

Report to: Planning Applications Committee

Date: 19 April 2023

Title of report: Current Appeals and Reasons for Refusal

Application Nos:

1. LW/21/0694 Bishops Close Ringmer (para 2.1)
- 2.. LW/21/0986 Harrisons Lane (para 2.2)
3. LW/22/0472 Harrisons Lane (para 2.2)
4. LW/22/0153 High Street Barcombe (para 2.4)
5. LW/22/0175 Bennett's Field, Falmer (para 2.4)
6. LW/22/0282 Land South of the Broyle, Ringmer (para 2.5)
7. LW/22/0255 Round House Road, Ringmer (para 2.6)

Purpose of report: Current Appeals and defensible reasons for refusal.

Ward:

1. Ouse Valley & Ringmer
2. Ouse Valley & Ringmer
3. Ouse Valley & Ringmer
4. Chailey, Barcombe & Hamsey
5. (Falmer)
6. Ouse Valley & Ringmer
7. Ouse Valley & Ringmer

Recommendation:

1. Members note the dropping of some reasons for refusal, based on advice from the Council's expert statutory advisors and/or external and independent expert witnesses.
2. Members to note the cases will progress to appeal on the revised/reduced refusal grounds.

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1.	Executive Summary
1.1	Members will acknowledge that the above cases have been refused planning permission either under delegated authority or at planning committee.

1.2	These decisions are now all at appeal to be determined by way of a combination of informal hearing and public inquiry.
1.3	At the time of making these decisions it was clear that there were areas of deficiency and lack of detail regarding detailed/specialist areas.
1.4	There were also reasons for refusal, (RfR) informed through planning judgement where that judgement was made regarding the planning balance.
1.5	On review, including using the advice of statutory consultees, planning legal, and specialist advice - and taking into account the common themes and issues from recent appeal decisions - it has been determined that some reasons for refusal cannot adequately be defended and sustained through the appeal process.
1.6	This report outlines the reasons for refusal that will no longer form part of the Council defence as well as the ones that will sustain – be maintained.
1.7	Members are invited to note these changes and the outcome of these appeals will be reported to future Planning Applications Committee in the normal way.

2.	Reason for Refusal
2.1	<p>Bishops Close Ringmer LW/21/0694 (no PINS number as yet) – 68 homes scheme.</p> <p>This case had three reasons for refusal and it is recommended that the Council pursue only one reason for refusal (RfR) through to appeal.</p> <p>For the landscape RfR, professional consultants that this reason for refusal could not be sustained. This was informed by the fact that any landscape harm would be local in nature and would be of insufficient to outweigh the benefits of housing delivery in the planning balance.</p> <p>On the third highways RfR – the application has the full support of ESCC Highways and without sufficient evidence to the contrary it is considered that this specialist advice would take precedence in the planning balance</p> <p><u>RfR Not to be Maintained.</u></p> <p>1.The development, due to its location outside of the defined settlement boundary will harm the character, setting and appearance of the surrounding countryside. The development would therefore be contrary to Policy 4.1 of the Ringmer Neighbourhood Plan, Policies CP10 and DM1 of the Lewes District Local Plan Parts 1 & 2 and Paragraphs 174 of the National Planning Policy Framework.</p> <p><u>RfR to be Maintained.</u></p> <p>2. By reason of the height of parts of the development, layout, density, isolated location of the play space in relation to those dwellings with no</p>

external amenity space, and the distinguishable appearance of the affordable units in the flats from the rest of the development, the application represents an over-development of the site, and would be detrimental to the wider character of the village, contrary to Policy 6.3 and 9.1 of the Ringmer Neighbourhood Plan, CP2, CP11 and DM25 of the Lewes District Local Plan Parts 1 & 2 and Paragraph 130 of the National Planning Policy Framework.

RfR Not to be Maintained.

