



Appeal Decision

Site visit made on 15 January 2018

by **David Richards BSocSci DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th February 2018

Appeal Ref: APP/U1430/W/17/3184449

40 – 41 High Street, Ticehurst, Wadhurst, TN5 7AS

- 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 Wealden Ltd against the decision of Rother District Council.
 - The application Ref RR/2016/2951/P, dated 11 November 2016, was refused by notice dated 22 March 2017.
 - The development proposed is demolition of 40/41 High Street inclusive of outbuildings to provide a new junction and shared surface roadway to serve 16 houses, 6 flats and 2 bungalows (inclusive of 10 affordable dwellings for Housing Association accommodation); landscaped public open space amenity area, underground foul pumping station and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the surrounding area, which lies within the High Weald Area of Outstanding Natural Beauty (AONB), and the effect of flood risk.

Reasons

3. A previous appeal on the site for a larger development of 29 houses and 7 bungalows was dismissed in March 2016 (Ref: APP/U1430/W/15/3135953). The Inspector concluded that that scheme would cause significant harm to the natural beauty and scenic value of the High Weald AONB. Notwithstanding the lack of a 5 year supply of housing land, she concluded that the negative aspects of the proposed development outweighed its positive aspects.
4. That scheme also raised concerns in respect of the amenities of adjoining residential occupiers, the living conditions of occupiers of the development and the provisions of the unilateral undertaking relating to amenity areas.
5. The Appellant states that the current appeal scheme overcomes harm to the AONB and other concerns because a) the amount of built development is significantly less being a reduction from 36 to 24 dwellings; b) the scheme provides a northern public open space amenity area which can be landscaped to integrate into the surrounding countryside area in conformity to the character of the vicinity; c) residential amenity concerns are met by the scheme and there is no housing adjacent to the northern Landscapes Farm

buildings. The Council's refusal reasons relate to landscape impact and do not raise any issue with the design of the scheme.

Effect on the character and appearance of the area

6. The appeal site lies within the High Weald Area of Outstanding Natural Beauty (AONB). Policy EN1 of the Rother District Local Plan Core Strategy 2014 (CS) seeks to ensure the protection and, where possible, enhancement of the District's nationally designated landscapes, amongst other things. Paragraph 115 of the Framework gives great weight to conserving the landscape and scenic beauty of AONBs.
7. The site is approximately 1.88 hectares in total and adjoins the northern edge of the development boundary of Ticehurst village. It lies to the rear of residential dwellings fronting High Street. The retirement bungalows in Cross Lane Gardens lie to the west, and there is a group of farm buildings at Landscapes Farm to the north. Beyond these and to the north and east are agricultural fields whilst the southern half of the eastern boundary adjoins the village recreation ground.
8. A public footpath which runs from the High Street into the open countryside beyond follows the eastern edge of the site. This allows public views of the site. In addition there are views towards the site from the north, albeit within the context of the farm buildings and settlement edge. The southern part of the site, adjacent to the recreation ground, is relatively flat and the trees along this section of the footpath filter wider views from the east. However, the northern section is on an incline and this continues to a ridge further north of the farm buildings. The greater part of the site is agricultural pasture land, but it also includes previously developed land on the High Street frontage occupied by two semi-detached dwellings. A line of overhead electricity wires supported by wooden poles crosses the site, approximately north – south.
9. The Appellant argues that the AONB status of the site is visually despoiled by a dominant group of pylons/poles and associated overhead electricity wires. The development would place the electricity supply underground, allowing removal of the pylons. The amount of development has been significantly reduced in comparison with the previous application. The northern part of the site (amounting to 0.85 hectares) would be given over to public open space to be secured through a planning obligation.
10. The appeal was accompanied by a landscape and Visual Impact Assessment (LVIA), as illustrated in Drawing 2522/17/B/1. The landscape impact of the development is assessed from a range of viewpoints, from which it is concluded that in 5 – 10 years time the development will only be 'slightly visible' from short range public viewpoints and that this level of development will not cause any harm whatsoever to the overall setting of the AONB. It is argued that short views from the adjacent public footpath will be slightly affected but with new tree planting, hedging and shrub planting within the site and on the proposed public open space area, the character of the AONB will be respected and not reduced in visual quality.
11. I acknowledge that proposed screen planting could be effective in screening the proposed development from many of the identified viewpoints, within a reasonable period of time, say 5 – 10 years. Nevertheless the development would represent a substantial change to the open, rural character of the AONB

where it adjoins the settlement boundary of Ticehurst. The present character is readily experienced from the footpath leading from High Street northwards into the countryside, towards Bewl Water. There is a rapid change from the built up character of development along High Street to a much more open agricultural landscape which can be appreciated by recreational users of the footpath.

12. I also accept that housing to the west of the site at Cross Lane Gardens extends further into the AONB than the proposed development. There is also development to the east extending north from High Street, though this is beyond Pickforde Lane, which is well separated from the appeal site by the open recreation ground. The urban edge of Ticehurst here is also influenced by the rear fence line of existing properties, and by the electricity poles, which detract in some measure from the visual quality of the landscape, but which are nevertheless not untypical of the interface between rural settlements and their landscape settings. The group of barns at Landscapes Farm are also prominent features in views from the footpath, but again these are characteristic features of the rural landscape. To my mind, the development would constitute an intensification and extension of urban style development into the AONB.
13. The development would not be visible from LVIA viewpoints 1 and 2 to the north, due to the land sloping up to a ridge along the northern boundary of the site. Similar considerations apply to Viewpoint 6 (from Three Leg Cross Road) and Viewpoint 7 (from Tinkers Lane). Nevertheless, as the viewer approaches closer to the High Street, Viewpoints 3 and 4 give a good perspective of how the character would change from filtered views of the urban edge to a significant urban extension in the AONB. While planting would mitigate the appearance over time, it would not compensate for the loss of open landscape and the adverse change to the experience of users of the footpath.
14. I am aware that the previous Inspector laid particular emphasis on the northern part of the site as providing 'a valuable connection to the wider countryside and the agricultural landscape so typical of the High Weald AONB'. The current scheme would keep this part of the site open as a landscaped space available to the general public. However at paragraph 18 of the decision she also states: *'the developed site would be readily apparent and would extend onto land which currently forms part of the open and undulating farmland that sweeps outwards from the village in a north-easterly direction'*. Paragraph 19 continues: *'The edge of the village in proximity to the appeal site is softened by vegetation within the gardens and to the rear of High Street and Cross Lane Gardens properties. There is also a quick transition from village to countryside on account of the limited depth of development along the northern side of High Street at this point. This is readily appreciated when walking along the footpath in a northerly direction. To my mind, the appeal site provides an attractive green setting to the village. Furthermore, its compact nature and the trees and hedges along parts of its perimeter are typical of, and contribute to the wider AONB'*. In my view, consistent with that of the previous Inspector, it is the site as a whole, and its relationship with the footpath, the recreation ground and the existing urban edge of development that provides an important rural link with the wider AONB and which it is important to keep open.
15. Paragraph 115 of the Framework gives great weight to conserving landscape and scenic beauty of AONBs, which, together with National Parks and the Norfolk Broads, have the highest status of protection in relation to landscape

and scenic beauty. Although the appeal scheme is not a 'major development' as described in paragraph 116, it would still be a significant development which would be harmful to the landscape and scenic beauty of the AONB. It would be in clear conflict with paragraph EN1 of the CS and the objective of Framework paragraph 115.

Flood Risk

16. The refusal reason relating to this issue was included on the recommendation of East Sussex County Council as lead local flood authority. The surface water drainage strategy showed all of the surface water draining to soakaways and infiltrating permanent paving. As there are no surface water sewers or watercourses in the vicinity of the site it was considered important to demonstrate that infiltration is possible and can be used across the site as this is the only means by which flood risk can be managed.
17. In response, the Appellant has submitted a sustainable drainage rebuttal statement dated 16 January 2018. The Appellant considers that the submitted information shows that infiltration is practicable albeit at a low rate, and the sizing of soakaways has taken this into account, in particular assuring that they can half empty in 24 hours as required in design guidance. The drainage design of the site has been considered at an early stage and has identified a system of surface water drainage that meets the principles of SUDS (sustainable urban drainage systems) in dealing with surface water in a sustainable manner.
18. I understand why the Appellant was keen to avoid wasted effort and abortive work before the principle of development is established. The County Council refers to a record of surface water flooding incidents in the vicinity of the site between 1994 and 2013, some of which related to highway drainage. The Appellant states that no groundwater was found in any of the trial pits excavated for the soakage tests carried out in site. To my mind, the Appellant has taken a proportionate approach to the issue of drainage, and in the absence of any other objection to the principle of the development, the issue could be addressed satisfactorily by a condition such as that suggested by the County Council in the event of the appeal being allowed.

Benefits of the scheme

19. The Council acknowledges that it is unable at the present time to demonstrate a five year supply of housing land. The scheme would make a useful contribution to housing supply in the District, including 10 affordable dwellings, and would contribute positively to the social and economic dimensions of sustainability. Ticehurst offers a number of key facilities within walking distance of the appeal site, and these benefits weigh in favour of the scheme.
20. The provision of public open space with links to the footpath network is an attractive feature of the scheme, though as it is in substantial measure needed to mitigate the adverse impacts of the development on the AONB, I attribute little weight to it as a wider public benefit.

Other matters

21. The Appellant submitted an executed unilateral undertaking dated 31 October 2017 which makes provision for affordable housing (7 affordable rented units, and 3 shared ownership units), highway matters, a traffic regulation order contribution, and the establishment of a management company to manage and

maintain the public open space. It appears to me that the provisions in respect of the first three elements would meet the test of the CIL regulations, and the fourth (POS) would satisfy the Council's concerns in respect of the provisions of POS.

Planning balance and conclusion

22. The appeal must be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. Policy EN1 of the CS is an up to date policy which is consistent with the provisions of the Framework in respect of the protection of the AONB. I acknowledge that the policies which define the development boundary in this location are out of date, and the Council recognises that development will have to occur in the designated AONB to meet housing needs for the area. Nevertheless, the 'tilted balance' as set out in Paragraph 14 of the Framework is not engaged in this case as paragraph 115 of the Framework is a policy which indicates that development should be restricted.
23. In this connection, the CS identifies Ticehurst as having potential to accommodate 87 dwellings in the plan period (2011 – 28). I note that the AONB 'washes over' Ticehurst and other settlements, and that the Council has permitted residential development within the AONB, including several sites at Ticehurst. There are extant outline planning permissions for a total of 70 dwellings on greenfield sites at Banky Field and Hillbury Field, and there is a recent mixed use development including 25 extra care apartments and 4 bungalows on the brownfield site of Warren's Coaches opposite the appeal site. I accept that the 87 dwellings mentioned above is not a target. Nevertheless I consider that significant provision is been made at Ticehurst for a range of type and tenure of housing, and that this supports the conclusion that there is no pressing need which would justify the release of the appeal site, which I consider to be a sensitive site in the AONB. I note the Council's position that the sites which have been released are less sensitive in terms of AONB impact, and this seems to me to reflect an appropriate pragmatic response to the issue of land supply pending further progress on a sites allocation document.
24. I accept that the proposed housing, including a policy compliant amount of affordable housing, weighs considerably in favour of granting permission. However, it does not outweigh the conflict with Policy ES1 of the CS, and the significant harm to the AONB landscape, which has the highest level of protection in the Framework and weighs heavily against the grant of permission. The proposal would fail to contribute to the environmental dimension of sustainability. My overall conclusion is that the proposal would not be compliant with the development plan or the Framework policy taken as a whole and there are no material considerations of sufficient importance to outweigh this conflict.
25. For these reasons, I dismiss the appeal.

David Richards

INSPECTOR