

Examples of Appeal Decisions Supporting the Fire & Rescue Service

Appeal Ref: APP/C3810/W/17/3187601

Appeal Decision: Allowed – 28 September 2018

Planning Inspector: Matthew C J Nunn BA BPL LLB LLM BCL MRTPI

Appellants: Mulgrave Properties LLP

Land west of Church Lane and south of Horsemere Green Lane, Climping, West Sussex, BN17 5RY

The development is described on the application form as “outline application for the erection of up to 300 dwellings and ancillary development comprising open space, a building within use class D1 of up to 875 sqm (net), a building for A1 use having a floor area of up to 530 sqm (net), together with open space and ancillary work, including car parking and drainage arrangements, with appearance, landscaping, layout and scale wholly reserved for subsequent approval; the access detail, showing the points of access to the development, and indicated on Bellamy Roberts drawings numbered 4724/004 and 4724/005 are access proposals to be determined at this stage of the application; for the avoidance of doubt all other detail within the site is to be determined as a reserved matter at a later stage.”

Application: CM/1/17/OUT – Arun District Council

28. *A planning obligation was completed on 3 September 2018. The obligation secures the provision of affordable housing at a rate of 30%. It also secures the following for the Council: an NHS contribution; a police contribution; sports facilities contributions (including towards sports pitches, sports hall and swimming pool). It also secures a community building and the provision of public open space (including play areas), and a travel welcome pack to occupiers of the dwellings on first occupation (to include a cycle voucher or bus travel season ticket). In terms of provisions in favour of WSCC, the obligation safeguards land for future highway works, as well as contributions to highway improvement works. It also secures the provision of fire hydrants, and suitable access for fire brigade vehicles and equipment, contributions to fire and rescue services, library facilities, and education (primary, secondary and sixth form).*
29. *I have no reason to believe that the formulae and charges used by the Council and WSCC to calculate the various contributions are other than soundly based. Both the Council and WSCC have produced Compliance Statements which demonstrate how the obligations meet various Council policies and the Community Infrastructure Levy Regulations. The development would enlarge the local population with a consequent effect on local services and facilities. I am satisfied that the provisions of the obligation are necessary to make the development acceptable in planning terms, that they directly relate in scale and kind to the development, thereby meeting the relevant tests in the Revised Framework and the Community Infrastructure Levy Regulations.*

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Appeal Ref: APP/C3810/V/16/3143095

Secretary of State Decision: Allowed - 13 July 2017

Planning Inspector: S R G Baird BA (Hons) MRTPI

Appellants: Fontwell Estates Limited & Global Technology Racing

Land east of Fontwell Avenue, Fontwell, West Sussex, BN18 0SB

The development proposed is up to 400 new dwellings, up to 500sq.m of non-residential floor space (A1, A2, A3, D1 and/or D2), 5,000sq.m of light industrial floorspace (B1 (b)/(c) and associated works including access, an internal road network, highway works, landscaping, selected tree removal, informal and formal open space and play areas, pedestrian and cyclist infrastructure, utilities, drainage infrastructure, car and cycle parking and waste storage.

Application: WA/22/15/OUT – Arun District Council

42. *Having had regard to the Inspector's analysis at IR10.8-10.15 and IR11.61, the planning obligation dated 2 December 2016, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR11.61 that all the obligations, bar the NHS contribution which has not been substantiated and fails the CIL tests, comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.*
43. *The Secretary of State has taken into account the number of planning obligations which have been entered into on or after 6 April 2010 which provide for the funding or provision of a project or type of infrastructure for which an obligation has been proposed in relation to the application (IR10.8-10.15 and IR11.61). The Secretary of State concludes that the obligations are compliant with Regulations 123(3), as amended.*
- 1.4 *The local planning authority (lpa) considered the application on the 25 November 2015 and resolved to grant planning permission subject to conditions and a S106 Agreement (CD 24). The applicants submit an engrossed S106 Agreement dealing with the provision of financial contributions relating to education; libraries; the fire service; highways and transport; police infrastructure; primary healthcare facilities; leisure facilities and the provision of affordable housing and public open space (CD 37). The applicants, the lpa and West Sussex County Council (WSCC) submitted notes on CIL R122 compliance (CDs 49, 55 & 52).*
- 10.11 *The application site falls within the southern service division of the West Sussex Fire Service. New development places additional demands on the existing service. As the exact housing mix of the scheme is not known a formula has been inserted to ensure that the Fire Service infrastructure contribution can be calculated at a later stage. The contribution would be used towards the redevelopment or relocation of fire stations, vehicles and equipment in the southern service area and the installation of up to 7 fire hydrants on the application site.*

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11.61 All the obligations, bar the NHS contribution which has not been substantiated and fails the CIL tests, are necessary to make the development acceptable in planning terms, directly related to the development and fair and reasonably related in scale and kind to the development. Accordingly, the S106 Agreement is consistent with the guidance at Framework paragraph 204 and Regulations 122/123 of the CIL Regulations and where appropriate, I have attached weight to it in coming to my conclusion.

