

Our Ref: PD/2690
Your Ref:



Planning Policy
Horsham District Council
Parkside
Chart Way
Horsham
West Sussex
RH12 1RL

19th July 2019

Dear Sir / Madam,

Regulation 16 – The Neighbourhood Planning (General) Regulations 2012 (as amended) and The Localism Act 2011 – Southwater Neighbourhood Plan 2019 – 2031 – The Copse, Worthing Road, Southwater House, West Sussex – Site 12

Introduction

Following the production of Southwater Parish Council's Neighbourhood Plan for consultation and the publication of the Plan under Regulation 16 – The Neighbourhood Planning (General) Regulations 2012, please find below our comments made in respect of the Plan on behalf of our client Starbuild Ltd.

Our primary interest in the Plan relates to the allocation of residential development in particular the absence of an allocation attributed to Site 12. The site was the subject of a planning application submitted under Council Ref: DC/17/2195. This was refused for two reasons. The first reason stated:

"The proposed residential development would be located in the countryside, outside the defined built-up area boundary of Southwater, on a site not allocated for development within the Horsham District Planning Framework, or an adopted Neighbourhood Plan. The Council is able to demonstrate a 5-year housing land supply and consequently this proposed development would be contrary to the Council's overarching strategy for settlement expansion. Furthermore, the proposed development is not essential to its countryside location. The proposed development is therefore contrary to Policies 1, 2, 4 and 26 of the Horsham District Planning Framework (2015)."

The second reason refusal related to a suitable mechanism for securing a policy compliant 35 per cent affordable housing contribution being in place at the time of determination.

The site was then subject to an appeal determined under Appeal Ref: APP/Z3825/W/18/3205099. A copy has been included in Appendix A.

There are a number of key aspects of the appeal decision which we believe are pertinent to the assessment of the Neighbourhood Plan and the treatment of the site within it.

Paragraph 9 notes that the site is outside of the built-up area boundary but notes:

"it would be contained within a defensible boundary comprising the roundabout and road along with mature trees and hedges and would reflect the character and appearance of adjoining development."(Paragraph 9)

The decision goes on to confirm:

"The appeal site comprises the garden to The Copse that is located outside the built up area boundary. As such, it comprises previously developed land as defined in the NPPF. It is located close to the services and facilities within Southwater."(Paragraph 17)

The appeal was dismissed due to the site's location outside of the built-up area boundary but this is an issue the Neighbourhood Plan can readily amended.

The planning application and appeal were successful in demonstrating that 15 dwellings can be accommodated on the site in a sustainable manner without any undue impacts on highways, ecology, the landscape, historic buildings or archaeological remains, flood risk, or residential amenity.

Overall, we are disappointed with the progress that has been made on the emerging Southwater Neighbourhood Plan. We regret that our previous representations made at Regulation 14 stage have not been embraced; indeed they have been roundly ignored. There are some serious flaws in the Plan which need to be addressed.

In the preparation of these representations we have reviewed the requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 to confirm that:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed by a qualifying body.

We are satisfied that this is the case.

We have assessed whether the submitted Plan meets the Basic Conditions as set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 following the Localism Act 2011. In order to meet the Basic Conditions, the submitted Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area.

On these points we have serious concerns with the Parish Council's draft Plan. The Parish Council appears to have acted unilaterally and tailored its technical evidence base to suit its aspiration for a single large site. It has failed to adequately engage with the local community. The Examiner should find that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

The emerging Neighbourhood Plan is supported by the following documents and it is based upon this evidence base that we make our comments:

- Assets of Community Value Document
- Basic Conditions Statement
- Built Up Area Review
- Consultation Statement
- Covering Letter
- Desktop Biodiversity Report (2016) inc. Addendum Educational Need for Secondary School Places - Southwater
- Housing Allocation - Additional Documentation
- HRA Screening Nov. 2018
- NHBC - NF60 Avoiding rubbish design
- Open Space Assessment Report
- Retail Needs of Southwater
- Review of Heritage Assets
- Site Assessments
- Southwater Housing Needs Assessment Nov. 2017
- Southwater Landscape Sensitivity & Capacity Study Jun 2018
- Southwater Neighbourhood Plan SA-SEA including Non-Technical Summary
- Southwater NP Viability Assessment
- Southwater Parish Design Statement Apr. 2011
- Public Notice Update 6 June 2019

Community Aspirations

Paragraph 29 of the National Planning Policy Framework confirms *"neighbourhood planning gives communities the power to develop a shared vision for their area."*

The emerging Neighbourhood Plan itself suggests:

"This plan provides a clear framework to guide residents, local authorities and developers as to how the community wish to shape future development from 2019-2031."

