
Appeal Decision

Site visit made on 18 April 2019

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/C1435/W/18/3214340
Moorings, High Street, Buxted, TN22 4JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Justin Owens of Verizun Land & Development Ltd against Wealden District Council.
 - The application Ref WD/2017/1500/O is dated 23 June 2017
 - The development proposed is erection of 8 dwellings
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Decision

1. The appeal is dismissed and planning permission for erection of 8 dwellings is refused.

Procedural Matters

2. Outline Planning permission was sought. The original planning application forms indicated that approval was being sought for landscaping with other matters reserved. However, the appellant indicates that the proposal seeks to determine the means of access, layout, scale and appearance with landscaping to be left as a reserved matter. This is reflected in an amended planning application form on the appeal file, and the Council considered the proposal on this basis. I have considered the appeal and the drawings submitted with it, on the same basis.
3. No decision was made on the planning application. However, the Council raise concerns in its representations about the effect of the development on the character and appearance of the area, the living conditions of neighbouring residential properties and highway safety. It is also argued that the location is unsuitable for the development proposed, and there would be harm to the Ashdown Forest. Based on these concerns, the Council advise that it would have refused the planning application had it made a decision.
4. A revised set of plans reduce the number of units to 7 and introduce a revised parking layout on the site. These were submitted to the Council in the course of the planning application. However, the Council did not consult on them. Interested parties have not been formally invited to comment on these plans. Whilst the amendments largely reduce the quantum of development, they would also change the parking layout within the scheme, and this could impact on neighbouring properties. Consequently, I cannot accept these revised plans as there could be prejudice to interested parties.

5. Further technical information in relation to highways was also submitted with the appeal (Technical Note by Motion Consultants, dated July 2018). This includes a road safety audit and revised visibility splays. As this is technical information which relates specifically to highway impact, it can be accepted without prejudicing the interests of any parties. However, for the reasons set out above, I have determined the appeal based on the original 8-unit parking layout.

Main Issues

6. The main issues in this appeal are
- i) The effect on the character and appearance of the area;
 - ii) The effect on the living conditions of the occupants of neighbouring residential properties, with particular regard to privacy, noise and disturbance;
 - iii) Whether or not the location is appropriate for the development, having particular regard to the accessibility of local services; and
 - iv) The effect on highway safety.

Reasons

Character and Appearance

7. The site comprises open land to the south of the High Street, on the edge of Buxted. It forms the garden of the property known as Moorings, which faces on to the road. To the south it descends towards an area of woodland, beyond which lies the countryside. Because of its undeveloped appearance, it provides an open setting for the properties facing the High Street. Visually, it acts as transitional space between the built-up area and the surrounding countryside.
8. 8 properties would be laid out around a shared hardstanding. Whilst these would be primarily detached buildings, they would face directly on to each other across a relatively narrow parking and access area, with small gaps between the properties. In consequence, the density of development would be noticeably greater than existing development along this part of the High Street, which is primarily comprised of large structures with substantial garden areas.
9. The bulk, scale and mass of the built development proposed means that the existing transitional quality of the site, found in its open, undeveloped appearance would be completely lost. Furthermore, this comparatively dense built development would sit close to woodland at the rear of the site, in a manner unrepeated on the land to either of its sides. In this respect the development would appear as encroachment in to the countryside surrounding the village.
10. It is suggested that Buxted is defined by similar cul-de-sacs. However, these are predominantly arranged as frontage development whereby residential buildings face on to roads, behind well-sized front garden areas. The proposal here involves the creation of a long access road to a townhouse style forecourt. In these respects, the proposal would differ from existing built development within Buxted.
11. The recent development around Queenstock Lane, as cited by the appellant¹ exhibits a tighter urban grain but appears as a more comprehensive form of development with its own distinctive character. Furthermore, it sits closer to the

¹ WD/2013/2163/MAJ

village centre, near the railway station and commercial development.

Consequently, there are significant differences between that development and what is being proposed on this site. It is not an example that should necessarily be followed here.

12. In consequence, the proposal would relate poorly to its surroundings and would lead to harm to the character and appearance of the area. Whilst the falling land levels and screening offered by trees mean that the development would be unlikely to be visible from public views, it would be clearly visible from the residential properties along High Street. The harm relates to the principle of development and could not be mitigated by proposals for landscaping being advanced at the reserved matters stage. The proposal conflicts with saved policy EN27 of the Wealden District Council: Wealden Local Plan (1998) ("Local Plan") which requires that, amongst other things, new development respects the character of adjoining development. It also conflicts with the Wealden Design Guide (2008), which is a supplementary planning document that has similar objectives to this development plan policy.

Living Conditions

13. To the east of the property is Acorn House. Its garden, which includes a swimming pool, descends with the falling topography of the land. The new development would sit beyond the bottom of the garden, with the access road and vehicular parking spaces set beside it.
14. Plot 1 would sit to the rear of the garden of Acorn House. The upper floor windows on the north facing elevation of this property would overlook the garden of Acorn House. Because of the close proximity of Plot 1 to the common boundary, this would result in a material loss of privacy.
15. Whilst there would be a gap between the access road and Acorn House, the new road would serve 8 properties, and in consequence there would be frequent vehicular and pedestrian movements along it. This includes those associated with the parking area set close to the boundary with Acorn House. It is likely that it would be possible to see the rear of Acorn House, from this parking area. This was raised by interested parties and I agree that the siting of this parking area would lead to a material loss of privacy for the residents of Acorn House. There would also be a significant increase in noise and disturbance, arising from vehicular movements along this road and parking area which, despite the gap, would still be clearly audible from Acorn House and its garden.
16. The falling topography of the land means that any natural or artificial landscaping features would need to be of a considerable size to address the issues raised in relation to the living conditions at Acorn House. This is likely to raise other planning issues. On the evidence before me these issues could not be satisfactorily mitigated through landscaping details advanced at the reserved matters stage.
17. In conclusion, there would be unacceptable harm through noise and disturbance and a loss of privacy to Acorn House, and the effect on the living conditions of neighbouring residents would therefore be unacceptable. The proposal conflicts with saved policy EN27 of the Local Plan which requires that, amongst other things, new development should not have an unacceptable adverse impact on the privacy and amenities of adjoining developments.

Location

18. On the evidence before me, the part of the site where the houses would be constructed falls outside the relevant settlement boundaries set out in the development plan. Saved policies GD2 and DC17 of the Local Plan set out a restrictive approach to new unrestricted residential development in these areas.
19. Whilst policies in the Wealden District Core Strategy Local Plan (2013) ("Core Strategy"), including WCS1 and WCS2, seek to promote housing growth, policy WCS6 states that the development boundary for Buxted will be retained. Policy WCS5 suggests that land will be released for housing to deliver these housing requirements but on the evidence before me this site has not been allocated for such purposes. Policy WCS7 explains that the release of such land is conditional upon there being sufficient capacity in the existing local infrastructure to meet the requirements of proposed development.
20. When read together, these policies set out a broad strategy of directing growth, including new residential development, to identified settlements. As the proposal would be located outside settlement boundaries, the proposal would conflict with these policies. However, the proposal would be contiguous with the village of Buxted which has a range of shops and services including a primary school. It also has good public transport links by rail, with regular services from the village to Uckfield and London. Consequently, the accessibility of day to day services by means other than the private car would be reasonably good. As only 8 new units would be provided, the impact on the local infrastructure would be limited. The location of the site would be reasonably accessible and, in this respect, would be appropriate for the residential development proposed.

Highway Safety

21. The access road would replace the existing residential driveway serving Moorings. The information submitted with the appeal suggests that the visibility splays provided by the development as it connects to High Street would amount to 2.4 x 70 metres either side, thus achieving the minimum standard recommended by the highway authority in its consultation response to the original planning application. However, the highway authority dispute that these splays can be achieved, due to the potential for vegetation on land outside the appellants control to encroach in to these splays.
22. However, much of the relevant land on the south side of High Street is pavement. It can be reasonably assumed that it will be kept free of obstruction. Furthermore, the road safety audit provided with the appeal does not raise highway safety concerns. Whilst this is a classified road, this part of it is subject to a 30-mph speed limit. It is clearly part of the village of Buxted, with several other roads and residential accesses feeding in to it close to the site. As such, both incoming and outgoing traffic would be aware of the need to proceed with caution. These considerations lead me to the view that, in the circumstances of this case, an adequate level of visibility would be achieved.
23. It is suggested that insufficient parking would be provided on the site. However, the proposal would provide in excess of 2 car parking spaces per unit. This would be likely to absorb the ordinary parking demand associated with each family home. The parking spaces are reasonably close to the proposed buildings and are of an adequate size for the type of vehicles they are likely to serve.

24. The swept path diagrams provided with the original transport statement show that it would be possible to safely manoeuvre around the development in a large car, along with some types of commercial or service vehicles. It may not be possible to manoeuvre a large refuse truck in to and around the development and alternative arrangements for the collection of waste may need to be agreed. However, this would not in itself lead to an unacceptable risk of harm to highway safety. Any obstruction to the highway arising from very large vehicles reversing up the access road or cars looking for alternative on street parking in the surrounding area would be likely to be very occasional in nature. The development would not materially obstruct the free flow of traffic.
25. I conclude that there would be no unacceptable risk of harm to highway safety arising from vehicular movements to, from and around the site. The proposal does not conflict with policy TR3 of the Local Plan which requires, amongst other things, a satisfactory means of access to be provided where new development is proposed.

Other Considerations

26. The Council refer to potential effects on trees on and around the site. It also suggests the land to the south of the site comprises ancient woodland, although the appellant disputes this. However, the new houses would be set away from the foliage associated with the woodland, beyond new gardens. In consequence, I do not agree that the development would result in pressure to fell these trees.
27. Both parties make reference to emerging planning policies in the Wealden Local Plan – Submission Document (2019). These broadly share similar objectives to the development plan policies relevant to the main issues in this appeal. Whilst the emerging plan seeks to promote additional housing in Buxted, the bulk of the site does not fall within the development boundary set out in this plan. However, as the examination of this plan has not yet been concluded, it can only attract limited weight. It does not affect my findings on the main issues in this appeal.
28. Both parties refer to other development plan policies in their representations. I have taken account of these policies but refer to the most relevant development plan policies to the contested matters in this appeal.

Planning balance and conclusion

29. The appellant argues that there is a significant shortfall in housing supply in the District, with only 2.61 years supply of housing land currently demonstrated. This is not disputed by the Council. In consequence, the policies most important for determining the application are out-of-date. In these circumstances the Framework advises 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.
30. 8 additional residential units would be provided. As a small site, the development could potentially be delivered quickly. Whilst these would be large houses as opposed to the smaller units where the Council suggest the need is greatest, they would nonetheless provide high quality living conditions and would be suitable for family occupation. The houses would be likely to be energy efficient, incorporating renewable energy measures, and electric vehicle use would be promoted in accordance with government initiatives to promote low and zero emission vehicles. Furthermore, biodiversity would be promoted on the undeveloped parts of the site.

31. The development would be located close to Buxted in a reasonably accessible location, close to existing infrastructure. The new housing would fall within walking distance of existing services in the village, helping to support the local rural economy. This would be a long-term economic benefit of the proposal, along with the shorter-term economic benefits associated with additional construction activity. The proposal could also lead to a New Homes Bonus and Community Infrastructure Levy payments, which are local finance considerations that weigh in favour of the development. Significant weight should be given to the provision of this additional housing, and the associated economic and social benefits of this development.
32. However, the proposal would relate poorly to its surroundings, and would also harm the living conditions of neighbouring residential occupants. It would therefore fail to achieve development that functions well and adds to the overall quality of the area. It would conflict with the objective, set out in the Framework, of achieving well-designed places and I attach substantial weight to the harm that would arise, in consequence. Overall, even taking account of the significant shortfall in housing land supply, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Consequently, the presumption in favour of sustainable development does not apply. This would be the case even if I were to find that the effect on nearby habitats sites does not provide a clear reason for refusing the development and that the circumstances set out in paragraph 177 of the Framework do not obtain.
33. The Council also refer to the potential effect of the proposal on nearby European protected sites including the Ashdown Forest. This is through recreational pressure and nitrogen deposition leading to an alleged reduction in air quality, arising from the residential development proposed. However, the appellant disputes this would be the case. Various recent planning decisions were cited by both parties in relation to this issue. A Unilateral Undertaking was provided in the course of the appeal committing to various mitigation measures to address these concerns. However, as the appeal is failing on the other issues and I am not intending to grant planning permission, there is no need to undertake an Appropriate Assessment or to come to a finding on this dispute.
34. I note that there are also a range of objections from interested parties. These raise other issues to those discussed in my reasoning above. However, as the appeal is failing on the main contested issues, I have not addressed them.
35. In conclusion, the proposal conflicts with the development plan when it is considered as a whole. There are no other considerations that outweigh this conflict. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR