



Appeal Decision

Inquiry opened on 15 November 2011

Site visit made on 17 November 2011

by Andrew S Freeman BSc(Hons) DipTP DipEM FRTPI FCIHT MIEEnvSc

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

Decision date: 19 December 2011

Appeal Ref: APP/C3810/A/11/2155343

Land north of Burndell Road, Yapton, BN18 0HR

- 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 M J Gleeson Group PLC against the decision of Arun District Council.
 - The application Ref Y/81/10/, dated 15 October 2010, was refused by notice dated 27 May 2011.
 - The development proposed is construction of 173 new dwellings and associated car parking, public open space including children's play areas, vehicular access and highway works.
 - The inquiry sat for 4 days on 15 to 18 November 2011.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 173 new dwellings and associated car parking, public open space including children's play areas, vehicular access and highway works on land north of Burndell Road, Yapton, BN18 0HR in accordance with the terms of the application, Ref Y/81/10/, dated 15 October 2010, subject to the conditions set out in the attached schedule.

Application for Costs

2. At the inquiry an application for costs was made by M J Gleeson Group PLC against Arun District Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - (a) whether, having regard to considerations including housing land supply, the appropriateness of the location and precedent / prematurity, the appeal should be determined other than in accordance with development plan policies relevant to the countryside;
 - (b) the effect on the living conditions of the occupiers of 12-22 (even) Downview Road and 41-46 Fordwater Gardens in terms of privacy and visual intrusion; and
 - (c) the effect on health care provision.

Procedural Matter

4. At the opening of the inquiry, I accepted a number of amended plans. These had been prepared by the appellant with a view to overcoming the reason for refusal relating to residents' living conditions. The plans had been the subject of appropriate pre-inquiry consultation. I am satisfied that no material prejudice would arise if my decision were based on these amended plans together with the other non-superseded plans.

Reasons

Countryside matters

Policy considerations and the effect on the character of the area

5. In the context of this appeal, the principal policies of relevance to built-up areas and the countryside are to be found in the Arun District Local Plan 2003. Built-up area boundaries are set under saved Policy GEN2 and are defined on the Proposals Map. Outside built-up area boundaries, development will not be permitted unless it is consistent with other Local Plan policies. The reason for the policy is to meet the aim of sustainability by locating development in areas with existing services, infrastructure and facilities.
6. The explanatory text notes that built-up boundaries are important in setting a distinction between the built form of a main settlement and the surrounding countryside. The purpose of the boundaries is to define the areas within which certain policies will apply. In particular, the boundaries define those areas within which planning permission will normally be granted for new development.
7. Protection of the countryside is addressed in saved Policy GEN3. Outside the defined built-up areas, the countryside will be safeguarded for its own sake. Development will not be permitted unless it falls within one of five defined categories. None of these apply to the appeal development.
8. The accompanying text states that the countryside is an important resource and needs to be protected for its own sake. The Council intends to continue protecting the natural environment by strictly controlling development in the countryside. Development outside the defined built-up areas will only be allowed in exceptional circumstances or where there is a strong justification for a countryside location.
9. Also of relevance is saved Policy GEN7. This governs the form of new development. Planning permission will only be granted for schemes displaying high quality design and layout. Development will be permitted provided that, amongst other things, it retains significant open or wooded areas which, in their own right, make a material contribution to the local environment.
10. The appeal site is adjacent to, but outside, the built-up boundary of Yapton. It is edged by development on three sides. There is housing development to the west and south. The Ford Airfield Industrial Estate lies to the east. Beyond the site to the north lies open agricultural land. It is a greenfield site of some 7.7 ha. It is mostly rough grassland with vegetation and a small area of arable land. There are no areas that I would describe as significant wooded areas.
11. It is common ground that the site is not significant in landscape terms. Nevertheless, it is a large area of countryside outside the built-up boundaries

of Yapton. It provides a rural, agricultural setting to this part of the village. Implementation of the appeal proposals would bring about a fundamental alteration in its character. It would change from being a large, generally open area that complements the rural and agricultural surroundings to the north of the village to that of a housing estate.

12. In my view, and on the evidence before me, the Council was entitled to conclude that the proposal would represent a significant encroachment into the countryside and that there would be a significant adverse impact on the character of the area. This is a stance shared and reiterated by many local residents in their representations. For those overlooking or close to the site the change would be particularly poignant.
13. The countryside would not be protected or safeguarded for its own sake. The proposal would not accord with Policies GEN2 and GEN3. Nevertheless, I did not gain the impression that this is a particularly important piece of countryside in its own right. It is fringed by built development at Yapton on three sides. It is not an important site in terms of its appearance or landscape quality. Accordingly, the development would be unacceptable as a matter of principle rather than as a result of harm to any significant inherent value of the site.
14. Notwithstanding my conclusions in relation to Policies GEN2 and GEN3, it is necessary to see whether there are other material considerations that are relevant to my decision. In this regard, attention has focused on the five-year supply of housing land within the district; the appropriateness of the location; and matters relating to precedent and prematurity. In addition, I consider affordable housing.

Housing land supply

15. Under Paragraph 71 of *Planning Policy Statement 3 (PPS3): Housing*, local planning authorities should have regard to the supply of housing land. Where they cannot demonstrate an up-to-date five year supply of deliverable sites, they should consider favourably planning applications for housing having regard to the policies in the statement including considerations in Paragraph 69. Paragraph 69 refers to matters such as the suitability of the site for housing; and ensuring that development is in line with the spatial vision for the area.
16. The Council recently considered its position on housing land supply. The Local Development Framework Sub-Committee, at its meeting in March 2011, considered a "Note on Housing Land Supply in Arun District". This report presented two options. "Table 1" set out the position assuming that, for large sites, only the delivery estimated by developers in the Annual Monitoring Report would be achieved; also that small sites should be discounted for non-delivery based on an historic study. "Table 2" assumed that all dwellings on large sites would be available without seeking to estimate completion dates. In addition, small sites would be delivered in full.
17. Table 1 indicated that there was the equivalent of a 4.3 year supply of deliverable housing sites within the district. Under Table 2, the supply would be for 4.9 years. The Table 1 figure can be re-calculated using completion figures now available from the County Council. The up-dated supply figure is of 4.5 years. This is the figure that was commended to me at the inquiry by

- the Council's planning witness. It may be contrasted with a figure of 3.5 years (at most) emanating from the appellant's planning witness.
18. The decision of the Local Development Framework Sub-Committee was to adopt the methodology set out in Table 2 of the report for the purposes of establishing the Council's position regarding a five year housing land supply; that is a supply of 4.9 years. However, that is different from the position put to me at the inquiry.
 19. My own conclusion is that, for large sites, it is inappropriate to assume that there would be no infrastructure constraints outside the control of developers. Developers' advice should be sought on estimated completion dates. In addition, I do not consider that small sites would be delivered in full. Account should be taken of historical patterns. A supply of 4.5 years (Table 1) should be the starting point for the examination of this matter.
 20. This is only the start of the differences between the Council and the appellant. I address first what has been termed "the backlog", that is, a backlog of 212 dwellings carried forward from the previous plan period.
 21. Policy H2 viii of the South East Plan identifies the need to address any backlog of unmet housing needs in the first 10 years of the Plan (that is 2006-2016). However, the backlog has not been incorporated into the Council's supply calculations. To my mind, Policy H2 of the South East Plan is quite clear. The backlog should be addressed in the period to 2016.
 22. A related point concerns "the shortfall", the necessity or otherwise to deal with a shortfall in the delivery of 500 houses that has occurred in the first five years of the period of the South East Plan. The Council's approach has been to spread the shortfall across the remaining years of the plan period. The appellant looks for front loading of the shortfall.
 23. The matter has been touched on in the Test Valley Secretary of State case.¹ Here the Secretary of State agreed that there is a strong justification for attempting to remedy the shortfall in the short to medium term rather than over the South East Plan period as a whole. This is in circumstances similar to those obtaining in the case of the present appeal.
 24. I appreciate that there could be circumstances where a different approach would be justified. The appropriate way of dealing with the shortfall (and backlog) is a matter of judgement and each case should be treated on its own merits. However, back-loading would be most appropriate where there is a high level of certainty that such a strategy is justified and would deliver. To my mind there is no such certainty in the present case.
 25. In addition, it is inappropriate to put off provision because of difficult economic circumstances. Councils need to plan for and facilitate the timely delivery of housing sites. Subject to the avoidance of double counting, the backlog and shortfall should be addressed sooner rather than later.
 26. I now turn to the matter of dealing with the sites in the Strategic Housing Land Availability Assessment (SHLAA). It is common ground that the numbers should be reduced to take account of the Butlin's Car Park site and the Clock House site. Beyond that, both the Council and the appellant have presented

¹ Ref: APP/X3025/A/10/2140962 dated 30 June 2011

credible arguments in favour of the retention or deletion of certain sites. For my part, I accept that the presence of site constraints does not necessarily provide a compelling reason for discounting numbers. On the other hand I am particularly conscious that developments are not coming forward as anticipated.

27. The assessment of the SHLAA sites was carried out in 2009 by Baker Associates. The authors noted that "The market will undoubtedly vary over the period considered by the study, and it should be reviewed at regular intervals. This is particularly relevant at the time of this study at the start of an economic recession." In terms of future prospects, the report spoke of a recovery in 2010-2011. The recovery has not happened; and there has been no review of the study.
28. My overall impression is that progress on SHLAA sites is being delayed as a result of continuing economic difficulties. Delivery of houses in the numbers previously anticipated and at the rate assumed will not be achieved. The contribution of SHLAA sites to the five year housing land supply will be less than expected.
29. Having reviewed matters through the mechanism of a public inquiry, I conclude that the Council's methodology for assessing the five year supply of deliverable housing sites is flawed in the areas identified above. Whilst it is not possible to come up with a definitive figure (certainly in the light of uncertainty over the SHLAA sites), I would expect the actual supply figure to be closer to the appellant's estimate of 3.5 years. The Council cannot demonstrate a five year supply. The favourable consideration referred to in Paragraph 71 of PPS3 applies.

Appropriateness of the location

30. In this part of my decision, I address the appropriateness of the location. I have in mind two principal matters. The first is the sustainability of the location. The second is the extent to which the site complies with such spatial vision as there may be for the area.
31. The Council's planning witness questions the sustainability of the location. Reference is made to Arun District Council's Settlement Sustainability Study July 2007 whereby Yapton is regarded as having "fair" facilities accessibility, "limited" employment availability and "poor" transport accessibility.
32. I was able to consider the availability of facilities in and close to Yapton in the light of current circumstances. I note that Yapton has a range of facilities. These include a primary school, shops, post office, public house and two doctors' surgeries. In addition, there are a number of employment opportunities in and around the village.
33. The evidence indicates that buses from Yapton (as well as footpaths and cycle routes) link with nearby villages where further facilities and employment opportunities are available. The local service operates at an hourly frequency between 07:00 and 19:00 hours, Mondays to Saturdays. Further, there is a long distance route between Portsmouth and Brighton that also serves local destinations. This is a half-hourly service between 06:30 and 22:17 hours, Mondays to Saturdays, with an hourly service on Sundays between 07:40 and 20:12 hours. In addition, there is a railway station at Barnham approximately 3km away.

34. To my mind, Yapton has a reasonable range of essential facilities and employment opportunities. In addition, it is quite well served by public transport. Given the connectivity that there would be to and from the appeal site, I regard the site as occupying a sustainable location. The development would accord with the stated *reason* for Policy GEN2.
35. I next consider the appropriateness of the location in terms of such spatial vision as there may be for the district. The Local Plan is of little assistance in this regard. The Plan period is 1996-2011. The housing requirement that remained (after deductions for houses already built, existing commitments and housing to be built on previously developed land) was to be met on land north of Bersted, Bognor Regis and Felpham; and on land at Toddington, Littlehampton.
36. The South East Plan is also of limited assistance. There is a general statement on housing distribution in Policy SCT5. This states that most development should be focused on existing towns by optimising the use of previously developed land and, where necessary, by making new land allocations as sustainable extensions to existing towns (including appropriate provision for employment uses, local services and facilities and open space).
37. In terms of an emerging spatial vision, the most up-to-date position as presented to the inquiry is to be found in a report "Local Plan Production Update" which was on the agenda for the Local Development Framework Sub-Committee Meeting on 24 November 2011.
38. Under the revised Vision and Strategic Objectives annexed to the report, I note that there is particular reference to the role of Bognor Regis and Littlehampton. Barnham (together with its neighbouring villages of Eastergate and Westergate) and Angmering will develop their role as well-connected large villages serving inland Arun. The villages of Findon and Yapton will continue to act as local centres providing a range of local services and facilities serving their immediate surrounding areas.
39. The Strategic Objective on housing is as follows: To plan and deliver a range of housing types in locations with good access to employment, services and facilities to meet the District's housing requirements and the needs of Arun's residents and communities *both urban and rural*, ensuring that issues of affordability and the provision of appropriate levels of affordable housing are addressed.
40. There is a further appendix to the report which presents "Parish Allocations". Two hundred dwellings are allocated to Yapton. At the inquiry, the Council's planning witness indicated that the allocation should be nil. The inclusion of 200 dwelling at Yapton was a mistake. It was a reflection of the time when it was anticipated planning permission for the appeal development would be granted by the Council.
41. From my perspective, bearing in mind the potential of Yapton, I would not expect a nil allocation. Nor was this the assumption or expectation of the Parish Council which has asked for a reduction from 200 down to 30. I also note that a previous version of the appendix included 400 dwellings at Yapton. To my mind, the allocation of 200 dwellings at Yapton, as expressed in the latest committee report, reflects the true intention of the author.

42. Given the early stage of preparation, little weight can be attached to the emerging spatial strategy as described above. However, it demonstrates to me that Yapton is seen as a suitable location for additional housing of a quantum greater than that of the appeal proposal. The proposed development would be in line with such spatial vision as there is for the area.

Precedent and prematurity

43. In his 2001 decision², the Secretary of State agreed with the view that to allow one proposal which is contrary to the development plan would make it more difficult for the Council to resist a number of other proposals that have been submitted; and that the cumulative effect of this could prejudice the outcome of the plan process. In this regard, a number of appeal proposals in the district had been referred to the Secretary of State.

44. In the present case, I am not referred to examples of developments that would be affected by any precedent. However, it is put to me that if the appeal were allowed, this would send the wrong message to other developers. This was the stance taken by the Secretary of State is a decision on a site at Sandbach, Cheshire.³

45. In the particular circumstances of the present case, there are material considerations in support of the development. If similar considerations applied in other cases, I would expect encouragement to be drawn from those considerations. It does not follow that, without any special justification, the development plan could be overridden or that the wrong message would be sent to other developers.

46. The Secretary of State's overall conclusion in the 2001 decision was that the cumulative effect of allowing the appeal could be to prejudice the outcome of the plan process. This was in circumstances where "the emerging local plan is now underway in earnest".

47. Paragraph 18 of *The Planning System: General Principles* advises, "Where a DPD is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question." In the present case, preparation of the Core Strategy has not yet reached the consultation stage.

48. The Council envisages consultation on what it calls its Local Plan in June 2012. The approved programme shows adoption in December 2013. However, I note that the Council has a poor track record in preparing for its Core Strategy. I was told that the Council started preparation in 2005 with a view to completion in 2010. In my judgement, adoption of a new Local Plan by the end of 2013 is very optimistic.

49. Other matters may well complicate progression of the new Local Plan. For example, the Council is likely to adopt housing targets different from those in the South East Plan. The District Summary refers to a net annual housing need in Arun of between 447 and 685 households. However, Members recommended a preference for an annual housing target of 425 units per annum "should the RSS be revoked in the future". The relevant report states

² APP/C3810/A/99/1022345 dated 19 January 2001

³ APP/R0660/A/10/2141564 dated 29 September 2011

that this reflects a modest level of growth that may attract public support but that the evidence base to support it is weak. If the housing figures cannot be justified at the Local Plan examination, further delays may ensue.

50. I appreciate that, with the demise of Regional Strategies, councils will be able to draw on local evidence to set their own targets. However, it will be some time before those targets can be adopted. At the present time, the targets in the South East Plan remain. They are part of the development plan for the area and are central to the determination of this appeal.
51. I conclude that, with the passing of the Localism Act 2011, there will be an increased emphasis on planning at the local level. In an ideal world, a decision on the appeal would be made in accordance with an up-to-date development plan and any new local agenda. However, for the reasons indicated, I am satisfied that to proceed to a determination on the appeal would not set any undesirable precedent nor materially prejudice the Council's future Core Strategy.

Conclusions on the countryside issue

52. I am now in a position to draw together my conclusions on the countryside issue. In drawing these conclusions, I am mindful of the fact that, to meet the housing needs of the District, development on greenfield sites will be necessary. My conclusions are as follows:
- The Council is not able to demonstrate an up-to-date five year supply of housing sites. The planning application should be considered favourably (subject to certain policies).
 - Although defined as countryside, the site is not important in terms of its appearance or landscape quality.
 - The site occupies a sustainable location.
 - The site is a suitable site for housing.
 - The proposed development would be in line with such spatial vision as there is for the area.
 - To proceed to a determination on the appeal would not set an undesirable precedent nor materially prejudice the Council's future Core Strategy.
 - The proposal would not accord with Policies GEN2 and GEN3. However, there are material considerations such that the appeal should be determined other than in accordance with development plan policies relevant to the countryside.
53. In drawing the above conclusions, I have had regard to the affordable housing that would be provided as part of the development. It has been suggested that the quantum involved is more than is needed in Yapton. The weight that should be afforded to its provision is limited. For my part, I find the proposal to be acceptable in any event. The presence of affordable housing adds weight to my decision. Any perceived over-provision is not a disbenefit.