However, the Plan in its current form has been poorly evidenced in terms of how it reflects the shared vision of local people for the area. The community appear to have little say in how they wish to shape future development.

No survey of community views has been undertaken to establish what the priorities of the emerging Neighbourhood Plan should be. This is particularly relevant to the provision of housing development. There has been no information gathered on whether the community would prefer one big block of development as the Steering Group has dictated, or if it would prefer development in small to medium clusters spread around the Parish. The Steering Group has not garnered information from the community on its location preference for new development, does the community favour north / south expansion of the Village or is east / west expansion preferred? This high level consultation would have drawn out the community's desires without undue focus on specific sites.

The Consultation Statement (March 2019) is extremely revealing. In reference to the 13 sites that were submitted for the community's consideration for future residential development it states:

"Following these submissions representatives of the Steering Group arranged to meet with those

that had submitted sites to discuss the detail of their land and any proposals set out. The meetings were carried out between February 2015 and May 2015 and took the format of a standard pro-forma.”(Paragraph 2.38)

Feedback on specific sites was then sought from the community in January 2017 although this pre-dates the submission of 6 sites for the community’s consideration. A further 6 sites came forward as a result of the July 2017 call for sites which was undertaken “to ensure the list of sites held by the Steering Group was up to date.”(Paragraph 2.45)

These 6 sites “were included in the Assessments being undertaken by the Steering Group” (Paragraph 2.47) but were seemingly not deemed worthy of the community’s consideration by the Steering Group. It is a fundamental flaw in the emerging Plan that the community has not had the opportunity to comment on nearly 33 per cent of the submitted sites. It shows the Steering Group has acted without regard for the local community’s preference in its pursuit of development on Site 4.

A high level survey of the community’s preference for the location and type of development it wishes to see should be undertaken to inform the proposed site allocations. At present the Neighbourhood Plan does not meet the basic conditions as it does not have regard to national policies, in particular paragraph 29 and 69 of the NPPF.

The Community have had an opportunity to comment on the sites submitted during the first call for sites although it was not possible to comment on Site 4 as the feedback form indicated this had been excluded from the Neighbourhood Plan.

Planning should never operate in a clandestine fashion like this. We can only suggest that the Steering Group is surreptitiously conspiring to prevent information that would undermine it’s (not the community’s) aspiration to allocate site 4. Appendix 20 of the Consultation Statement shows that Site 4 was not even displayed as an option for comment so the community could not gauge the nature of development they are now asked to support.

| Site | Description | Proposal | Do you support the inclusion of this site in the neighbourhood plan? | Please provide your comments regarding this proposal |
|---------|--|---|--|--|
| Site 4 | Land to the west of [redacted] | This site is excluded from the neighbourhood plan | [Redacted] | [Redacted] |
| Site 5 | The [redacted] farm | The proposal is for between 20 and 25 residential units | NO | [Handwritten comment] |
| Site 6 | The [redacted] field | The proposal is for about 30 residential units | YES | [Handwritten comment] |
| Site 7 | Land north of A24 and east of [redacted] | The proposal is for employment/commercial development on a 5.6 hectare (14 acre) site | NO | [Handwritten comment] |
| Site 8 | [redacted] Road | The proposal is for 20 to 25 residential units | YES | [Handwritten comment] |
| Site 9 | Land to the west of [redacted] | The proposal is for about 15 residential units | NO | [Handwritten comment] |
| Site 10 | [redacted] Farm, [redacted] [redacted] | The proposal is for about 100 residential units | YES | [Handwritten comment] |
| Site 11 | [redacted] Lane | The proposal is for three residential units | NO | [Handwritten comment] |
| Site 12 | The [redacted] [redacted] Road | The proposal is for 12 residential units | YES | [Handwritten comment] |
| Site 13 | Land west of [redacted] | The proposal is for about 100 residential units | NO | [Handwritten comment] |

Figure 1: Extract from Appendix 21 to Draft Consultation Statement (Updated) showing comments to Site 4 (the allocated site) redacted and a preference for Site 12.

The entire exercise should be undertaken again with the community afforded an opportunity to comment of all sites with the results in their entirety being displayed in the public domain. This should be undertaken after the high level survey we suggest is necessary on page 3 of our representations.

At present, the level of community involvement in the Plan, particularly in relation to the allocation of housing land is hopelessly inadequate and all too easy to cast aspersions over. It cannot be correct to allocate a site for 422 dwellings without engaging the community in any meaningful way. If additional consultation is not required by the Examiner, we will seek to judicially review the Plan on the basis on apparent bias. The Plan needs to go back to Regulation 14 stage.

As far as this information can be relied upon, it actually shows Site 12 should be allocated based on the community's preference. Site 1 (a proposal for a retirement home) receives 13 votes in favour. This is followed by site 7 (an employment site) with 10 votes. Site 12 is the most liked housing site jointly with site 6 with 9 votes each. The Plan does not reflect the community's view as far as we are able to assess it.

It is incredible that the Steering Group believe that 13 people engaging with the potential sites questionnaire constitutes an appropriate level of community consultation on a Plan that intends to deliver over 400 dwellings.

SNP2 – Allocation for Residential Development

The NPPF asserts that:

"Neighbourhood planning groups should also consider the opportunities for allocating small and medium-sized sites (of a size consistent with paragraph 68a) suitable for housing in their area." (Paragraph 69)

Paragraph 68a refers to land to accommodate at least 10% of a housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved.

There is no evidence that this has been entertained as an option by the Steering Group, let alone strong evidence as to why it cannot be achieved. The community have not had an opportunity to comment on this as a way in which the development requirements for Southwater could be delivered.

Opportunities exist for allocating small / medium sized sites as evidenced by the Site Assessments, notably the site assessment for Site 12 which scores more positively than component parts of the site the Steering Group intends to allocate for example Site 4D.

The preamble to this policy indicates that:

"Our assessments have concluded that development of this area represents a sustainable and reasonable way to support the plan's Core Principles set out in SNP1 whilst accommodating our housing need." (Paragraph 4.11)

It's telling that it does not allege that this reflects the community's view on how housing should be delivered in the Parish.

Paragraph 4.12 indicates that the amount of development for the site has had to be capped due to the presence of a number of constraints including a Listed Building, Ancient Woodland and a

Local Wildlife Site. These constraints are not present on other sites available to the Steering Group, notably Site 12.

Paragraph 4.16 indicates that *"The provision of the new homes required will result in the loss of green field land wherever it is located within the Plan Area."*

This is factually incorrect. Site 12 comprises previously developed land as defined in the NPPF as confirmed by paragraph 17 of the appended appeal decision.

Land west of Southwater is allocated for between 422 and 450 residential units despite no evidence showing it is favoured by the community, or evidence showing it is more sustainable than other options for growth (see comments on Sustainability Appraisal below).

This allocation is surprising given the contents of the Southwater SA-SEA which identifies *"strategic development earmarked for west of village"* as a threat to the Village. Having noted it as a threat it is nonsensical for the emerging Plan to then actively pursue the delivery of this threat.

Site Assessments

The Site Assessment for Site 12 contains a number of errors which we would suggest are corrected, although we support the overall conclusion that the site scores 1.

Nowhere in the assessment does it indicate that the site is brownfield land, the use of which ought to be prioritised. The site is, as the Site Assessment notes, a *"single residential dwelling and garden"*. This is outside of the built up area boundary. As such Dartford Borough Council v SSCLG [2016] EWHC 635 (Admin) is applicable.

The Court held that the wording of the exemption to previously developed land, within the NPPF was significant. It reads *"land in built-up areas such as: private residential gardens"* (underlining added). As such, the Deputy Judge found that only residential gardens within the *"built-up area"* were exempt from the definition of previously developed land whereas, residential gardens outside *"built up areas"* (such as Site 12) were *"brownfield"*. This has been confirmed by the appeal decision on the site.

The failure to identify sites that constitute previously developed land is a significant problem and shows a disregard for advice in national policy under paragraph 117 of the NPPF and Policy 2 which is a strategic policy relating to strategic development. This contains a requirement to *"Encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value."*

The Neighbourhood Plan does not meet the basic conditions as it does not have regard to national policies and is not in general conformity with the Horsham District Planning Framework. No attempt has been made to locate the development required on brownfield land in preference to greenfield land, the site assessments do not even entertain this as a possibility. There is a similar problem with the SA / SEA.

Under the heading Landscape it is suggested that there is *"no capacity for new development"*. Clearly this is at odds with the findings of Horsham District Council and the Planning Inspectorate. The Council offered no landscape reason for refusal in the Decision Notice associated with Council Ref: DC/17/2195. This should be corrected.

We believe there are inconsistencies in the Site Assessment. For example, the assessment of Site 4F – Land West of Southwater includes extra text not found on the assessment of Site 12. Under the heading Conformity with HDPF it states:

"However, HDPF Policy 4 does make provision for the expansion of settlements through Neighbourhood Plans on sites like this."

This is equally true of Site 12 and indeed all other sites. The sites should be assessed even handily and consistently.

Sites that the Neighbourhood Plan Steering Group wants to allocate appear to have been assessed with a 'light touch'. It is disappointing that the sites submitted as part of site 4 have not been assessed cumulatively. There is no assessment of the site that the Steering Group wants to allocate, only its component parts. The impact of the site as a whole is greater as it extends further into the countryside but this is not reflected in the Site Assessments.

In taking this approach the Steering Group has made the assessment of some sites inaccurate. For example, Site 4F is described as meeting the requirements of HDPF Policy 4 but the vast majority of the site does not adjoin the settlement boundary.

By breaking the site assessment for site 4 into 13 pieces it makes it impossible to compare the comparative merits of the allocated land to other sites.

Sustainability Appraisal

The Sustainability Appraisal includes an assessment of the 19 sites that have been submitted for the community's consideration with a view to accommodating residential development. The table under paragraph 7.35 indicates that Site 12 appraises equally well compared to those sites that are allocated. It is unclear therefore why Site 12 is not allocated.

Indeed, we believe Site 12 actually appraises in a superior manner to those sites that are allocated if the assessment is carried out as set out below. We believe the errors with the Sustainability Appraisal should be corrected and Site 12 allocated for development.

| | Criteria 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|--------------|------------|----|----|----|----|---|---|----|----|
| As existing | + | ?- | ?+ | / | -? | / | ? | ?- | / |
| As corrected | + | ?+ | ?+ | ?+ | ?+ | / | ? | ?+ | ?+ |

The site would not have a possible negative impact or slight negative impact on access to appropriate, affordable community facilities. These can be reached on foot via a tarmacked footpath within 2 km. This accords with the Paragraph 4.4.1 of Manual for Streets confirms walkable neighbourhoods are typically characterised by a range of facilities approximately 800 metres walking distance away which can be comfortably accessed on foot. It is explicit though that this is not an upper limit and PPS13 (now redundant) states that walking offers the greatest potential to replace short car trips, particularly those under 2 km. Further, the appeal decision relating to the site confirms *"It is located close to the services and facilities within Southwater"* (paragraph 17)

The site should be scored as slight positive on this basis, not greater positive because it is not within 800 m of facilities. We note employment opportunities are accessible within 800 m of Site 12 but this has not been recorded by the Sustainability Appraisal.

The site would not have a slight negative impact on biodiversity or the agricultural land. The site is garden land so it does not involve the development of agricultural land. The site would not adversely impact on biodiversity as shown in the ecology surveys that supported Council Ref: DC/17/2195. The site should score slight positive.

The site should score slight positive in relation to the conservation / enhancement of the landscape, character, historical and cultural environment. Development on the site is noted as being "*relatively well contained with a strong treed boundary to the north*" in the Steering Group's own Site Assessment. As such, it would not impact on the character of the wider landscape. The site is brownfield land as confirmed by the appeal decision on the site. There are no listed buildings that would be adversely impacted by the development.

It is notable that no consideration is given to Site 12 being brownfield land which should weigh in favour of allocation significantly. By contrast Site 4 is greenfield.

In relation to the site's potential to improve local job opportunities and local retail offer, the site should score a slight positive. Jobs would be created during the construction of the dwellings. The site is also proximate to the main employment area for Southwater. It would improve the local retail offer as the future occupants of the dwellings provided would become patrons of local shops.

The assessment should be updated as we set out above and the allocation of residential development sites reconsidered.

It appears to us that other sites have been assessed unfairly. For example, it is difficult to understand how site 19, a brownfield site surrounded by built development scores a neutral impact against objective 5 to conserve and enhance landscape character, historical and cultural environment. This should be greater positive. Were this change made, site 19 would have more greater positive scores than any other site.

The land proposed for allocation comprising Site 4d, 4F and 4M is never appraised as a whole, just its component parts. This does not enable an assessment of the comparative merits of the site in relation to alternative individual sites.

A cumulative assessment is undertaken by paragraph 7.78 provides a summary of options assessed for the distribution of housing land but this pits the allocated land against a composite of other sites. The outcome of this assessment is largely dependent on the sites that are put together for the purpose of the option. We would suggest that options have been deliberately sabotaged to make them appear less sustainable. For example, Option 2 – disbursed residential development could be far more attractively presented if the Steering Group had selected a number of smaller but sustainable sites such as Site 12. The inclusion of Site 6 undermines the assessment. If this option is reconsidered with Sites 4I, 4M, 10 and 12 the option would appraise substantially better and avoid such a substantial incursion into open countryside. This option should be reconsidered with more sustainable development sites included.

If the changes we advocate above to sites 12 and 19 are made. Option 6 would also appraise better than option 5 in the summary of assessed options. Arguably, Option 6 is already superior as it has no greater negative impacts.

It is notable that none of the options for delivering development have been put to the community so see the manner in which they would like to see growth occur.

Built Up Area Review

Alteration 2 to the built up area boundary relates to Site 12 – The Copse.

"HDC have proposed that the main dwelling be included as it is a large property on Worthing Road and the southern part of the property has a clear relationship with the built form of Southwater in this location. The rear garden is large and well vegetated, creating a rural character which is considered to have a relationship with the countryside rather than Southwater. This assessment has reached the same conclusion and the boundary extended to include the property."

We believe a far greater portion of Site 12 should be included within the built-up area boundary having regard to the methodology set out in the Built up Area Review.

It is evident from the comments above that the rear garden be large and vegetated has led to the conclusion that it has a relationship with the countryside rather than Southwater.

Criteria A to C provide no reason to exclude the entire site from the built up area boundary.

Criterion D relates to gardens. It indicates that:

"In most instances garden land should be included in the BUAB as they will form part of the urban / townscape setting. It is however recognised that gardens can form an important part of the transition between the rural and urban environment, and there may be some instances, particularly where there are houses located in larger plots, that the character of the area would be adversely affected as a result of increased development. Inclusion of these sites should therefore be made on a case by case basis. Where garden land relates more to the rural than urban landscape these sites should be excluded." (Our emphasis)

The starting point is therefore that the entire garden area associated with The Copse should be included. The entire plot is shown below.



Figure 2: The Copse – Site 12

The entire yellow area should be within the built up area boundary as this relates to the development to the south as opposed to the countryside which is on the other side of a mature tree screen running along the drain.

In addition to the four criteria set out at A to D, the Steering Group specifically used four further following criteria when reviewing the boundary:

The only relevant criterion, criterion 2, further suggests that the built up area boundary should include all of the yellow land shown in figure 1 as it indicates:

"The boundary should whenever possible follow physical features (such as boundary fences)."

The physical features on the site runs along the drain and therefore even by the Steering Group's own methodology the yellow land as shown in Figure 1 should be included in the built up area boundary.

HDPF Policy 4

Policy 4 concerns development outside of built up area boundaries. To be supported, it requires development, among other things, to be allocated in the Neighbourhood Plan and adjoin an existing settlement edge.

The allocation made under SNP2 stretches some 700 metres as the crow flies from the Worthing road. This does not adjoin the settlement edge. It is clear that policy HDPF envisages sites like Site 12 that are genuinely adjacent to the settlement boundary coming forward to meet its criteria and not vast sites that are nearly a kilometre wide.

The emerging Plan does not meet with the basic conditions as it does not meet the aspirations of HDPF Policy 4.

Southwater Landscape Sensitivity & Capacity Assessment

It is concerning that the Southwater Landscape Sensitivity & Capacity Assessment was produced by the same consultants that have been assisting the Parish Council in the preparation of the Neighbourhood Plan.

This raises the issue of an evidence base that has potentially been retrofitted to pre-defined outcomes.

It would have been better if the evidence base documents were undertaken as part of an 'at arm's length' transaction.

Site 12 lies in landscape character area 5, Lanaway's Farm. The assessment concludes that this area has *"No capacity for new development. Do not consider further."*

This conclusion is plainly wrong with Reference to the Council's SHLAA, the Neighbourhood Plan Steering Group's Site Assessment and most importantly the planning appeal decision associated with the site. This calls into question the validity of some of the other judgements made in the Assessment and its value as part of the evidence base.

Conclusion

We welcome Site 12's inclusion on the Steering Groups list suitable sites, however we believe if a more accurate approach to the assessment of Site 12 is employed in the Sustainability Appraisal by embracing the comments we have set out above it will become apparent that it is strong candidate to accommodate a portion of residential development in the Plan and should be allocated. It is brownfield land by virtue of the Dartford Borough Council v SSCLG [2016] EWHC 635 (Admin) case law and is sustainably located. This is confirmed in the appeal decision relating to the site. It can be brought forward relatively quickly owing to its more modest scale in line

with paragraph 68 of the NPPF which the Steering Group have paid no heed to despite the contents of paragraph 69.

In our view the draft Plan would not meet the Basic Conditions as set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. We have indicated areas where of the community's views need to be gathered in order to inform the direction of travel taken by the Plan. We have previously explained to the Parish Council that we will Judicially Review the Plan on the basis on apparent bias. This remains something that we would pursue.

Yours sincerely

[REDACTED]
Planning Consultant
For and on behalf of Parker Dann

[REDACTED]
[REDACTED]

Appendix A



Appeal Decision

Site visit made on 14 May 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2019

Appeal Ref: APP/Z3825/W/18/3205099

The Copse, Worthing Road, Horsham RH13 9AT

- 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 Mrs T. Guy of Starbuild Ltd against the decision of Horsham District Council.
 - The application Ref DC/17/2195, dated 28 September 2017, was refused by notice dated 19 January 2018.
 - The development proposed is demolition of The Copse. Construction of 15 dwellings, access, garages and car parking.
-

Decision

1. The appeal is dismissed

Preliminary Matters

2. The National Planning Policy Framework (NPPF) was published during the course of the appeal. The Council and appellant had the opportunity to comment and I have taken its contents into account in coming to my decision.
3. The Southwater Neighbourhood Plan (NP) has been submitted to the District Council. I have limited information as to the extent of outstanding objections or whether the NP will meet the basic conditions to proceed to referendum, including whether it is in general conformity with the development plan and the NPPF. This means that limited weight can be given to the NP.

Main Issues

4. The main issues are:
 - whether the location of the proposed development would be consistent with the strategy for development set out within the Horsham District Planning Framework, or if there are any material circumstances sufficient to override any conflict with policy; and
 - whether or not the proposed development would make adequate provision for affordable housing.

Reasons

Strategy for development

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal should be determined in accordance with the development plan

unless material considerations indicate otherwise. The development plan would comprise a Local Plan, in this case the Horsham District Planning Framework (HDPF), and NP.

6. The NPPF is a material consideration that carries great weight in the planning process. It seeks to boost significantly the supply of housing, including through local planning authorities demonstrating a five year supply of deliverable housing sites against their requirements. In this case, it is not disputed that the Council are able to demonstrate that 5 year housing land supply. Consequently, in accordance with paragraph 11 of the NPPF, the development plan policies which are most important for determining the appeal are up-to-date. As a result, the presumption in favour of sustainable development set out within the NPPF means approving development proposals that accord with the development plan without delay.
7. Policy 1 of the HDPF indicates that planning applications which accord with the policies within the plan will be approved without delay, unless material considerations indicate otherwise. Policies 2-4 of the HDPF set out a strategy of development, seeking to focus development in and around Horsham, with growth in the rest of the district in accordance with the settlement hierarchy, set out in Policy 3. Southwater is defined as a larger village with a good range of services and facilities including reasonable public transport services such that the settlement acts as a hub for smaller villages, but has some reliance on larger settlements. Policy 2 seeks to manage development around the edges of settlements to protect the rural character and landscape. Policy 4 sets out how proposals that would result in the expansion of settlements would be considered.
8. The Copse is a detached dwelling within a substantial garden on the edge of Southwater. The existing house is located close to the boundary with the neighbouring dwelling of Pine Lodge. Pine Lodge is located within the built up area boundary of Southwater as defined in the proposals map to the HDPF, but The Copse is not.
9. A number of criteria are set out as to how expansion of settlements would take place in Policy 4 of the HDPF. The first requires that sites must be allocated within the Local Plan or in a NP. The proposal would not comply with this criterion. However, it would comply with the other criteria, including that it would be contained within a defensible boundary comprising the roundabout and road along with mature trees and hedges and would reflect the character and appearance of adjoining development.
10. Policy 26 of the HDPF is a strategic policy relating to countryside protection, including enabling the sustainable development of rural areas, as well as seeking to protect, conserve or enhance the landscape character of the area. The proposal would protect the landscape character of the area. However, the policy also requires that development within the countryside is essential to its countryside location, which the proposal is not.
11. As a result, the proposed development would be located outside built up area boundaries, is not on a site that has been allocated for development in the HDPF or NP and would not be essential to its countryside location. For these reasons, although the housing requirements are not a cap on delivery of sustainable residential development, the proposed development is not necessary to contribute toward the Council's housing figures. As such, it would

be contrary to the development strategy for the district, in particular Policies 2, 4 and 26 of the HDPF. Given these conflicts, it would also be contrary to Policy 1 of the HDPF.

Affordable housing

12. Policy 16 of the HDPF requires that development sites that would provide 15 or more dwellings should provide 35% of dwellings as affordable. I note that the appellant and Council are intending to submit a legal agreement that would provide affordable housing in accordance with that policy. However, I understand that has not yet been executed and has not been submitted for my consideration.
13. My attention has been drawn to a potential condition to require a scheme for the provision of affordable housing. However, Planning Practice Guidance advises that a planning obligation is the best way to deliver certainty about what is being agreed and these should be agreed in a timely manner. It states that negatively worded conditions requiring planning obligations are only appropriate in exceptional circumstances such as the case of more complex and strategically important development. This is not a complex or strategically important development. I consider that such a condition would not be appropriate in this case.
14. Given the lack of an agreed mechanism to provide affordable housing in accordance with Policy 16 of the HDPF, I conclude that the appeal proposal would conflict with that policy.

Other matters

15. To the rear of houses beyond Pine Lodge is Welcome Place, a recent housing development of detached houses that is also outside the defined built up area boundary. The planning application for that development was considered under previous planning policies. Reference has also been made to other appeal decisions¹ that relate to development outside built up area boundaries in the district. However, I need to consider the appeal proposals on their individual merits.
16. I understand that evidence in support of the NP states that there is a significant need for additional dwellings in the NP area, including affordable houses. The Copse is not currently proposed to be allocated in the NP. However, it appears that another large site is likely to be allocated that would meet those requirements. Doubt has been expressed that this would come forward in accordance with the expectations of the NP and it is suggested that progress on the NP is slow.
17. By contrast the appeal site is available now and would contribute toward the NPPF requirement to boost significantly the supply of housing and the local need as identified by the evidence base to the NP, as well as boosting the supply of housing. The appeal site comprises the garden to The Copse that is located outside the built up area boundary. As such, it comprises previously developed land as defined in the NPPF. It is located close to the services and facilities within Southwater. As a result, considerable weight can be attached to the contribution of the proposed development to the supply of housing.

¹ Appeal references APP/Z3825/W/16/3151508 and APP/Z3825/W/18/3201430

18. Nevertheless, the Council have a five year supply of deliverable housing sites. As such, the NPPF is clear the planning system should be genuinely plan-led and that development proposals that accord with the development plan should be approved without delay. The proposed development would conflict with policies within the HDPF such that it would conflict with the development plan as a whole.
19. Taking all the above into account, I conclude that the contribution of the proposed development toward housing supply would not outweigh the conflict I have found with the policies of the HDPF.

Conclusion

20. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and there are no material considerations of such weight as to warrant a decision other than in accordance with the aforementioned Local Plan. Consequently, the appeal should be dismissed.

AJ Steen

INSPECTOR