
Appeal Decision

Site visit made on 20 February 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 30 March 2017

Appeal Ref: APP/C1435/W/16/3161953

Former Public Convenience, Hailsham Road, Herstmonceux BN27 4LJ

- 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 Oliver Beswick of the Goldeneye Group against the decision of Wealden District Council.
 - The application Ref WD/2016/0940/F, dated 14 April 2016, was refused by notice dated 14 October 2016.
 - The development proposed is the demolition of existing Public Convenience and replacement with a detached 3 bedroom house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised in respect of the appeal are the effect of the proposed development on: -
 - (a) the living conditions of future occupiers in relation to private outdoor space;
 - (b) the character and appearance of the area; and
 - (c) highway safety.

Reasons

Private outdoor space

3. The public carpark is positioned at a raised level and would abut the private rear patio/garden of the proposed dwelling. In addition, a public footpath runs adjacent the western side boundary of the site and rises at an incline from the pavement at Hailsham Road to the carpark. The site is currently bordered at the top of the sloping bank by horizontal metal bar guard railings. I observed there is a clear ability at present for the public to gain views into the appeal site from the elevated carpark and access path adjacent the appeal site. Without screening this public observation would have a harmful effect upon the living conditions of future occupiers and they would enjoy no private outdoor space.
 4. From the information submitted a 1.8m high closeboard fence would be erect at the bottom of the surrounding sloping bank and enclose the flat area to the
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rear of the appeal site that would be laid out as patio/garden area. Nonetheless, given the elevated height of the surrounding land the patio/garden area would be clearly visible and the future occupiers would not have an appropriate private open space to enjoy.

5. Furthermore, this is a busy public area. The occupiers of this dwelling would be aware of people passing within close proximity to the dwelling. There would also be noise and disturbance from frequent starting up and movement of vehicles at the adjoining car park, along with the shutting of car doors. There would be additional noise generated by users of the recycle facility close by. Indeed, I note the Parish Council has received a complaint from a neighbouring occupier about noise generated from the use of this facility. I consider this level of noise and disturbance to be excessive in such close proximity to the private outdoor living area. In addition, without an appropriate enclosure to their private outdoor space these activities taking place with a high degree of regularity would not provide the occupiers of this family dwelling with an acceptable outdoor living space.
6. Whilst a higher fence or a closeboarded fence positioned at the top of the sloping bank may achieve improved privacy, this would likely to be more visually intrusive to the appearance of the area and would potentially create an oppressive living environment for future occupiers. Furthermore, I am not convinced overlooking would be appropriately addressed by means of a landscaping scheme controlled by condition, as the height of vegetation necessary to overcome overlooking would similarly potentially create an oppressing living environment for future residents and would take a significant period of time to establish.
7. I acknowledge that the appeal site would be located in the central part of village where housing plots generally tend to have limited front and rear space. The space to the rear of the dwelling would provide future occupiers with a patio/lawn for sitting out and drying clothes. Whilst the Council may not have guidance pertaining to minimum garden space standards and future occupiers could make an informed decision as to whether the size of space is acceptable to them, these matters do not overcome the living conditions concerns that I have identified above.
8. For the above reasons the proposed development would be harmful to the living conditions of future occupiers in relation to private outdoor space, and would be contrary to saved Policy EN27 (3) of the adopted Wealden Local Plan (1998), Policies SPO13 and WCS14 of the adopted Wealden Core Strategy Local Plan (2013). These policies seek to ensure that proposed development has a satisfactory environment for the future occupiers and have high quality attractive living environments, amongst other matters. The proposal would also conflict with the aims of paragraphs 9 and 17 of the Framework that aims to provide high quality homes and to secure a good standard of amenity for all future occupants of land and buildings.

Character and appearance of the area

9. The appeal site is set within a sloping grass bank with a public carpark and recycling area situated to the north and northwest. An existing single-storey building is positioned on the flat part of the site. The area comprises a variety of different types of buildings, sizes and styles which include a public house and a primary school, although there are also residential properties close by. The

proposed development would require the removal of the existing cycle hoops and telephone box to the front of the appeal site.

10. The proposal is to erect a one and a half storey dwelling within the flat part of this small plot. The proposed dwelling would occupy most of the width of the flat area between the sloping side boundaries of the appeal site. Despite this, the space between the dwelling and the side boundaries would ensure the development would not appear cramped. Parking would take up the area to the front of the proposed dwelling, but this not an unusual feature in the area and would not appear uncharacteristically cramped. Although there is an openness to the road frontage development to this part of the village, the proposed dwelling would not be appreciably taller than that of the existing building, albeit it would be turned 90 degrees. I acknowledge the public house function room is single-storey but there are varying building heights in the area. With regard to the design and appearance of the proposed dwelling, I consider this would not appear out of keeping with the variety of buildings in the locality or be unduly prominent or intrusive in the street scene.
11. An area of forecourt is to be retained to the front of the dwelling. I observed that other properties in the area have similar frontages, including The Malthouse opposite. Therefore this would not appear out of place within this street scape.
12. Herstmonceux Parish Council refers to a recent appeal decision at Elmshurst Cottage, Dacre Road (Ref APP/C1435/W/16/3157843). That appeal site formed part of the rear garden of Elmshurst Cottage and related to the development in Dacre Road which is of a very different character to that of this appeal site. In that case the appealed proposal would have a cramped appearance when compared to the spacious nature of the surrounding existing development in that residential street. Although there is some similarity, as both proposals relate to small sites, this proposal is materially different in its circumstances and, therefore, can and should be considered on its own merits.
13. Overall, I conclude that the proposed development would not harm the character and appearance of the area and, for the reasons given, would not materially conflict with saved Policies EN27 (1 & 4) of the adopted Wealden Local Plan (1998), Policies SPO13, SPO14 and WCS14 of the adopted Wealden Core Strategy Local Plan (2013) and paragraphs 9, 17, 56-58, 61 and 64 of the National Planning Policy Framework (the Framework).

Highway Safety

14. The Highway Authority has accepted that parking for two vehicles can be achieved within the frontage of the appeal site and that access onto the highway would be achievable retaining the guard rail at the end of the adjacent pedestrian access path, although of reduced width. I consider it unlikely that one vehicle could easily turn in the forecourt space. Two vehicles parked within the forecourt would either be required to reverse in-to or out of the appeal site. The Highway Authority has found this parking and access arrangement to be acceptable and I do not dispute this.
15. My attention has been drawn to traffic congestion and increased pedestrian activity in the area at peak times when children are arriving and leaving school. The Parish Council advise that traffic along the A271 has increased to avoid delays on the A259 east/west route through Bexhill and Hastings, despite the

Bexhill By-pass and comment that lorries also use this route. The Parish Council also highlight that many people park in the carpark and walk to the shops in the village and the recreation ground and the access path is also well used by those living to the north side of the A271.

16. Concern is also expressed to the proximity of the access to the pedestrian crossing noting that the warning zigzag markings extend over part of the appeal site frontage. The hedgerows either side of the vehicular access are outside of the applicant's control. Without appropriate sightlines there would be a greater risk to pedestrians, cyclists and road traffic from cars entering and leaving the appeal site due to limited visibility. There is also concern that the Road Safety Audit carried out by the appellant to inform the application was carried out outside of term time.
17. I visited the appeal site during the morning school drop off period and again later in the day. I observed during the school run that there was a great deal of activity with cars parked along the highway and parents walking their children to the primary school opposite the appeal site. Later in the morning there were significantly fewer pedestrians and less cars parking in the area, although I observed that cars passed through the area with relative frequency, as did some lorries, service vehicles and buses. Travelling speeds of vehicles were low as some parked cars either side of the highway created obstacles to traffic flow. The zebra crossing and mini-roundabout also slowed speeds in the vicinity of the appeal site. Whilst the proposed vehicular access is in close proximity to the pedestrian crossing, vehicles would not park in front or to the east side of the appeal site due to the pedestrian crossing zigzag marking to the front. Parked vehicles to the west of the appeal site would also slow approaching traffic. Whilst there is traffic congestion at peak times, the Highway Authority is satisfied that there would be no cumulative severe highway safety impacts raised by the development. I have no reason to come to a different view.
18. The Road Safety Audit has highlighted that visibility may be restricted due to the hedgerows either side of the appeal site and recommends trimming this back or possibly widening the pavement. Both the Council and Parish Council indicate that the western hedge forms part of the highway and/or the Wealden District Council carpark area and the eastern hedge is owned by the adjoining public house. The sight lines illustrated on the appellants drawings show that visibility can be gained over the public footpaths either side of the vehicular access and the hedges can be trimmed back where they encroach over public highway land and into these splays.
19. The overgrown hedge on the eastern side to the frontage at the telegraph pole can be cut back to improve visibility and is within the appellants control. Although the Parish Council does not agree this would improve sight lines, I consider this would create improved visibility to the eastern side of the proposed access. I note the Council has put forward a condition requiring this and I consider such a condition would adequately deal with this matter. I am, therefore, satisfied that acceptable visibility could be achieved.
20. Whilst the vehicles would park in the forecourt at an angle to the highway, the overall amount of vehicle movement generated by one household would be low. I acknowledge there is some local concern to the proposal but, I consider

