
Appeal Decision

Site visit made on 27 January 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 3rd February 2017

Appeal Ref: APP/D3830/W/16/3159338

Land north of former Sherwood Works and rear of Wellow, Brighton Road, Handcross, West Sussex RH17 6BU

- 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 Mr Peter Walters of Boltro Developments Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/16/2665, dated 17 June 2016, was refused by notice dated 10 August 2016.
 - The development proposed is erection of single detached 3 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form gave the site address as 'Wellow, 2 Myrtle Cottages, Brighton Road, Handcross, West Sussex'. However, both the Council's decision notice and the appeal form gave it as 'Land north of former Sherwood Works and rear of Wellow, Brighton Road' etc. I have used this more accurate description of the appeal site for the sake of clarity.
 3. The Council accepts that it is unable to demonstrate a five-year supply of deliverable housing sites. Policies in the 2004 Mid Sussex Local Plan (Local Plan) relating to the supply of housing are therefore out-of-date when considered in relation to paragraph 49 of the National Planning Policy Framework (the Framework). Consequently, in accordance with paragraph 14 of the Framework, I have approached the appeal on the basis that planning permission should be granted unless either: a) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or; b) specific policies within the Framework indicate that development should be restricted. However, in reaching my decision I have had regard to saved policies in the Local Plan insofar as they are consistent with the Framework, as required by paragraph 215. I have attributed them weight as set out in my conclusions on the main issues.
 4. I am aware that the Council submitted the Submission District Plan 2014-2031 for examination in August 2016 and hearings into the plan began in November. However, as the Inspector has yet to complete either the examination or his report, I can give emerging policies in this plan little weight in my determination of the appeal before me.
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Main Issues

5. The main issues are the effects of the proposed development on the:
 - a) character and appearance of the area, having special regard to the setting of the Handcross Conservation Area.
 - b) living conditions of the occupants of nearby properties, in relation to privacy and outlook.

Reasons

Character and appearance

6. The appeal site is part of the rear garden of Wellow. It lies immediately adjacent to the rear garden of No 5 Nymans Cottages and to the west of the Handcross Conservation Area. In assessing the effect of the proposal I therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that Area. As heritage assets are irreplaceable, any harm or loss requires convincing justification. The Framework also advises that any harm which is less than substantial must be weighed against the public benefit of the proposal.
7. Wellow is a modest, two-storey, semi-detached Victorian dwelling set in a long narrow plot. It is one of several pairs of similar properties along the eastern side of Brighton Road. Immediately to the south of Wellow a development of seven dwellings is currently under construction. These replace commercial buildings, known as Sherwood Works, whose footprint previously occupied almost the entire site. The proposal, for a small detached dwelling to the rear of Wellow, would be accessed through this adjoining development and would include design features that would match it.
8. The proposal seeks to be an extension of the scheme currently under construction, which is a contemporary design. However, notwithstanding the inclusion of common features, in my view the detached building would not integrate effectively with the terrace of three houses at the rear of the site. It would not align with them and a gap of about 2m would separate their respective flank walls, making it appear as an afterthought.
9. The proposed dwelling would intrude into the undeveloped rear gardens of the houses to the north of the Sherwood Works site, rather than forming part of the comprehensive redevelopment of this former commercial site. Furthermore, not only would part of Wellow's garden be lost for the proposed dwelling and its amenity space, but it would also be necessary to provide parking spaces. This would result in a further, unacceptable reduction in the size of Wellow's garden. It therefore seems to me that the layout would be cramped and appear contrived on this highly constrained backland plot. I therefore do not consider the proposal to be a 'special case' arising from its proximity to the adjoining redevelopment site. On the contrary, the proposal would appear to be an incongruous and intrusive feature that would be harmful to the established pattern and style of development in the area.
10. Nymans Cottages, which are on the western side of the B2114, are in the Conservation Area and their rear boundary is also the boundary of that Area. There is a significant gap between No 5 and the adjacent property, Hill Lodge, as the majority of the garden of No 5 lies to the side of the house. From here the

proposal would be highly visible, in contrast to the development under construction which is well screened in views from the road. It would significantly reduce the sense of spaciousness around No 5, which would be harmful to the character of the Conservation Area and its setting. However, as this harm would be less than substantial in terms of the Framework, it must be balanced against the public benefit of the scheme. This is a matter to which I will return later.