Living conditions of local residents

54. Saved Local Plan Policy GEN7 concerns the form of new development. Development will be permitted provided that, amongst other things, it does not

- have an unacceptable adverse impact on adjoining occupiers. In this regard, attention has focused on the possible effect on the occupiers of 12-22 (even) Downview Road and 41-46 Fordwater Gardens in terms of privacy and visual intrusion.
55. In terms of privacy, I note that the Council does not have any adopted standards. However, its planning witness commended the standards set out in the Essex Design Guide. This states that a minimum of 25m between the backs of houses may be acceptable. It adds that where new development backs onto the rear of existing housing, existing residents are entitled to a greater degree of privacy. The rear of new houses may not encroach any closer than 15m to an existing rear boundary.
56. In my experience, the standards referred to in the Essex Design Guide are on the generous side. Whilst they may reflect spatial conditions and aspirations in the county of Essex, many other parts of the country rely on lesser standards. In my judgement, and irrespective of possible encroachment close to existing rear boundaries, an eye-to-eye separation distance to 20m between habitable rooms is normally sufficient to avoid significant overlooking. This figure is consistent with the guidance given in *By design Better places to live* although attention is drawn to the need for flexible application of rules.
57. In the case of the Downview Road dwellings the minimum eye-to-eye distances would be in the range 33.22m to 43.58m. I appreciate that, at this point, the appeal site is at a level above that of the adjoining development. The new houses would stand a little higher and the opportunity for overlooking would be slightly greater. Nevertheless, with the separation distances involved, I judge that any loss of privacy would not be significant. In the longer term, the creation of native shrub planting, as envisaged in the landscape strategy, would give further protection to residents.
58. As to any visual intrusion, the occupiers of the houses in Downview Road would lose their views over open land. The outlook would be towards the rear elevations of three two-storey detached houses with intervening garage blocks. In assessing the situation, I have had regard to the difference in levels. Nevertheless, given the proposed form of development and the degree of separation that would be involved, I am satisfied that there would be plenty of space above and around the new houses. There would be no significant visual intrusion.
59. As to the situation at the rear of 41-46 Fordwater Gardens, I note that these pairs of semi-detached houses have shorter rear gardens. The length is in the range 7.57 to 8.06m. The eye-to-eye separation distances from the new houses would be between 23.20 to 23.73m. Whilst this is less generous than the degree of separation that there would be at Downview Road, I am nevertheless satisfied that there would be no significant overlooking of habitable rooms or gardens.
60. Given the closer proximity of the proposed dwellings, the potential for visual intrusion is also greater. Again, the occupiers would lose their view of open land. The principal view would be towards the rear of one detached and two semi-detached houses, this time across level ground. The back-to-back distance between the houses would be of the order stated above. In addition, there would be views of the sky above and between the proposed houses. In my judgement there would be no material visual intrusion.

61. I saw that 46 Fordwater Gardens has a large landing window on the western elevation. Views from this window, over an open field, would be replaced with views towards the new houses. However, under the amended proposals, the main view would be towards a bungalow at a distance in excess of 12m. Again, given the form of development and the distances involved, I do not consider that there would be any material visual intrusion.
62. By way of conclusion, I appreciate that the occupiers of the Downview Road and Fordwater Gardens houses would have new housing at the backs of their houses in circumstances where there are open views at present. They would feel overlooked and a loss of openness. Nevertheless, I am satisfied that there would be no significant loss of privacy or visual intrusion. The objectives of Policy GEN7 would not be compromised.

Health care provision

63. In respect of health care provision, the focus of attention is the ability of local general practitioner surgeries to cope with the influx of patients likely to be associated with the new development and on what any financial contributions would be spent. In this regard, the appellant is concerned that a "roof tax" is being sought notwithstanding the fact that the Council has no policy for pooled health contributions and is not a charging authority under the Community Infrastructure Levy Regulations.
64. So far as the evidence is concerned, I note that this has changed over time. For example, the initial consultation response from NHS West Sussex stated that "this site in isolation would not impact on the ability of the General Medical Surgeries within the area to manage an increase in patient numbers" (then assumed to be 480 residents rather than the now agreed figure of 392). In addition, in contacts with the practice managers of the local GP surgeries, the appellant's planning witness was told that there were no capacity problems.
65. Be that as it may, the evidence to the inquiry was different. There was a categorical statement that the local GP practices would not have the capacity to take the new patients onto their rolls. It was also stated that clinical consulting space would be needed; also that existing parking space is limited.
66. My own understanding is that doctors' lists can vary between 1,500 and 2,000 dependent upon location. At Yapton, I was told that there are 12 doctors sharing 22,000 patients. The doctors also attend branch surgeries. I can see that, if all the doctors had a full list, the theoretical capacity of the two local surgeries would be 24,000 patients. However, the necessity to man branch surgeries would mean that the capacity at Yapton would be reduced.
67. In all the circumstances, I accept that the development would place unacceptable pressure on existing general practitioners and surgery accommodation. Further expenditure at Yapton would be necessary if the development were to be rendered acceptable.
68. I appreciate that the NHS has no specific plans for expenditure at Yapton in the fiscal year budget. Plans would need to be worked up with the practitioners and the successor authority to the Family Practitioner Committee once planning permission has been granted. However, in the unlikely event of developer funds not being spent, the planning obligation provides a mechanism for the refund of the funds.

69. As part of the planning obligation, the appellant has made provision for the payment of an NHS contribution of £79,421. However, this is contingent upon me deciding that the obligation complies with the requirements of the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 such that the said obligation may lawfully be taken into account in considering whether to grant planning permission.
70. I confirm that the payment would meet the requirements of Regulation 122. The payment is necessary. It would make acceptable development which would otherwise be unacceptable in planning terms. Without the payment there would be unjustified pressure on health service provision contrary to the objectives of saved Policy GEN8. In addition, the expenditure would be at Yapton and would be directly related to the development. That the obligation would be fairly and reasonably related in scale and kind to the development was not in dispute at the inquiry.

Other matters

71. Of other matters raised by third parties, two are of particular concern. These relate to drainage and to highway access. The drainage proposals have the support of the Environment Agency. In addition, a range of safeguards would be imposed through planning conditions. Likewise, the access proposals have the support of the competent authorities. There is no technical evidence to the contrary. It will, of course, be necessary to ensure that the access route remains free from any significant obstruction. In this regard, I note that the planning obligation makes provision for the preparation of a Traffic Regulation Order.

Conditions and obligations

72. Conditions are necessary in the interests of:

- proper planning and the avoidance of doubt (Condition 2);
- visual amenity (Conditions 3, 4, 7 and 16);
- public health (Conditions 5, 18, 19 and 20);
- sustainable drainage (Condition 6);
- the living conditions of neighbouring occupiers and occupiers of the proposed development in terms of privacy (Condition 7);
- highway safety (Conditions 8, 10, 11, 13, 14 and 15);
- pedestrian movement (Condition 9);
- sustainable transport (Condition 12);
- nature conservation (Condition 17); and
- the historic environment (Condition 21).

73. I consider that the planning obligation, as executed, meets the legal requirements in Section 122(2) of the Community Infrastructure Levy Regulations 2010; also the Government's policy for the use of planning obligations as set out in Circular 05/2005.

Overall Conclusion

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

Andrew S Freeman

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following approved plans: P626/01 Rev P; P626/A/01; P626/A/02; P626/B/01; P626/B/02; P626/C/01; P626/C/02; P626/D/01; P626/D/02; P626/E/01; P626/E/02; P626/F/03; P626/G/01; P626/G/02; P626/G/03; P626/H/01; P626/H/02; P626/H/03; P626/J/01; P626/J/02; P626/K/01; P626/K/02; P626/K/03; P626/L/01; P626/L/02; P626/M/01; P626/P/01; P626/P/02; P626/R/01; P626/R/02; P626/R/03 ; P626/T/01 Rev B; P626/U/01; P626/U/02; P626/V/01; P626/V/02; P626/GAR/01; P626/GAR/02; P626/GAR/03; P626/GAR/04; P626/GAR/05; P626/LSAA/01 Rev B; P626/LOC/01; 14768 Revision 1; P626/X/01; P626/RLTH/01; P626/RLTH/02; P626/H/04; P626/02 Rev A; P626/SS/01 Rev E; P626/Y/01; and P626/Z/01.
3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. No development shall take place until an arboricultural method statement prepared by an arboricultural consultant (holding a nationally recognised arboricultural qualification) providing comprehensive details of development works in relation to trees and shrubs to be retained has been submitted to and approved in writing by the local planning authority. All works shall, subsequently, be carried out in strict accordance with the approved details. In particular, the method statement shall provide the following:
 - i A specification for protective fencing to trees the subject of Tree Preservation Orders and other trees identified for retention during both demolition and construction phases which complies with BS 5837:2005.
 - ii A statement describing how the shrub and hedging areas within the site will be protected during the development.
 - iii A schedule of tree works conforming to BS 3998:2010 'Recommendations for Tree Work'.
 - iv Details of all other activities which have implications for trees on or adjacent to the site. This shall include mitigation measures for the oak T322 by soil aeration and a statement of works describing how T326, 324d and 324e will be pruned to produce a visually aesthetic and safe landscape feature [the trees are as numbered in the report "Arboricultural Implications Assessment in connection with development at Land North of Burndell Road (Goodhew Close), Yapton" by Alderwood Consulting Limited and dated 13 October 2010].
 - v Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and the procedure for notifying the local planning authority of the supervisory visits.
5. No development shall take place until such time that fully detailed proposals for the surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The design shall follow the hierarchy of preference for different types of

surface water drainage systems as set out in Approved Document H of the Building Regulations and the recommendations of PPS 25 and the SUDS Manual produced by CIRIA.

Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location of the proposed structures. The percolation tests and design shall be carried out in accordance with BRE 365 and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway and the highest recorded groundwater table. The scheme shall have provision to ensure that there is capacity in the system to contain below the lowest ground level the 1 in 100 year event plus 30% on stored volumes. Adequate freeboard shall be provided between the base of the soakage structure and the highest recorded ground water level identified in that location.

6. Details of the maintenance and management of the SUDS system shall be set out in writing in a site specific maintenance manual. This manual shall include details of the implementation of the system, financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended life span. The manual shall be submitted to and approved in writing by the local planning authority before development commences on site. Maintenance and management shall be carried out in accordance with the approved manual.
7. No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
8. No development shall take place until a detailed scheme of highway works has been submitted to and approved in writing by the local planning authority. The works shall comprise a staggered junction ahead sign to diagram number 507.1 of the Traffic Signs Regulations and General Directions 2002 (TSRGD) on the westbound approach to the A27 junction with Yapton Lane. The sign shall have a height of 1.20 metres, be erected between 245 and 305 metres in advance of the hazard, have clear visibility of 105 metres and be supported on a yellow backing board. In addition, at the end of the A27 right turn lane into Yapton Lane, the priority arrangement shall be highlighted by the provision of additional "Give Way" signs and road markings to diagram number 602 and 1023 of the TSRGD.

No dwelling shall be occupied until the scheme approved by the local planning authority has been completed in full.

9. No dwelling shall be occupied until plans and details for the improvement of the existing public rights of way have been submitted to and approved in writing by the local planning authority. These improvements shall take the form of signing of the legal routes, the provision of dropped crossing points across the proposed internal roads and the provision of surfacing improvements in accordance with a specification to be submitted to and approved in writing by the local planning authority. The approved works shall be implemented in full by the time of the occupation of the 150th dwelling unless otherwise agreed in writing by the local planning authority.
10. No dwelling shall be occupied until the roads serving the respective dwellings have been constructed, surfaced and drained in accordance with plans and details to be submitted to and approved in writing by the local planning authority.

11. No dwelling shall be occupied until the car parking spaces relating to the respective dwelling have been constructed in accordance with the approved plans and details. These spaces shall thereafter be retained at all times for car parking associated with the dwelling.
12. No dwelling shall be occupied until covered secure cycle parking spaces relating to the respective dwelling have been provided in accordance with a detailed construction plan which shall have been submitted to and approved in writing by the planning authority.
13. No development shall take place on the site until an effective vehicle wheel cleaning facility has been installed in accordance with details to be submitted to and approved in writing by the local planning authority. Such facility shall be retained in working order throughout the period of work on site.
14. No development shall take place until such time as a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details relating to the number of vehicle movements, routing and management of construction traffic, which shall include matters relating to temporary construction access and signage. The CMP shall also include details as appropriate for each stage of development of all temporary contractors' buildings, plant and stacks of materials as well as provision for the temporary parking of vehicles and the loading and unloading of vehicles associated with the implementation of this development. Such provision shall be retained for these purposes throughout and until the completion of each stage of work on the site.
15. No dwelling shall be occupied until such time as details of the emergency access point to Fordwater Gardens and the timing of provision have been submitted to and approved in writing by the local planning authority. The emergency access shall thereafter be implemented in accordance with the approved details.
16. No development shall take place until a landscaping scheme, including details of hard and soft landscaping, has been submitted to and approved in writing by the local planning authority. 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. 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, unless the local planning authority gives written consent to any variation.
17. No development shall take place until the following details of mitigation measures, identified within the Ecological Appraisal report from Hyder dated June 2010 Report No WX82162/C1162/AW/Yapton/v1, have been submitted to and approved in writing by the local planning authority together with a programme for the implementation of the measures:
 - i mitigation and relocation of any reptiles;
 - ii eradication/control of Japanese Knotweed;
 - iii lighting strategy in relation to bats;
 - iv provision and location of suitable bat and bird boxes for use in gardens and/or in public open space areas; and
 - v a construction phase management plan.

Any works to manage or clear vegetation must be undertaken outside of the bird nesting season. The mitigation measures shall be carried out in accordance with the approved details and programme.

18. Prior to the commencement of development (or such other date or stage in development as may be agreed in writing by the local planning authority), a remediation strategy with the

following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented by deadlines identified within the approved strategy.

1. A preliminary risk assessment which has identified all previous uses and potential contaminants associated with those uses.
2. A conceptual model of the site indicating sources, pathways and receptors as well as potentially unacceptable risks arising from contamination at the site.
3. A site investigation scheme, based on 1, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
4. The site investigation results and the detailed risk assessment 3 and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
5. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in 4 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components shall require the express approval in writing of the local planning authority.

19. A verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority prior to any development works in the areas where the need for remediation has been identified. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a long-term monitoring and maintenance plan for monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.
20. No development shall take place until details of the foul water drainage system have been submitted to and approved in writing by the local planning authority. No building shall be occupied until the foul drainage works have been carried out in accordance with the agreed details.
21. The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority and shall allow the archaeologist to observe the excavations and record items of interest and finds.

DOCUMENTS

Doc 1	Letter of notification of the inquiry and circulation details
Doc 2	Attendance lists
Doc 3	Appellant's opening statement
Doc 4	Opening submissions on behalf of Arun District Council
Doc 5	Schedule of appearances – Appellant
Doc 6	Extract from Secretary of State's decision dated 30 June 2011, and from the Inspector's report, on the "Picket Piece", Andover decision (Ref: APP/X3025/A/10/2140962)
Doc 7	Papers to the Council's Local Development Framework Sub-Committee, 24 November 2011
Doc 8	Papers to the Council's Local Development Framework Sub-Committee, 2 June 2011
Doc 9	Note on Developer Contributions for Primary Care Health Infrastructure, Mr A M Johnson, 17 October 2011
Doc 10	Letter dated 1 April 2003 from NHS Estates on Statement of Fees and Allowances
Doc 11	Re-working by Mrs Dawson of Appendix 9A – Hives Planning Report Annual Requirement Plus Backlog – Housing Land Supply
Doc 12	Extracts from Arun District Council's Strategic Housing Land Availability Assessment Stage 7 Site Assessment Final Report (extracts additional to CD/2/7)
Doc 13	Extracts from Raise the Roof (extracts additional to CD/2/8)
Doc 14	Mr Midgley's speaking notes
Doc 15	Mr Faulkner's speaking notes
Doc 16	Letter dated 13 September 2011 from Yapton Parish Council to Arun District Council
Doc 17	Mr Tompkins' speaking notes
Doc 18	Note on references to the Inspector from Mr Gardner
Doc 19	Note on the Localism Act 2011 from Mrs Dawson
Doc 20	Note of the Localism Act 2011 on behalf of Arun District Council (Geoff Gardner)
Doc 21	Extract from the Localism Act 2011
Doc 22	Letter dated 18 March 2010 from the Government Office for the South East to Test Valley Borough Council
Doc 23	Copy of appeal decision dated 11 January 2011, Ref: APP/N1160/A/10/2131893, Land at Raglan Road, Devonport
Doc 24	Schedule of proposed conditions
Doc 25	Planning obligation
Doc 26	Closing submissions on behalf of the Council
Doc 27	Appellant's closing submissions

Doc 28 Appellant's skeleton costs submissions

Doc 29 Skeleton response to the appellant's application for partial award of costs