
Appeal Decision

Site visit made on 29 July 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th September 2019

Appeal Ref: APP/C1435/W/19/3228512
Bowhill, The Drive, Hellingly BN27 4EP

- 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 planning permission.
 - The appeal is made by Mr P Bowler on behalf of Bowhill Homes Limited against Wealden District Council.
 - The application Ref WD/2017/2781/F, is dated 30 November 2017.
 - The development proposed is demolition of the crèche/nursery and redevelopment of the site to erect 4no dwellings with associated facilities.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matters

2. The Council have referred to the emerging Wealden Submission Local Plan, 2019 (ELP), which was submitted for Examination to the Secretary of State on the 18 January 2019. The Examination in Public began on the 21 May 2019. However, there is no substantive evidence before me of the extent to which its policies and allocations are subject to unresolved objections. Furthermore, I have been provided with no indication as to the timetable for modifications and indeed whether the emerging policies included within the Council's appeal statement would be subject to modifications. Therefore, I give the ELP limited weight.
3. The Council did not issue a decision notice. As set out in its Statement of Case the Council indicates that its three principal concerns with the current appeal relate to the proposed location of the dwellings beyond the adopted and emerging development boundary; character and appearance; and in combination impacts upon the Ashdown Forest, designated as a Special Protection Area (SPA) and Special Area of Conservation (SAC). These, and the evidence before me, have informed what I consider to be the main issues in this case.

Main Issues

4. The main issues are:
 - whether the proposed development would provide a suitable location for housing, having regard to local and national policies, the accessibility of services and facilities and policies concerned with rural housing;

- the effect of the proposed development on the character and appearance of the area; and
- whether the proposed development would be likely to have adverse effects upon the integrity of the Ashdown Forest, designated as a SPA and a SAC.

Reasons

Suitability of the location

5. The appeal site is located opposite a modern housing development which was constructed as part of the former Hellingly hospital site. The proposal is for two pairs of single storey dwellings. The proposed development includes a new permeable access drive with off-street parking spaces and a 'turning space' to allow vehicles to enter and exit in forward gear.
6. The Council advise that there is no development boundary (DB) for Hellingly within the Wealden Local Plan, 1998 (LP), and the site is also beyond any area identified for development under the Wealden District Council (incorporating part of the South Downs National Park) Core Strategy Local Plan, 2013 (CS). The site is also not located within the proposed Hailsham DB within the ELP which is on the opposite side of The Drive. As such the site falls outside any DB, and therefore in planning policy terms is located within the countryside.
7. Saved Policies GD2 and DC17 within the LP generally resists new housing development in the countryside which is not essential for agriculture or forestry needs or has some other similar justification for a rural location (such as rural affordable housing exception sites). No evidence has been submitted to demonstrate that the proposal would comply with any of the exceptions outlined within the LP. The site is not within any strategic development area identified within policies WCS4 and WCS6 of the CS. Therefore, the principle of the development in this location would be contrary to the above mentioned policies.
8. Policies SP07 and SP08 of the CS encourage the reduction in the need to travel by car and a network of villages to support the day-to-day needs of rural communities and accord with the National Planning Policy Framework (Framework) policies on rural housing. There is little in the way of day to day services and facilities within Hellingly, which includes a village hall, schools (nearest one located approximately 0.9m away¹) and a church. However, the site is benefits from an existing bus stop on the opposite side of the road which provides a service to the larger nearby settlement of Hailsham. This would provide a greater retail, service and employment offer for future occupiers of the development than Hellingly. I am therefore satisfied that the sites proximity to this larger settlement would ensure that future occupiers of the development would not be largely reliant on the private motor car to access services and facilities.
9. As such, in relation to Paragraph 79 of the Framework, given the proposed dwellings' location opposite the former hospital site development, the appeal site would not be considered to be 'isolated', and therefore there would be no conflict with paragraph 79 of the Framework.

¹ Taken from the submitted Highway Report Job No. 2017/68

10. Paragraph 78 of the Framework states that housing should be located where it will enhance or maintain the vitality of rural communities. However, as outlined above, the site would be within reasonable access to the nearby settlement of Hailsham and therefore the development would contribute towards rural communities.
11. Concluding on the first main issue, the proposed development would have reasonable accessibility to services and facilities in accordance with Policies SP07 and SP08 of the CS, and paragraphs 78 and 79 of the Framework. Notwithstanding this, the proposed development would not provide a suitable location for housing having regard to local and national policies and policies concerned with rural housing. Therefore, it would not accord with the Saved Policies GD2 and DC17 of the LP, and Policies WCS4, WCS6 of the CS. Amongst other things, these seek to preclude residential development outside development boundaries and in the countryside unless in accordance with specific policies in the Plan.

Character and appearance

12. Save for an old dilapidated Nursey building, the appeal site comprises an area of largely undeveloped land, currently laid to grass to the front of a large detached red brick building which was previously used as offices for the NHS. The site falls within the Low Weald Landscape Character Area and is also adjacent to an area of ancient woodland.
13. The appeal site itself, connected with the former NHS building, comprises a large detached building in spacious surroundings. The site is well screened from the road by the existing dense hedgerow/trees fronting the Drive, which is a characteristic feature of the Low Weald countryside landscape². This side of the Drive generally contains a lower density form of development consisting of detached properties in large plots well set back from the road behind spacious front gardens. This provides a verdant and rural character which is in stark contrast to the opposite side of the Drive which is residential in character consisting of primarily two and three storey dwellings of the former Hellingly Hospital Site.
14. The largely undeveloped nature of the site, and existing vegetation provides a rural character. The proposed dwellings, vehicular access points and front driveway for off-street car parking spaces would introduce a large proportion of hard surfacing along a currently natural and green frontage. The proposal would have an urbanising effect that would harm the landscape character and appearance of the area.
15. With the exception of the former bungalow building currently being converted to a new two/three storey residential property further along the Drive, the majority of buildings on this side of the Drive (which includes the former NHS office building) comprise detached properties in large plots well set back from the road behind mature hedgerows and landscaped front gardens. The substantial set back of these properties from the Drive combined with their landscaped front gardens and retention of hedgerows maintains the spatial qualities and character of the area. As such, I do not consider that the existing developments on this side of the Drive provide support for the current proposal

² Taken from the Wealden Design Guide, 2008 (Design Guide)

as the position of the dwellings with lack of sufficient screening would be particularly discordant.

16. The design and materials of the proposal would be similar to those found elsewhere in the area. Furthermore, the height of the bungalows would be subservient to other nearby buildings including the former NHS office building to the rear. However, these positive aspects of the proposal would not outweigh the harm I have identified above as the position of new dwellings would be particularly discordant.
17. I find that the proposal would therefore significantly harm the character and appearance of the area. It would be in conflict with Policies EN8, EN12 and EN27 of the LP, which amongst other things, seeks to ensure that development conserves the Low Weald landscape and that the scale, form, site coverage, density and design of the development and the use of materials and landscaping should respect the character of adjoining development and where appropriate promote local distinctiveness.
18. Furthermore, it would also be contrary to paragraph 127c), 130 and 170 of the Framework which amongst other things, seeks to ensure that all development: is sympathetic to the local character including the surrounding built environment and landscape setting, improves the character and quality of an area and the way it functions; and recognises the intrinsic character and beauty of the countryside.

Ashdown Forest, designated as a SPA and a SAC

19. The LP, CS and the ELP include policies to protect the Ashdown Forest (SPA and SAC). The Court of Justice of the European Union has issued a judgment³ that potential mitigation for SPAs/SACs cannot be taken into account when determining whether an Appropriate Assessment (AA) is required but may be considered if an AA has been undertaken and determined that the development would harm the integrity of the designated European sites. If I had been minded to allow the appeal, as the 'competent authority' it would have been necessary to go back to the parties and consult Natural England to seek further information in order to complete an AA for this development. However, as I am dismissing for other reasons it is not necessary for me to consider this matter further as it would not change the outcome of this appeal.

Other Matters

20. The appellant highlights that the development has been designed to provide satisfactory living accommodation for both future and neighbouring occupiers. However, these are neutral factors which do not weigh in favour of the development. Nor does support from the Parish Council for the principle of residential development since they also raise concerns regarding the character and appearance of the area. I also share these concerns.
21. The appellant refers to the advice within the Council's pre-application response. However, any pre-application advice provided by the Council is given without prejudice and is not binding. Therefore, I have determined the appeal based on the merits of the case, and in accordance with local and national policies and legislation.

³ People over Wind, Peter Sweetman v Coillte Teoranta Case C-323/17

Planning balance and conclusion

22. There is no dispute that the Council cannot currently demonstrate a five year housing land supply (HLS). The proposed development would provide a net gain of four additional dwellings. As such, its contribution to the HLS would be modest and therefore I consider that it would only be of small benefit in this regard. There would be also be limited economic benefit to the area, in terms of construction jobs, and an equally limited increase in investment in the area following the occupation of the development.
23. However, the location of the development would conflict with the development plan policies and the Framework policies as a whole.
24. Furthermore, the development would be contrary to the development plan and the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
25. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed, and planning permission refused.

R Satheesan

INSPECTOR