out in accordance with the submitted mitigation measures for reptiles and dormice, and enhancement measures for bats. There is no necessity for the Council's suggested condition requesting information regarding dormice, given that this has already been received.
35. The Council has requested a number of conditions relating to the protection of trees and hedges on and adjacent to the site. However, the appellants have

submitted an Arboricultural Implications Assessment (Tree Report). This contains a detailed tree protection plan, sets out the required sequencing of work and a method statement relating to construction of no-dig surfaces. Despite the fact that the attached plan shows a slightly different layout, these details appear to remain valid. As such I am satisfied that the imposition of a condition requiring development in accordance with the tree protection plan and supporting information would adequately address tree protection issues.

36. I note that plan SCR-MHA-00-XX-DR-A-0004 Rev.P6 provides reasonably specific details of hard landscaping, but only generalised details of soft landscaping. I further note that the scheme of soft landscaping presented in the Ecology Report again relates to a slightly different site layout. I have therefore imposed a condition requiring details of a scheme of soft landscaping, with provision within this for incorporation of recommendations within the Ecology Report. I have also included a provision for submission of a management and maintenance plan relating to the 15 metre buffer zone instead of the Council's suggested separate condition relating to its retention. This effectively achieves the same objective, and takes into account the fact that management was otherwise addressed within the Ecology Report. I have imposed a separate condition relating to subsequent maintenance of the soft landscaping scheme outside the 15 metre buffer. These conditions will ensure the provision and establishment of an attractive residential environment, and fulfilment of the mitigation and habitat enhancement objectives set out in the Ecology Report.
37. The Council has requested conditions requiring details and implementation of surface water drainage works, including provisions related to run-off, culverting, infiltration testing and future management. Infiltration testing has however already been undertaken, and culverting of the existing watercourse would require separate consent. A scheme relating to surface water drainage is furthermore outlined within the appellants' FRA. I note however that plan 2017-D1271-SK300 Rev.A attached to the FRA features a slightly different layout to that currently proposed, therefore its revision would be appropriate. I also note the FRA itself recommends provision of a simple maintenance strategy. I have therefore imposed a condition requiring surface water drainage works in accordance with a modified scheme, and provision of maintenance plan in the interests of managing flood risk.
38. Whilst I note that the plans relating to individual units provide details of materials and finishes, these are generalised in nature. I have therefore imposed a condition requiring a submission of a more specific schedule, including design details of individual building components. This is in order to ensure that the development makes a positive contribution to the character and appearance of the area. Though the appellants have suggested that this should be a pre-commencement condition, this is unnecessary.
39. I have imposed a condition requiring the provision of parking spaces prior to occupation of the development, and requiring continuing availability of these spaces for parking. This is in order to ensure the ongoing capacity of the development to support its parking needs.
40. Plan SCR-MHA-00-XX-DR-A-0004 Rev.P6 provides locations of boundary treatments and bin stores, but designs are not shown in detail. I have therefore imposed a condition requiring agreement of specific designs and provision of

boundary treatments and bin stores prior to occupation of the dwellings. This is in order to ensure privacy and the tidy storage of waste.

41. I have imposed a condition requiring agreement of details regarding external lighting, making reference to the sources quoted by the parties. This will help to minimise light pollution in line with local objectives, and the character and appearance of the area. I have necessarily limited the scope of the condition in recognition of the fact that the Highways Authority may require compliance with its own standards.
42. I have not imposed a condition requiring agreement of foul drainage details. This is because the submitted Flood Risk Assessment already indicates the intention to connect the development to an existing sewer in West Walberton Lane, and no reasonable alternative exists. There is therefore no necessity to require further details.
43. I have also not included the Council's suggested condition requiring submission of a construction management plan. With regard to the modest scale of the development involved, and its particular location, there appears to be little justification or necessity to agree the details identified in the condition. Furthermore there appears to be a lack of clear potential for practical enforcement where these relate to activity off the site.

Conclusion

44. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless modified by the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans:
SCR-MHA-00-XX-DR-A-0001 Rev.P6, SCR-MHA-00-XX-DR-A-0003 Rev.P10, SCR-MHA-00-XX-DR-A-0004 Rev.P6, SCR-MHA-00-XX-DR-A-0005 Rev.P3, SCR-MHA-00-XX-DR-A-0010 Rev.P5, SCR-MHA-00-XX-DR-A-0011 Rev.P5, SCR-MHA-00-XX-DR-A-0012 Rev.P6, SCR-MHA-00-XX-DR-A-0013 Rev.P6, SCR-MHA-00-XX-DR-A-0014 Rev.P6, SCR-MHA-00-XX-DR-A-0015 Rev.P6, SCR-MHA-00-XX-DR-A-0016 Rev.P6, SCR-MHA-00-XX-DR-A-0017 Rev.P6.
- 3) No trenching or earthmoving in relation to the development hereby permitted shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme of archaeological investigation will then be implemented in accordance with the approved details.
- 4) The development hereby permitted shall be carried out strictly in accordance with the pre-construction mitigation measures set out in parts 2.1-2.4 of the

Mitigation Statement, Habitat Creation and Ecological Enhancement Report dated 10th Oct 2017 (the Ecology Report), the construction phase mitigation for dormice measures detailed in The Ecology Co-op's letter dated 10th Jan 2018, and the 'enhancement for bats' measures set out in part 3.3 of the Ecology Report.

- 5) The development hereby permitted shall be carried out in accordance with the tree protection and construction measures outlined in the Tree Protection Plan and the supporting methodology contained within the Arboricultural Implications Assessment dated 28th September 2017.
- 6) No construction above damp proof course level shall take place until a scheme of soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme must include details of:
 - i. how recommendations set out in parts 3.1 and 3.2 of the Mitigation Statement, Habitat Creation and Ecological Enhancement Report dated 10th Oct 2017 have been fully incorporated into the scheme; and
 - ii. include a management and maintenance plan which outlines how the 15 metre buffer strip shown on plan SCR-MHA-00-XX-DR-A-0004 Rev.P6 will be permanently managed and maintained.

The development shall then be carried out in accordance with the approved scheme, and the 15 metre buffer strip will managed and maintained in accordance with the approved management and maintenance plan.

- 7) All planting, seeding or turfing within the approved scheme of soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Except in relation to the 15m buffer zone, which shall be subject to ongoing management in accordance with an approved management and maintenance plan, any trees or plants which within a period of 5 years from the completion of the 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.
- 8) No construction above damp proof course level shall take place until:
 - i. a revised surface water drainage scheme which takes into account the approved site layout; and
 - ii. a maintenance plan relating to the future management of surface water drainage,have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme will then be implemented prior to the first occupation of the dwellings hereby permitted, and shall thereafter be managed in accordance with the approved maintenance plan.
- 9) No construction above damp proof course level shall take place until details of the specific materials and finishes to be used to provide the external surfaces of the dwellings hereby permitted, and samples of such materials and finishes, have been submitted to and approved in writing by the Local Planning Authority. This schedule shall include details of brick bond, tiling, windows, doors and rainwater goods. The development shall then be carried out in accordance with the approved details.

- 10) The development hereby permitted shall not be occupied until the parking spaces shown on the approved plans have been constructed and made available for parking. These spaces shall thereafter be retained and kept available for parking at all times.
- 11) The dwellings hereby permitted shall not be occupied until the boundary treatments and bin stores shown on the approved plans have been constructed in accordance with specific design details that have first been submitted to and approved in writing by the Local Planning Authority. The boundary treatments and bin stores shall thereafter be retained.
- 12) Except in relation to the provision of external lighting whose specification is required to meet standards maintained by the Highways Authority, the development hereby permitted shall not be occupied until any other external lighting, the details of which have first been submitted to and approved in writing by the Local Planning Authority, has been installed. These details shall be in accordance with the recommendations for Zone E2 within the Guidance Notes for the Reduction of Obtrusive Light GN01:2011 External Lighting, and those set out within part 3.4 of the Mitigation Statement, Habitat Creation and Ecological Enhancement Report dated 10th Oct 2017.