3. By reason of the lack of sufficient information and up to date highways modelling, it is unclear whether the local highway, Bishops Lane, and the junction at Earwig Corner has the capacity to accommodate a development of this scale. The development would therefore represent an unacceptable risk of unforeseen impacts that would cumulatively be to the detriment of road users and highways capacity. The development would therefore be contrary to Policy 8.1 of the Ringmer Neighbourhood Plan, Policy CP13 of the Lewes District Local Plan Part 1 and Paragraph 111 of the National Planning Policy Framework.

2.2

Harrisons Lane

LW/21/0986 - PINS 331419 – 200 homes scheme

LW/22/0472 - PINS 3315235 – 75 homes scheme

There are two applications on this site the earlier application for two hundred units and the later one for seventy five units. Both applications were refused for the reasons set out below.

The second and third reason for refusal (RfR) for the 200 unit scheme (21-0986) have been deleted because our specialist advisor on ecological matters advises that this issue has now been resolved to their satisfaction and ESCC Highways do not object in highway terms to the proposal.

On the 200 unit scheme (22/0472) the landscape RfR remains. The LPA and the Appellant continue to negotiate on the flood/drainage RfR – this may or may not remain as a RfR right up to the submission of Inquiry proofs of evidence.

LW/21/0986 (200-unit scheme)

RfR to be Maintained.

1. The development will harm the setting of the South Downs National Park, and the character, setting and appearance of the surrounding countryside. The development would therefore represent unacceptable impacts that would be to the detriment of the character and appearance of the countryside and the setting to the South Downs National Park. The development would therefore be contrary to Policy 4.1 of the Ringmer Neighbourhood Plan, Policies CP10 and DM1 and DM25 of the Lewes

District Local Plan Parts 1 & 2 and Paragraphs 174 and 176 of the National Planning Policy Framework.

RfR Not to be Maintained.

2. By reason of insufficient information being provided to assess the potential impacts on biodiversity and to inform appropriate mitigation, compensation and enhancement and that the proposed land use parameters will have a detrimental impact on biodiversity and allow insufficient space for mitigation and enhancement measures the proposal would be to the detriment of habitats and ecology within the site and would be contrary to Policy 5.10 of the Ringmer Neighbourhood Plan Policies CP10 and DM24 of the Lewes District Local Plan Parts 1 & 2, paras. 179,180 and 182 of the National Planning Policy Framework.

RfR Not to be Maintained.

3. By reason of the lack of sufficient information and up to date highways modelling, it is unclear whether the highway and specifically the junction at Earwig Corner has the capacity to accommodate a development of this scale. The development would therefore represent an unacceptable risk of unforeseen impacts that would cumulatively be to the detriment of road users and highways capacity. The development would therefore be contrary to Policy 4.5 of the Ringmer Neighbourhood Plan, Policy CP13 of the Lewes District Local Plan Part 1 and Paragraph 111 of the National Planning Policy Framework.

LW/22/0472 (75-unit scheme)

RfR to be Maintained.

1. The scheme, because of its unique location and the location's landscaping a) at the northern foothills of the SDNP and b) immediately to the south of the Bulldog Sewer/water course, would negatively impact, in a severe way, the purpose and setting of the SDNP, by introducing a sprawling development outside the normal settlement boundary and in full view, (to and from) the SDNP. In addition the scheme would threaten the rural track nature of Potato Lane - an important contributor to the SDNP setting and change the traditional landscape character relationship of the SDNP and neighbouring villages, from one based on tight and clear boundaries to one of increasing, poorly designed urban sprawl.

The scheme would represent unacceptable urbanisation of the rural fringe of the settlement which would be to the detriment of the character and appearance of the countryside and the setting to the South Downs National Park. The development is considered to be contrary to Policy 4.1 of the Ringmer Neighbourhood Plan, Policies CP10 and DM1 and DM25 of the Lewes District Local Plan Parts 1 & 2 and Paragraphs 174 and 176 of the National Planning Policy Framework.

RfR to be Maintained for the time being. However LPA/Appellant negotiating on possible acceptable Conditions in advance of the Public Inquiry

2. Surface water flood modelling in the context of flooding within Ringmer and across the County in November 2022 has been considered along with flooding records, and it is considered that the surface water hydraulic modelling submitted by the applicant is not reflective of flooding that has occurred in the vicinity of the site. The applicant has not contacted the Lead Local Flood Authority to request details of previous flooding for comparison with their modelling.

Based on observations by LLFA officers, it is considered that the Environment Agency Flood Map for Surface Water is likely to be more reflective of the surface water flood risk at the site.

This mapping shows the site access to be affected by surface water flood risk which may have implications for the deliverability of this access and the impact of the proposed access on the surface water flood risk of the wider catchment contributing surface flooding to this location. The scheme therefore lacks evidence on surface water flood risk at the site and how this would be mitigated.

And on this basis, the LPA can only conclude that insufficient information and assessments have been provided to demonstrate that the proposed development could be properly serviced in terms of flood and drainage management, contrary to policy CP12 of LLP1 and paras. 159 and 160 of the NPPF. East Sussex County Council SuDS/LLFA and the Environment Agency remain significant objectors to the scheme.

The pollution that could be caused by an increase in offsite flooding would be unacceptable in environmental and public health risk terms, contrary to NPPF para 185, and this risk is considered, to significantly and demonstrably outweigh the benefits that might arise from the proposed development.

2.3

High Street Barcombe LW/22/0153 PINS 3316217

Specialist advice received from ESCC Suds is that with the application of appropriately worded “drainage and flood” conditions would overcome concerns, such that the risk of flooding would be mitigated to an acceptable degree. It is therefore considered that the flood/drainage reason for refusal (RfR) could not be sustained at appeal and the Inspector would be highly likely to seek to control the risk via the application of conditions.

Officers, in consultation with the ESCC Suds will table appropriately worded conditions for the appeal Inspectors consideration.

RfR to be Maintained.

1. The development, as a consequence of the layout, siting and proximity of dwellings to the High Street, would appear as an incongruous and disruptive feature within the street scene and would detract from the rural setting of Barcombe Cross, contrary to LLP1 policies CP2, CP10 and CP11, LLP2 policies BA02 and DM25 and para. 130 of the NPPF.

	<p><u>RfR Not to be Maintained.</u></p> <p>2. Inadequate information has been provided to satisfy the Local Planning Authority that the proposed layout could accommodate suitable surface and foul water management, resulting in the potential for increased flood risk and discharge of sewage into watercourses contrary to LLP1 policies CP10 and CP12, LLP2 policies BA02, DM20 and DM22 and para. 167 and 174 of the NPPF.</p>
2.4	<p>Bennett’s Field, Falmer LW/22/0175 – PINS 331523 – 555 student rooms/flats</p> <p>The first “design” reason will be maintained. The second “air quality” RfR may not be maintained because this could be overcome with appropriate planning conditions, with advice from the Council’s expert advisors. Negotiation on this matter continues.</p> <p><u>RfR to be Maintained.</u></p> <p>1. The development, as a consequence of its substantial height, bulk and unsympathetic design coupled with its positioning and proximity to the South Downs National Park, would appear as an unacceptably and incongruous feature that would compromise the transition between the urban environment of Brighton to the west and the downland to the east. There is also insufficient information available to ascertain the amount of artificial light that the development would generate, noting the dark sky status of the National Park, and to satisfactorily assess the significance of the impact of the development upon surrounding heritage assets. It is considered that the adverse impacts of the development would therefore significantly outweigh its benefits. The proposed development is therefore contrary to LLP1 policies CP8, CP10 and CP11, LLP2 policies DM20, DM25 and DM27 and para. 130, 174, 176, 185 and 194 of the NPPF.</p> <p><u>RfR May Not to be Maintained</u></p> <p>2. Insufficient information has been made available to allow for the potential impact of the development upon air quality to be adequately assessed. The proposed development is therefore in conflict with LLP1 policy CP9, LLP2 policy DM20 and para. 186 of the NPPF.</p>
2.5	<p>Land South of the Broyle, Ringmer LW/22/0282 (No PINS reference as yet) – 78 homes scheme</p> <p>The “design” RfR will be maintained. The “transport” RfR will not be maintained because of support for the scheme from ESCC Highways and the close proximity of the scheme to the settlement boundary. The “drainage” RfR is being negotiated on and could be dropped once ESC SUDs advice sufficient information has been provided and appropriate conditions can be imposed</p> <p><u>RfR Not to be Maintained.</u></p> <p>1. The location and layout of the scheme by reason of its car dependant design is contrary to LLP1 policy CP13</p> <p><u>RfR to be Maintained.</u></p> <p>2. The scheme by reason of its location and size outside of the existing defined settlement boundary does not meet the aims of this settlement and</p>

	<p>is therefore contrary to LLP1 policy DM1, policy 6.3 of Ringmer Neighbourhood Plan and the settlement design guidance set out in Section 9 of the Ringmer Neighbourhood Plan, particularly Key Aspect 4 "The evolving settlement pattern" and also NPPF section 11 "Making effective use of land" and section 12 "Achieving well-designed places".</p> <p><u>RfR May Not to be Maintained.</u></p> <p>3. The scheme will put at risk drainage and flood management contrary to key NPPF paragraphs 174 and 185 Local Plan Policy CP10 and policy 8.11 of the Ringmer Neighbourhood Plan</p>
2.6	<p>Round House Road, Ringmer LW/22/0255 (no PINS reference as yet) – 53 homes scheme</p> <p>The “employment” and “design” RfRs will be maintained.</p> <p>The “drainage” and the “ecology” RfRs may not be maintained. The LPA and Appellant are in negotiations, (with advice from ESCC SUDs and ESCC/LDC ecology advisers) on suitable designs and management regimes and appropriate conditions and or legal agreements may be agreed in advance of any hearing/public inquiry.</p> <p><u>RfR to be Maintained.</u></p> <p>1. The proposed development would result in the loss of an employment use on a site identified for that purpose within the Ringmer Neighbourhood Plan Site as site EMP7 and on which there is an extant outline permission for an employment use in the form of a care home. The development would therefore conflict with objectives to strengthen the economy in the district and to provide increased employment within settlements, contrary to policy 5.1 of the Ringmer Neighbourhood Plan , LLP1 policy CP4 and para. 81 of the NPPF.</p> <p><u>RfR to be Maintained.</u></p> <p>2. The extent to which the site would be developed results in suboptimal parking arrangements in the form of tandem parking, a minimal provision of usable public amenity/play space or landscaping enhancements and use of the area to the front of a number of dwellings on the western boundary is a primary private amenity space. The cumulative impact of these deficiencies is such that the overall development fails to be suitably functional and accessible or to meet the amenity needs of occupants, contrary to LLP1 policies CP8, CP10 and CP11, LLP2 policies DM15, DM16, DM25 and DM27 and para. 8, 92, 124 and 130 of the NPPF.</p> <p><u>RfR May NOT to be Maintained.</u></p> <p>3. Insufficient information has been provided to allow for an appropriate assessment to be made of the potential for the surface water generated by the development to be adequately managed. The development is therefore in conflict with LLP1 policy CP10 and CP12, LLP2 policy DM22 and para. 167 of the NPPF.</p>

	<p><u>RfR May NOT to be Maintained</u></p> <p>4. Insufficient information has been provided to demonstrate that the development would deliver an appropriate level of biodiversity net gain and that there would be sufficient avoidance and mitigation measures in place to prevent harm to protected species. The development is therefore in conflict with LLP1 policy CP10, LLP2 policy DM24 and para. 174 of the NPPF.</p>
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3.	Conclusions
3.1	It is considered that the deletions advised of above would put the Council in a stronger position and also not expose the Council to appeal costs for unreasonable behaviour/conduct.
3.2	Officers will inform that the appellants of the changes referred to above.

4.	Recommendation
4.1	Members are required to note the content of this report.

5.	Appendices
5.1	None.

6.	Background Papers
6.1	None.