11. Taking all these factors into account, I conclude that the proposal would be harmful to the character and appearance of the area and that the setting of the Handcross Conservation Area would not be preserved. The proposal would therefore be contrary to saved Policies B1, B15 and H3 of the Local Plan, which require new development to respect the locality, to contribute to a sense of place and to protect views into and out of Conservation Areas. I consider these policies are consistent with the Framework's approach to design and conservation of heritage assets. Failure to comply with them is therefore a matter to which I can attribute significant weight.

Living conditions

12. The proposed dwelling would have windows at first floor level that would directly overlook Wellow and the adjoining property, 1 Myrtle Cottages. Even though the windows serving habitable rooms in the rear of these properties may be small there would be a strong perception of loss of privacy. Both gardens would also be directly overlooked, resulting in a materially harmful loss of privacy when compared with the existing situation. In addition, the proximity of the proposed dwelling to this existing pair of semis would adversely affect the outlook from rear facing windows and introduce a significant sense of enclosure within their small and narrow gardens. The height and bulk of the building would appear overbearing when viewed from either garden, making both less pleasant places to be.
13. I accept that the distances separating the properties currently under construction would be marginally less than the distance between the appeal proposal and either Wellow or 1 Myrtle Cottages. There is therefore likely to be some direct overlooking between the new dwellings on the Sherwood Works site. This was considered acceptable in the context of the redevelopment of that site as a whole. That scheme will also give rise to some oblique overlooking of the gardens of Wellow and 1 Myrtle Cottages from the terrace of houses at the rear of the site. Nevertheless, the Council considered this would be acceptable given the mutual overlooking that can occur within a built up area. However, that is not a justification for allowing a proposal that would give rise to direct overlooking of the adjacent houses and gardens, leading to a material loss of amenity for existing occupiers. Whilst I acknowledge that the absence of windows above first floor level would restrict the total potential for overlooking, it would not diminish the harm I have already identified.
14. I conclude that the proposal would be harmful to the living conditions of the occupants of Wellow and 1 Myrtle Cottages, arising from loss of privacy and outlook. It would therefore be contrary to saved Policy B3 of the Local Plan which requires residential development within built-up areas not to lead to unacceptable loss of residential amenity for adjoining occupiers. This is consistent with the Framework's approach of always seeking a good standard of amenity for existing and future occupants of land and buildings. Conflict with Policy B3 is therefore a matter to which I can attach significant weight.

Planning balance

15. The appeal site lies within the built-up area boundary of Handcross, a village with a limited range of facilities. The Local Plan therefore supports the use of previously developed sites. However, unlike the adjoining site, the appeal site is garden land and therefore does not fall within the Framework's definition of previously developed land. Nevertheless, there does not seem to be any objection in principle to a residential development on the site.
16. The proposal would provide one dwelling, which would make a marginal contribution to the district's overall need for housing. It would provide accommodation of an adequate standard and on-site parking for two vehicles. These social factors weigh in the scheme's favour and are matters that carry moderate weight in the planning balance. There would be limited economic benefits arising from construction related work during the build. However, these would be small and short term, so they carry little weight in the overall balance.
17. On the other hand, I have found that the proposal would be harmful to the character and appearance of the area and would fail to preserve the setting of the Handcross Conservation Area. These are matters which carry significant weight.
18. The lack of a five-year land supply is a matter to which I also attach significant weight. However, I consider that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Furthermore, footnote 9 of paragraph 14 includes designated heritage assets as an example of where restriction on development applies. This leads me to conclude that the proposal would not be a sustainable development in terms of the Framework.

Conclusion

19. For the reasons set out above, I have concluded that the proposal would not accord with the development plan. There are no material considerations that outweigh that conflict, or the statutory requirement to conserve heritage assets in a manner appropriate to their significance. I therefore conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR