
Appeal Decision

Site visit made on 14 June 2017

by N A Holdsworth MCD MRTPI

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

Decision date: 26 July 2017

Appeal Ref: APP/C1435/W/17/3170212
62, Upper Horsebridge, Hailsham, BN27 1NU

- 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 and Mrs Ho against the decision of Wealden District Council.
 - The application Ref WD/2016/1037/F, dated 22 April 2016, was refused by notice dated 15 December 2016.
 - The development is described as proposed 4no. dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for proposed 4.no dwellings at 62 Upper Horsebridge, Hailsham, BN27 1NU in accordance with the terms of the application ref WD/2016/1037/F dated 22 April 2016 subject to the attached schedule of 11 conditions.

Main Issues

2. I consider the main issues to be the effect of the development on
 - The character and appearance of the area,
 - The living conditions of neighbouring residents with particular regard to whether the development would result in an unacceptable degree of overlooking or loss of outlook, and
 - The living conditions of future occupiers of the development.

Reasons

Character and appearance

3. The appeal site comprises an enclosed area of undeveloped land immediately off Upper Horsebridge (A271), a major thoroughfare that runs around the northern perimeter of the wider settlement of Hailsham. The surrounding area comprises residential buildings of various ages and styles including small groups of terraced houses. The building line and boundary treatments along the road are varied, resulting in differing arrangements of off street parking evident in the area surrounding the site.
4. Further along Upper Horsebridge there are abundant trees and foliage associated with the 'cuckoo trail' which runs to the west of the site. This greenery provides a balance to the surrounding built environment and the busy road that runs through it, creating a sense of relief in addition to opportunities

for walking and recreation. I accept that by virtue of being undeveloped the appeal site also contributes to a sense of openness. However it is private, enclosed land of no particular landscape quality and has no functional relationship with the cuckoo trail. Consequently I consider its development for housing purposes would have a very limited effect on the openness of the surrounding area, or on the overall quality of the surrounding townscape.

5. The proposed terrace of four two storey, brick faced dwellings with pitched roofs would reflect a built form that is common further along the road and in the wider area. Whilst it would be slightly set back from the neighbouring dwellings, its height, scale, bulk and mass is broadly consistent with the buildings that surround it. The gap that would be left between the terrace and surrounding properties would be generally similar to the size of the gap between other residential buildings along Upper Horsebridge. Whilst I note that the terrace would comprise a different style of development to the detached bungalow along its western boundary, this would reflect the degree of variation in building styles apparent in the wider area.
6. The proposed parking arrangement would deviate somewhat from the arrangement on the immediate neighbouring properties where vehicles are generally parked to the side of houses. I also note the broader concern about the garden sizes within the development as a whole. I agree that these would be smaller than other buildings in the surrounding area. However, I recognise that these elements of the development seek to maximise the potential of the site to accommodate residential development, along with the need to accommodate safe off street parking access. I do not consider that these features of the development would result in any significant harm to the surrounding townscape.
7. Limited information is provided on the submitted plans regarding the appearance of the front forecourt area of the building, and no information at all has been provided on the boundary treatments. However, the appellant has raised no objection to a condition requiring details of the boundary treatment to the front and the hard landscaping of the whole site. I consider that such a condition would be necessary to ensure an acceptable standard of landscaping is provided, thereby making the development acceptable in planning terms.
8. I therefore conclude that the development is acceptable in terms of its effect on the character and appearance of the area. It would not conflict with saved policy EN27 of the adopted Wealden Local Plan adopted December 1998 (WLP) or SPO13, SPO14 and WCS14 of the Wealden Core Strategy Local Plan adopted February 2013 (WCS) and the relevant provisions of the National Planning Policy Framework (NPPF) which aim to secure a high standard of design in new developments.

Living conditions of neighbouring residents.

9. The proposed terrace would be set back from the equivalent rear elevation of the residential buildings to the rear on Paul Close, several metres beyond the rear boundary of these properties. The development would also sit on a lower level to these buildings. The first floor windows on the appeal building would be located 1.7 metres above the corresponding internal floor level. The positioning of the windows would prevent any direct overlooking from the new development, particularly in the case of the ground floor rear windows within the properties along Paul Close. Future alterations to the rear elevation

involving the installation of windows could be controlled by a condition removing the relevant permitted development rights, to prevent such overlooking occurring in the future.

10. As a consequence of the distance between the buildings and the lower position of the new building I consider that there would not be any significant loss of light to neighbouring gardens arising from the development. Whilst there would be a change in outlook, this is due to the fact that the site is currently undeveloped. Overall I consider that the new building would have a relationship with the properties along Paul Close and Upper Horsebridge which is typical of this locality.
11. The development would reduce the size of the residual garden area of 62 Upper Horsebridge. I note the concern that this property has windows that would face on to the side elevation of the appeal building, albeit across a parking space. However, the property in question would otherwise retain a reasonably open outlook to the front and rear and some private amenity space. In terms of the relationship between the site the bungalow due west of the site I note there would be a significant gap between the end elevation of the terrace and the adjacent residential building. Whilst there would be some additional overshadowing of the side garden area in question, this would only be for part of the day, and would not in my opinion compromise the functionality of the area in question as external amenity space. I do not therefore consider that there would be harm to the living conditions of the residents of either neighbouring building resulting from loss of light or outlook.
12. I therefore conclude that the proposal is acceptable in terms of its effect on the living conditions of surrounding residents. It would meet the objectives of policy WCS14 of the WCS and the relevant provisions of the NPPF which aim to secure a high quality living environment for existing and future residents.

Living conditions of future residents.

13. To prevent overlooking the window serving the rear bedroom in each dwelling would be built at a high level, and therefore provide no direct outlook for future occupiers. In addition, each rear garden area would be small and somewhat enclosed due to its sunken location in relation to the boundary of the properties to the rear. It would also be potentially overlooked by properties on Paul Close, and the boundary treatment given the lower level of the development may limit the light available to the rear of the development.
14. However, whilst I acknowledge that the dwellings do not meet the Technical housing standards - nationally described space standard (March 2015), I consider that they would otherwise provide a standard of accommodation that is fairly consistent with small modern two bedroom houses. All rooms would have an acceptable amount of daylight and there would be an open outlook to the front of the terrace. The rear external amenity space would provide private external space contiguous with the main residential accommodation which serves a functional purpose for each occupier. Taking these points in to account, I do not consider that the accommodation could be regarded as substandard. Consequently, the concerns raised by the Council about the poor quality of external amenity space would not constitute harm that would justify withholding permission on this occasion.

15. I therefore conclude that an acceptable standard of living accommodation would be provided as a result of the development. I consider that it would meet the objectives of policy WCS14, SPO13 and SPO14 of the WCS and the relevant provisions of the NPPF which aim to secure a high quality living environment for future residents.

Other matters

16. I have noted the various concerns raised by local residents about the impact of the proposal on highway safety, including issues relating to additional vehicular movements and their effect on the safety of all road users. A Road Safety Audit provided at the application stage identified that an existing sign adjacent to the development would need to be relocated to provide safe access in an out of the site. I consider that this matter can be dealt with by condition and will return to this matter later. I note that notwithstanding the absence of a turning circle the local highway authority consider that sufficient parking is provided and the proposed development is acceptable in highway safety terms. Having considered the evidence, including submissions by third parties, I have no reason to disagree with this conclusion.
17. The development would provide new residential accommodation within an existing residential environment. Once it is completed I do not consider that any significant noise and disturbance would arise from the development. Given the status of the road and constrained nature of the site I agree that a construction traffic management plan is necessary, and that such a plan is agreed prior to the commencement of works. This is principally to prevent congestion on the surrounding road network.
18. I am satisfied on the basis of the evidence presented that the development would not result in any harm to the built heritage of the area, including the setting of the nearby listed buildings.
19. I have considered the concerns expressed in the original third party representations from residents of Paul Close that the loss of privacy resulting from overlooking from the development would comprise a breach of human rights. In this case, for the reasons set out previously, I have found that the development would not infringe upon the privacy of neighbouring residents. I do not therefore consider that there is any interference with rights under Article 8 of the Human Rights Act 1998.
20. I have noted the Council's comments relating to waste water treatment in its statement dated 18th May 2017 and the current predicted capacity of Hailsham North Waste Water Works to absorb this. As such, on the basis of the evidence before me I am content that the development would not have any effect (alone or in combination) on the Pevensey Levels Ramsar site and Candidate Special Area of Conservation (SAC). In broader terms, the development involves the provision of four small two bedroom dwellings within an existing developed area in close proximity to existing shops and services. I consider that the effect of any vehicular movements associated with this development would not be of a scale that would generate significant additional trip movements that could affect surrounding European sites. It does not therefore trigger a requirement for an appropriate assessment under the Habitats Regulations.

Conditions

21. I have imposed a condition specifying the relevant drawings as this provides certainty in addition to the standard condition setting out a 3 year time period in accordance with the Planning Acts. Condition 2 also clarifies that the approved parking layout is as per the amended plan agreed with the Local Highway authority clarifying an inconsistency between the plans. Conditions 3 and 4 are necessary to ensure that the appearance of the development is satisfactory and it preserves the character and appearance of the wider area.
22. Condition 5 is necessary to ensure that the development can be constructed without obstructing the flow of traffic. Conditions 6 and 7 ensure that the access to the development is built in the form approved by the highway authority, with the requisite visibility splays provided. It is clear from the consultation response that the local highway authority agrees to the works necessary to provide the visibility splays and as such I consider that works outside the site boundary can on this occasion be required by condition. It would not however be reasonable to require the appellant to ensure that such a splay is kept clear thereafter except where it relates to the site of the development itself.
23. Conditions 8 and 9 are necessary to ensure that vehicular and cycle parking and refuse storage is provided for the development to ensure that it caters for the transportation and likely waste requirements of future occupiers of the development. Conditions 10 and 11 are necessary to ensure that the development is built in the form shown on the approved plans and future alterations to the building do not compromise the privacy of neighbouring residents. I do not otherwise consider a blanket ban on permitted development rights would be reasonable or necessary. In some cases I have amended the wording from the Council's suggested form to ensure the conditions directly relate to the approved development and are not unreasonably prescriptive, also preventing the use of pre commencement conditions where possible, having regard to the tests in the NPPF. In doing so I do not consider that the interests of either party have been prejudiced.

Conclusion

24. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed and planning permission is granted subject to conditions in the attached schedule.

Neil Holdsworth

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: 2016-05-01 rev A, 2016-05-02, 2016-05-03, 2016-05-04, 2016-05-05 rev A, 2016-05-06, 2016-05-07 rev D except in relation to the 8 no parking spaces shown on plan number 2016-05-06. The parking layout hereby approved is as per the layout shown on plan number 2016-05-01 rev A.
- 3) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling, including samples, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Before provision of any foundations on site for the development hereby approved, a scheme of hard landscaping shall be submitted to and approved in writing by the local planning authority and these works shall be carried out in accordance with the approved details prior to the completion or first occupation of any of the units whichever is sooner. These details shall include proposed boundary treatments, proposed finished floor levels and contours, hard surface areas/finishes, details of any retaining walls, steps, railings, walls, gates or other supporting structures, vehicle and pedestrian access, surfacing/delineation of the parking spaces and any other circulation areas.
- 5) No development shall take place until a Traffic Management Scheme has been submitted to and approved in writing by the Local Planning Authority. This shall include the size of vehicles, wheel cleaning facilities, traffic management to allow for safe access for construction vehicles, contractor parking and the compound for plant/machinery and materials clear of the public highway. The scheme should demonstrate that the hours of deliver/collection avoid peak traffic flow times. All work associated with the implementation of this permission shall be carried out in accordance with the Traffic Management Scheme approved under the terms of this condition.
- 6) No development above ground floor level shall take place until details of the access to the proposed development have been submitted to and approved in writing by the local planning authority. Once the works have been completed in accordance with these details you must provide subsequent details of the works undertaken for the written approval of the local authority. No part of the development hereby approved shall be occupied until the details of the completed works have been approved in writing by the local planning authority.
- 7) No development above ground level shall take place until details of a scheme of works necessary to deliver the pedestrian visibility splay shown on plan number 2016-05-7 rev D in respect of the new access have been submitted to and approved by the local planning authority. The said splay shall be

provided in the approved form prior to the first occupation or use of the dwelling hereby permitted, and shall be maintained at all times thereafter such that no obstruction within it within the curtilage of the application site exceeds 600 millimetres in height above the level of the adjacent footway.

- 8) Before first occupation of the dwellings hereby approved the car parking spaces shown on drawing no 2016-05-07 rev d date stamped 4 November 2016 shall be provided and retained for the use of occupants of the development thereafter.
- 9) No development above ground level shall take place until details of i) cycle parking store/areas and ii) refuse and recycling facilities to be provided within the site to serve all of the four dwellings have been submitted to and approved in writing by the Local Planning Authority. The approved cycle and refuse/ recycling facilities shall be provided prior to the occupation of the associated dwellings and retained thereafter for the lifetime of the development.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, rooflights, dormer windows or any other opening other than those expressly authorised by this permission shall be constructed on the western, southern or eastern elevations of the dwellings hereby permitted.
- 11) The dwellings hereby approved shall not be occupied until the first floor bathroom windows in the southern (rear) elevation have been fitted with obscure glazing as detailed on the approved plans. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter. All the first floor windows on the rear elevation shall be high level as detailed on the approved plans and located at least 1.7 metres above the corresponding internal floor area, and shall be retained as such for the lifetime of the development.