the conflict between cars entering and leaving the appeal site and other highway users would be low in this particular case.

21. Concern is also expressed about home deliveries and visitors illegally parking on the zigzag at the frontage. However, on-street parking is available close to the appeal site and there is free parking for a maximum of a 23 hour period at the adjacent carpark. With regard to the guard rails in the vicinity, I see no reason why the guard rail alongside the access path would be removed or that pedestrian safety would diminish at its access point onto Hailsham Road due to the reduction in length of the guard rail.
22. Overall, I conclude that the proposed parking arrangement would not harm highway safety in Hailsham Road and, for the reasons given, would not materially conflict with saved Policies TR3 and TR16 of the adopted Wealden Local Plan (1998) and WCS14 of the adopted Wealden Core Strategy Local Plan (2013) and paragraphs 9, 32, 35 and 39 of the Framework.

Other Matters

23. The Parish Council is concerned that the proposed development will damage root structure of multi-stemmed Ash tree. I am satisfied that the Arboricultural Report submitted with the application indicates that this tree is unlikely to suffer any significant impact from the development.
24. I acknowledge that the Council is seeking to dispose of the disused building and site and the appellant has an option to purchase the site from the Council subject to planning permission.
25. The Council confirms that they do not have a 5-year supply of housing in place. The Council's policies that relate to the supply of housing are therefore out-of-date. Paragraph 14 of the Framework is therefore engaged, which states that permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Further, I am mindful that the Framework and Policy WCS14 of the Local Plan require decisions to be made with regard to the presumption in favour of sustainable development.

Planning Balance and Overall Conclusion

26. The new dwelling would support the social and economic dimensions of sustainable development, as set out in paragraph 7 of the Framework and construction costs would contribute to the local economy and provide employment during construction. The proposal would make beneficial use of a disused previously developed site and provide a family home at the centre of the village and within the settlement. The appellant considers that the Council would also benefit from the sale income from the site, the Community Infrastructure Levy and income from the new homes bonus, as well as annual council tax. The new occupiers would also support the existing village facilities and contribute, even on a small scale, to the economic growth of the District. The appeal site would be within easy walking distance to the recreational ground, shops, services and facilities within this Local Service Centre and nearby bus stops would provide sustainable transport options. The proposal would contribute toward the District's targets for housing delivery and 5-year land supply in a location where there is policy support for additional houses.

However, given that the proposal is only for a single dwelling, I attach moderate weight to these social and economic benefits.

27. I note the appeal site is not located within an Area of Outstanding Natural Beauty or Conservation Area and is not within the vicinity of any listed buildings. No concerns to the proposal are raised by Council's Waste Management or Pollution Control departments. I also accept that the existing building makes little visual contribution to the area. However, these are largely matters of neutral weight.
28. Notwithstanding all this, the proposed development would cause substantial harm to the living conditions of future occupiers placing it in conflict with the environmental dimension of sustainability, as set out in paragraph 7 of the Framework and this weighs very heavily against the scheme. When the Framework is considered as a whole, I find the scheme does not constitute sustainable development. This is because the positive housing supply and other benefits set out above, are significantly and demonstrably outweighed by the identified environmental harm. Furthermore, I conclude that the scheme conflicts with the development plan as a whole.
29. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR