
Appeal Decision

Site visit made on 1 September 2014

by Harold Stephens BA MPhil DipTP MRTPI FRSA

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

Decision date: 17 September 2014

Appeal Ref: APP/D3830/A/14/2219950

Land north of Turners Hill Road, Turners Hill, West Sussex RH10 4PD

- 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 Hartmires Investments Limited against the decision of Mid-Sussex District Council.
 - The application Ref 14/01226/FUL, dated 28 March 2014, was refused by notice dated 23 May 2014.
 - The development proposed is the construction of a new access to land off Turners Hill Road, Turners Hill, including removal of boundary hedgerow and planting of replacement boundary hedgerow.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Hartmires Investments Limited against Mid-Sussex District Council. This application is the subject of a separate Decision.

Main Issue

3. I consider the main issue in this appeal is the effect of the proposed development on the rural character of the area.

Reasons

4. Planning permission is sought for the construction of a new access onto the field parcels north of Turners Hill Road to the west of the village. The red-lined area constitutes a frontage hedgerow about 2-3m in height on the top of a 1m high raised bank around 295m in length. At various points in the hedgerow there are several oak trees. The site lies immediately adjacent to an access to Tulleys Farm to the west and is located close to the village church. Turners Hill Road is a 60mph road of rural character, bounded by hedging on both sides, which connects the village of Turners Hill with Crawley some 2 miles or so to the west.
5. The proposal is to construct a new access onto the land from Turners Hill Road. The point of access is around 135m east of the existing access to Tulleys Farm. It is shown as having a setback of 10m to inward opening gates. The existing hedgerow would be removed in its entirety, albeit with the

retention of all the frontage trees, and replaced with a new hedgerow set back 0.5m behind the proposed visibility splays.

6. The development plan comprises the saved policies of the Mid Sussex Local Plan (MSLP) (2004). The relevant policies in this Plan include Policies C1 and C10. Policy C1 seeks to protect the countryside for its own sake and firmly resists proposals for development unless any one of 7 criteria applies. The two most relevant criteria in this case are: (a) proposals reasonably necessary for the purposes of agriculture or forestry, and (f) proposals for which a specific policy reference is made elsewhere in this Plan.
7. Policy C10 permits proposals relating to agricultural, horticultural and forestry development where: (a) reasonably necessary for the purposes of agriculture within the unit; (b) the siting, design and materials are in keeping with the character and appearance of the landscape; and (c) it meets the requirements of other policies for the protection of the countryside, particularly those for areas with special qualities. In my view both Policy C1 and C10 are broadly consistent with the provisions of the National Planning Policy Framework (NPPF) (2012) and therefore should be afforded appropriate (full) weight. I accept that Policy C1 may be out of date specifically with respect to new dwellings within the countryside (i.e. where this is outweighed by paragraph 49 of the NPPF relating to a lack of 5-year housing land supply) – and not in respect of other developments in the countryside. Plainly, the NPPF is a material consideration in this case and both sides highlight particular paragraphs in support of their case.
8. I am aware that the Mid Sussex District Plan was submitted for examination in July 2013. However, from the evidence that is before me, the Council's duty to cooperate on planning issues that cross administrative boundaries has not been met and the Plan has subsequently been withdrawn. Both sides agree that little weight should be placed on this document.

Effect on the rural character of the area

9. The NPPF sets out the three dimensions to sustainable development: economic, social and environmental. It also sets out the presumption in favour of sustainable development and confirms that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 215 makes it quite clear that the NPPF can override development plan policy that is not consistent with its provisions. Paragraph 14 of the NPPF indicates that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole or unless specific NPPF policies indicate development should be restricted.
10. Paragraph 17 of the NPPF sets out 12 core planning principles, one being to always seek to ensure high quality design...; another being to take account of the different roles and character of different areas, promoting the vitality of our main urban areas, ... recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it; and another being to contribute to conserving and enhancing the natural environment and reducing pollution.

