



Appeal Decision

Site visit made on 23 July 2019

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2019

Appeal Ref: APP/C1435/W/19/3228102

Land to rear of Brickells Farm House, Chiddingly Road, Horam TN21 0LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Christine Belasco against the decision of Wealden District Council.
 - The application Ref WD/2016/1491/O, dated 11 June 2016, was refused by notice dated 16 November 2018.
 - The development proposed is outline application for two houses.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application is in outline with all detailed matters reserved for future consideration. The appellant has provided drawings showing possible vehicular access to and from the site and the visibility zones that could be achieved. Drawings have also been provided that show the layout of a scheme for two houses. As access and layout are both reserved matters, I have treated these drawings as being illustrative for the purposes of this appeal.

Main Issue

3. The main issue is the effect of the proposed development upon highway safety.

Reasons

4. As noted above, the appellant has submitted indicative drawings showing the visibility splays that might be achieved. Whilst access is a matter reserved for future consideration, it remains necessary to consider whether it is likely to be possible in principle for the site to have a satisfactory vehicular access. Such plans are not binding and there may be alternative ways of achieving access. However, I have had regard to the applicant's drawings as they seek to show how the site could be satisfactorily accessed and how an acceptable detailed scheme could be advanced at the reserved matters stage.
5. The County Highway Authority (HA) has objected to the proposal on highway safety grounds stating that the sightlines that could be achieved for this proposal would be unsatisfactory and below the recommended distances. The HA's evidence includes a Speed Survey that has been undertaken on Chiddingly Road adjacent to the site. The survey records 85th percentile speeds of 40 mph northbound and 45mph southbound and average speeds of 34mph northbound

and 37mph southbound. This indicates that whilst average speeds are lower than the 40mph limit, a proportion of vehicles are travelling at a higher speed, particularly in a southbound direction.

6. The indicative details show that (taking account of the additional land to the front of Brickells Bungalow) visibility splays of 73m to the north (to the centre of south bound carriageway) and 108m to the south (to the edge of the carriageway) could be achieved. The visibility splays to the north would be significantly below the 120m sought by the HA.
7. To the south, the risks to highway safety would be minor as the road is straighter in this direction and vehicles approaching would do so from other side of the carriageway. However, to the north visibility would be curtailed by a bend in the road and roadside vegetation outside of the control of the appellant (even taking account of the land to the front of Brickells Bungalow). Taking account of the HA's speed survey which records 85th percentile speeds of 45mph, there would be a real risk to highway safety from vehicles turning from the site due to potential conflict with southbound vehicles. Although mean speeds are less than the 85th percentile, it remains likely that a number of southbound vehicles would be travelling at a greater speed. Furthermore, at the time of my site visit during the day, there were very few cars parked at the roadside that might otherwise restrict the speed of vehicles.
8. I do not have figures of the traffic likely to be generated by the proposed development. However, I consider it would be likely to result in several movements on a daily basis which could present a significant highway safety risk for both the occupants and other highway users.
9. Reference has been made to the recommended stopping distances in the Highway Code. Nevertheless, my understanding is that these distances relate to emergency situations and are not applicable to assessing day to day highway safety issues as raised by this appeal.
10. There is an existing gate which currently provides access into the appeal site. The applicant states this has been in constant use for at least 40 years. Nevertheless, there is no robust evidence before me that demonstrates that this gate has been used by vehicles on a regular basis. Whether or not this existing access is lawful or requires permission, it appears from the evidence that the vehicular trips generated by the appeal proposal would be considerably greater in number and on a much more regular basis than the use of the gate. I also note that there is no formalised hard surface or dropped kerb associated with the gate. Consequently, I have given the presence of the existing access gate only limited weight and find that it does not overcome my highway safety concerns regarding the current proposal.
11. Whilst my attention is drawn to other existing vehicular accesses serving nearby properties with constrained visibility, they do not justify the introduction of another unsatisfactory access. Furthermore, whilst I have been informed of large residential developments permitted by the Council in the vicinity there is no suggestion that they have unsatisfactory access arrangements. Whilst vehicles from such developments might travel along Chiddingly Road, the central issue in this appeal concerns the access arrangements from this site rather than highway capacity.

12. Although it is stated that a 'nudge out' would achieve appropriate visibility, this does not appear to be satisfactory in highway safety terms. I have not been advised of any possible alternative arrangements that might provide for better visibility than those shown on the latest indicative drawings.
13. Paragraph 109 of the National Planning Policy Framework ('the Framework') indicates that development should be prevented where there would be an unacceptable impact on highway safety, as I consider to be the case in this instance.
14. In conclusion on the main issue, it has not been demonstrated through this appeal that the proposed development for two new dwellings would be capable of achieving a satisfactory vehicular access. The proposal would therefore be contrary to the highway safety aims of saved policy TR3 of the Wealden Local Plan 1998 and the Framework.
15. It would also be contrary to policy INF4 of the emerging Wealden Local Plan. I have not been provided with updated details of the progress of this plan as part of this appeal which limits the weight I can apply to the conflict with this particular policy. In any case, this does not alter my overall conclusions on the acceptability of the proposal.

Other matters

16. The Council's officer report states that the proposal in combination with other plans and projects would be likely to result in a significant effect upon the Ashdown Forest Special Area of Conservation (SAC) and also potentially the Lewes Downs SAC. The Council says that such effects would harm the conservation objectives of the two European sites in relation to increased nitrogen deposition. The Council goes on to note the lack of any mitigation from the appellant regarding such impacts. However, given my conclusion on the main issue, it is not necessary to consider this matter in respect of the Habitats Regulations 2017 in any further detail. It would not alter my overall conclusions in the determination of this appeal and so I have not sought any further information on this issue from the parties in this instance.
17. The Council also states that it is not currently able to demonstrate a five-year supply of housing land. Through other appeals I have been informed that the current supply is 2.65 years which represents a substantial shortfall. However, even if the appellant was in a position to satisfactorily mitigate any potential effects in relation to the Habitats Regulations, I consider that the adverse highway safety impacts would significantly and demonstrably outweigh the limited benefits arising from the modest contribution of two new dwellings to the supply of housing along with the modest contribution that would result in promoting strong, vibrant and healthy communities.

Conclusion

18. The development would be contrary to the development plan and material considerations do not indicate in this case that the proposal should be determined otherwise than in accordance with the development plan.

19. Having had regard to all other matters raised, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR