
Appeal Decision

Site visit made on 29 June 2016

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 12 September 2016

Appeal Ref: APP/Z3825/W/16/3146083

Land adjacent to Hatches House, East Street, West Chiltington, West Sussex

- 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 Croudace Portland against the decision of Horsham District Council.
 - The application, Ref. DC/15/2758, dated 8 December 2015, was refused by notice dated 4 February 2016.
 - The development proposed is the erection of 3 detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) whether the proposal would be in harmful conflict with the Council's strategy for housing development in the District, and (ii) the effect of the proposal on the character and appearance of the rural edge of West Chiltington.

Reasons

3. On the first issue, the Council considers that because it can demonstrate a 5 year housing supply and the site is in a countryside location outside the built up area boundary of West Chiltington, the proposal would be contrary to its strategy of a hierarchical approach of concentrating development within the main settlements of the District. In this context the development would conflict with Policies 1, 2, 3 & 4 of the Horsham District Planning Framework 2015 ('the HDPF').
 4. In brief summary, Policy 1 is a strategic policy to secure sustainable development to reflect Government policy in the National Planning Policy Framework 2012 ('the NPPF'); Policy 2 indicates the spatial basis for development in the period to 2031; Policy 3 identifies West Chiltington as a 'medium village' in its settlement hierarchy, and Policy 4 explains that the expansion of settlements will be supported where a proposal meets a number of provisos.
 5. The disagreement between the appellant and the Council essentially relates to the interpretation of HDPF Policy 4, with the Council of the view that the appeal scheme is precluded through the site being both outside the settlement
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boundary for West Chilton and not allocated in a Neighbourhood Plan or the HDPF. The appellant's assertion is that with the Neighbourhood Plan at an early stage the appeal site qualifies as a windfall site under category 5 of HDPF Policy 15. The latter is a strategic policy relating to the scale and distribution of the 16,000 homes envisaged for the District within the plan period of 2011-2015.

6. In making this assertion the appellant attributes substantial weight to the Inspector's comments in Appeal Ref. APP/Z3825/W/15/3022944. I note that although the Inspector in this case correctly concluded that point 1 of Policy 4 precludes windfall sites on unallocated sites outside the settlement boundaries of built up areas, he then considered this not to be 'sensible' and suggested an altered wording of the policy to allow its interpretation to support the principle of windfall sites under Policy 15.
7. However, I take the opposite view and consider that it would not be 'sensible' if land not previously developed but outside and adjoining a built up area boundary were to be regarded as a windfall site. Such an interpretation would effectively allow any owner of such land to claim 'windfall status', subject only to compliance with the criteria relating to such matters as landscape impact and accessibility to services in the other relevant policies.
8. Having regard to the large amount of land around the periphery of the various towns and villages listed in Policy 3, this would be likely to create a plethora of suggestions of sites 'unexpectedly becoming available'. This would allow development that, if permitted, would undermine the basis on which the HDPF envisages housing delivery in the District consistent with Policies 1,2, 3 & 4 taken together and in accordance with the NPPF.
9. The latter's glossary defines windfall sites as '*sites which have not been specifically identified as available in the Local Plan process. They normally comprise previously-developed sites that have unexpectedly become available*'. Whilst this does not rule out land adjoining the outside boundaries of built up areas I consider it reasonable, for the reason stated in paragraph 8 above, to give substantial weight to the 'previously developed' element in such circumstances.
10. I accept that the definition of windfall sites in the HDPF glossary has given some encouragement to the appeal scheme and this suggests that a fuller definition, either closer to that in the NPPF or with a reference to the location of windfall sites normally being within built up area boundaries, would have been less ambiguous. However, I accept the Council's view that the existing definition has to be read in the context of its housing strategy, namely any sites outside the built up area boundaries coming forward only through allocations.
11. I can find no fault with this approach, which in any event through the wording of Policy 4, including criterion 1 requiring an allocation for housing in the HDPF or a Neighbourhood Plan, has been adjudged 'sound' by the Local Plan Inquiry Inspector. The appeal scheme is in clear conflict with Policy 4 and because a departure from it would be contrary to sound planning and undermine the adopted housing strategy I consider that this conflict would also be harmful.
12. Turning to the second issue, the Council considers there would be a conflict with Policies 25, 26 and 33 of the HDPF. Policy 25 is a strategic policy to safeguard the natural environment and landscape character; Policy 26 protects the

countryside, and Policy 33 sets out development principles in order to conserve and enhance the natural and built environment.

13. I have given careful consideration to the Council's assessment that the development would have a harmful effect on this part of the village. However, it is inevitable that a housing proposal of three dwellings will fundamentally change the character and appearance of the site itself, as by definition development alters open countryside to a built form. There is therefore inescapably an adverse impact on the landscape and countryside.
14. That said, in this case I consider that the site's location is well related to the existing village and its services and that the form of development would be in keeping with the character and appearance of West Chilton. The proposal would not extend the settlement boundary further north or east than existing nearby development. The scheme would not be dissimilar to the existing housing to the west and would be visually contained by boundaries that are well defined by mature vegetation. Although the access road would increase its visibility from the public realm this would not be significant given the proposed layout and with the existing tree frontage to East Street that for the most part would be retained. On this issue I do not therefore conclude that any conflict with Policies HDPF 25, 26 and 33 would in itself necessarily preclude the development of the site in the form indicated in the appeal scheme.
15. As the evidence pulls in different directions I must consider the planning balance in this case. Firstly, my favourable comments for the development in terms of detail must be set against the substantive objection in terms of the principle of the site coming forward outside the scope of provisions of the HDPF and in a way that would undermine its housing delivery strategy and set an unfortunate precedent. This factor merits considerable weight.
16. Secondly, it is for the emerging Neighbourhood Plan to evaluate the loss of countryside and any impact of development on the rural landscape against the benefit of additional housing. I have limited information on the Plan in this appeal other than the fact that it is at an early stage and that the appellant has referred to the sites at Steele Close and Hatches Estate, each provisionally allocated for 15 dwellings.
17. Thus whilst ostensibly there is an argument that the appeal scheme could be allowed because of the absence of harm to the area other than that which inevitably occurs when development takes place, I consider that there would have been no opportunity within the Neighbourhood Plan process for a comparative assessment of the net effect of larger or smaller sites or their particular locations as regards proposed housing and its environmental implications. In short, a permission on the basis of this appeal would be clearly inappropriate in terms of both strategy and local reasons relating to the village.
18. I have considered all the other matters raised for the appellant but have found nothing to alter my conclusion that on balance the appeal should be dismissed.

Martin Andrews

INSPECTOR