11. For the Appellant it is argued that the land is currently in agricultural use and the new access is proposed in connection with the use of the site as a tree nursery, which is also an agricultural use. It is stated that the size of the new access is dictated by West Sussex County Council (WSSCC), as highway authority, who requires the access to meet certain specifications as it is a new access onto an unrestricted road. It is claimed that the new access is designed to meet the highway authority's minimum requirements; it is not too large and it is comparable to many other similar accesses along Turners Hill Road including Tulleys Farm to the west of the appeal site. Moreover, the site is well screened along its southern boundary with hedgerow, part of which would be replanted a little further back from the road to secure the visibility splays for vehicles exiting the site. It is submitted that the proposal accords with Policy C1 and Policy C10 of the MSLP and the NPPF. I disagree for several reasons.
12. Firstly, the Appellant advises that the proposed access is anticipated to generate less than 30 two way vehicle movements in any hour and less than 100 two way vehicle movements per day. Secondly, in terms of both Policy C1 and Policy C10 it is necessary to consider whether the proposed new access is 'reasonably necessary for the purposes of agriculture within the unit'. Plainly there must be an *existing* agricultural use and this must be a business, as opposed to a hobby. As I saw on my site visit the land is currently fallow and the Appellant has given no information as to whether the land is commercially viable at present or can be reasonably anticipated to be so in the future. Accordingly, it is my view that the proposal is not reasonably necessary for the purposes of agriculture or forestry under Policy C1 or Policy C10 of the MSLP.
13. Thirdly, whilst I accept that paragraph 28 of the NPPF sets out a more positive approach to rural development than Policy C10 of the MSLP it does not refer to engineering operations which are inherent in the proposal which is before me. It is noteworthy that paragraph 28, amongst other matters, does refer to the need to 'respect the character of the countryside' and this is further augmented in paragraphs 17, 56 and 58 of the NPPF.
14. Fourthly, as I saw on my visit, the character of the area in which the site is located is clearly rural and not a transitional suburban area between the village and countryside. Travelling westwards along Turners Hill Road beyond the village and past the church, the character changes totally into open countryside with narrow lanes bounded by trees and hedgerows. The land immediately to the north of the proposed access is clearly undeveloped and reads as a patchwork of fields and woodland separated by boundary hedging.
15. Fifthly, this undeveloped character would be wholly eroded by the proposed development. The narrow road would be widened for a distance of more than 320m, the well established hedge would be removed and it would be replaced with a new hedge that would take time to establish. Whilst this could be phased to allow wildlife to re-settle in a new habitat, in practice, the Appellant is unlikely in my view to wish to wait a number of planting seasons before finally removing the existing hedgerow in order for the new access to be safely used. In the short term the impact of the proposal on this well established green boundary would be significant and unacceptably harmful. In the longer term the impact would be a very over-engineered access to this field, with a 7.3m width and 10m setback from the highway, completed by bi-

folding gates. Overall I consider that the nature and scale of the proposal would cause unacceptable harm to the rural character of the area and this would not be outweighed by the Appellant's need for the access.

16. Overall I conclude that the proposal fails on the main issue. The adverse impacts of granting permission for this development would outweigh the benefits to the Appellant in terms of running a potential tree nursery business on the land and thus the proposal would not comply with paragraph 14 of the NPPF. The proposal would also fail to comply with paragraphs 7, 17, 56 and 58 of the NPPF and Policies C1 and C10 of the MSLP.

Other Matters

17. I have taken into account all other matters raised. I am aware of the relevant planning history set out in the officer's report. I accept that following the submission of the original application WSCC was provided with additional traffic speed data and has raised no concerns in relation to highway safety, subject to a condition securing the visibility splays and access works. In terms of highway safety the proposal would not offend Policy T4 of the MSLP or paragraph 32 of the NPPF. I also accept that the proposal was supported by a detailed Extended Phase 1 Habitat Survey, which considered the condition of the existing trees and hedgerows and the impact of the proposals upon them. I note that following the completion of this report the access was moved further to the west in order to enable an existing tree to be retained. Neither this nor any other matter raised is sufficient to change my overall conclusion that the appeal should be dismissed.

Harold Stephens

INSPECTOR