Examples of Appeal Decisions Supporting the Fire & Rescue Service

Appeal Ref: APP/L3815/W/15/3003656

Appeal Decision: Allowed – 14 December 2015

Planning Inspector: Jonathan Manning BSc (Hons) MA MRTPI

Appellants: Southcott Homes Limited

Land North of Long Copse Lane, Westbourne, Emsworth, West Sussex, PO10 8SU

The development proposed is the erection of 16 no dwellings, vehicular and pedestrian access, car and cycle parking and landscaping.

Application: WE/14/00911/FULL – Chichester District Council

3. *The Council's second reason for refusal relates to the absence of a legal agreement to secure necessary planning obligations. Shortly after the Inquiry in accordance with the timescale agreed, a signed and dated Section 106 agreement was provided that makes provision for affordable housing, community facilities, play and open space, recreation, public art, Sustainable Urban Drainage Systems (SUDS), education, libraries, total access (relating to traffic calming measures on Monk's Hill and a pedestrian crossing), fire and rescue and fire hydrants. The Council confirmed at the Inquiry that once signed, the Section 106 agreement overcomes their second reason for refusal. From the evidence before me, I consider that the requirement for these provisions meets the three tests set out in Paragraph 204 of the National Planning Policy Framework (the Framework) for planning obligations, which reflect those set out in Regulation 122 of the Community Infrastructure Levy (CIL) (2010). Further, the sought obligations comply with the five pooled contribution limit imposed by Regulation 123 of the CIL Regulations. As a result, I have not considered such matters further in my decision.*

Examples of Appeal Decisions Supporting the Fire & Rescue Service

Appeal Ref: APP/Z3825/A/14/2224668

Appeal Decision: Allowed – 18 May 2015

Planning Inspector: Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

Appellants: Gleeson Developments Ltd and The Trustees of the C J Lucas's Children's 1967 Settlement

Land North of Old Guildford Road, Broadbridge Heath, West Sussex

The development proposed is the erection of up to 165 residential dwellings (use class C3) including affordable housing, a 60-bed care home (use class C2) with separate staff accommodation, two new vehicular accesses, associated infrastructure, groundworks, open space and landscaping.

Application: DC/13/2408 – Horsham District Council

52. *The appellants have submitted (1) a planning agreement under Section 106 of the Act with WSCC in respect of contributions towards fire and rescue, libraries, education and (as noted above) transport improvements and (2) a unilateral undertaking under the same section of the 1990 Act in respect of the provision of affordable housing and allotments, restrictions on the occupation of the care home staff accommodation, and contributions towards allotment management and maintenance, community facilities, NHS services, public art, open spaces and recreation. Bearing in mind the justification for these requirements set out in the accompanying statement, I am satisfied that these obligations accord with the requirements of CIL Regulation 122. I also consider that the provision of these obligations addresses some of the concerns raised by some local residents about the scheme's effects on local services – notably in respect of the availability of medical services.*

Examples of Appeal Decisions Supporting the Fire & Rescue Service

Appeal Ref: APP/L3815/A/14/2219554

Appeal Decision: Dismissed – 09 January 2015

Planning Inspector: D R Cullingford BA MPhil MRTPI

Appellants: Wates Development Limited

Land to the south of Clappers Lane, Bracklesham Bay, West Sussex, PO20 8JB

The development proposed is described as ‘an outline application for the erection of 160 residential dwellings, a new vehicular access, open space and other ancillary works’.

Application: EWB/14/00457/OUT – Chichester District Council

10. *A signed and dated section 106 Agreement would secure contributions of almost £428,000 for the provision of community and leisure facilities, together with ecological improvements and protection for the Chichester Harbour SPA. It would also, in combination with a ‘nomination agreement’, secure provision for the affordable housing, maintenance of the open space and the SUDS. Some £279,000 would provide for contributions in respect to education, libraries, fire and ‘local’ road improvements. And, over £334,000 would contribute to the additional costs of policing, as well as improvements to the A27 and A286 junction at the Stockbridge roundabout. In all, contributions of more than £1.04m would be made. The submitted ‘advisory note’ explains how these provisions would conform to the CIL Regulations. I agree. These contributions would thus constitute material considerations in favour of the scheme.*