



Appeal Decision

Site visit made on 16 October 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 8th November 2019

Appeal Ref: APP/C1435/W/19/3233185

Sherwood Rise, Swansbrook Lane, Horam TN21 0LE

- 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 Michael Collier against the decision of Wealden District Council.
 - The application Ref: WD/2018/1456/F, dated 4 July 2018, was refused by notice dated 10 May 2019.
 - The development proposed is described as 'a new 4 bedroom dwelling house, built to "Lifetime Living Standards", including own packaged water treatment plant. Existing Double Garage to be allocated to the proposed house'.
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Decision

1. The appeal is dismissed.

Procedural Issue

2. The emerging Wealden Local Plan Submission Document (2019) (emerging LP) has been submitted for examination, however, as it is yet to be found sound and adopted, I therefore attach only limited weight to it.

Main Issues

3. The main issues are the effect of the proposal on:-
 - i) whether the appeal site is a suitable location for residential development having regard to the settlement strategy of the development plan and the accessibility of services and facilities; and
 - ii) the effect on the character and appearance of the countryside; and
 - iii) whether the proposal makes adequate provision for mitigation to a Special Area of Conservation (SAC); and
 - i) highway safety.

Reasons

Settlement strategy and the accessibility of services and facilities

4. The appeal site lies approximately 2kms to the south of the village of Horam, taking the Council's measurements, which have not been disputed by the appellant. Policy WCS6 of the Wealden District Core Strategy Local Plan (2013)(CS) identifies Horam as an area where additional housing development in the region of 100 new dwellings will be located. Similar provision is recognised in the emerging LP Policy WLP7. However, the appeal site lies a

considerable distance away from the defined settlement boundary of Horam and the proposed extension to it under the emerging LP. As such, it is considered to lie within the countryside for the purposes of applying planning policy. Having regard to Policies GD2 and DC17 of the Wealden Local Plan (1998)(LP) and emerging LP Policy WLP7, development outside of the settlement boundary will be resisted unless it is consistent with other countryside policies of the development plan.

5. It is part of the appellant's case that LP Policy DC17 applies only to replacement buildings, however, I do not agree as the supporting guidance to this policy at paragraph 5.91 makes it clear that this policy concerns housing development.
6. Therefore, in the absence of anything to suggest that the proposed dwelling would be consistent with countryside policies, the principle of development would clearly conflict with CS Policy WCS6, LP Policies GD2 and DC17 and emerging LP Policy WLP7 insofar as these policies seek to locate development within defined settlement boundaries.
7. The National Planning Policy Framework (the Framework) sets out that isolated homes in the countryside should be avoided unless there are special circumstances. Given the proximity of other dwellings I do not consider that the appeal site would be 'isolated' for the purposes of the Framework, since it cannot be said that it would be far away from other places, buildings or people, albeit the location is rural.
8. However, it does not necessarily follow that a site that is not 'isolated' will be reasonably accessible to services when considered in the context of other requirements of the Framework.
9. In addition to a small number of dwellings, Coggers Cross also has a Methodist Chapel that has a dual use as a community hall a golf course and a post box. The appellant cites that there are a diverse range of businesses within the vicinity, including a supermarket, public houses and a medical centre. However, no detailed information, save for the supermarket being located at Horam, is provided. Accordingly, future occupants of the proposed dwelling would need to travel further afield to access day-to-day needs such as employment, shopping, leisure and education.
10. At the time of my site visit I observed there to be a constant flow of traffic including heavy goods vehicles (HGV's) and vans along the A267. I appreciate that my visit provided only a snapshot of highway conditions, however, I have seen nothing to suggest that what I saw was untypical.
11. There is no footway connecting the appeal site to Horam and consequently access on foot would be along grass verges, or, where existing vegetation has overgrown the verge, walking within the highway. By reason of a 50mph speed limit along this part of the A267, vehicles are generally travelling at considerable speed along this part of the route. Taken together with the distance involved to access Horam, I do not consider that the majority of pedestrians would feel safe having to walk within the highway or seek refuge when being regularly approached by passing vehicles. To my mind, given an absence of street lighting and the nature of the route, it is highly unlikely that anyone with a young child, pushchair or wheelchair would attempt to walk these routes, particularly during inclement weather or at night, as the verges

described above would not provide refuge for them. In addition, I do not find that the nature of the route, given the volume of traffic and high quantity of vans and HGV's would encourage its use by cyclists.

12. The appellant has drawn my attention to the presence of a bus stop positioned approximately 60 metres from the appeal site which provides a service to Horam, Heathfield, Tunbridge Wells, Hailsham and Eastbourne. To my mind, while the distance to the bus stop is reasonably walkable, the nature of the route, for the reasons outlined above, would discourage use of the bus for many journeys. Furthermore, the parties dispute whether this service provides a good alternative to the use of the private motor vehicle which I am unable to resolve on the limited evidence before me. Whilst the appellant states that the service operates on an hourly basis, it is not clear whether the timing coincides to provide a service to local schools and employment opportunities in the early and later parts of the day.
13. Reference has been made to the availability of nearby footpaths, bridal way and the Sustran Cuckoo trail to access local services and facilities at Horam, however, there is no detailed information before me as to the nature and length of these routes. Furthermore, footpaths would have limitations for many journeys, particularly in poor weather or ground conditions and the lack of lighting would discourage journeys on foot to access local services.
14. The Framework recognises that opportunities to maximise sustainable transport solutions will not be the same in rural areas as in urban locations. However, by reason of my findings above, notwithstanding the availability of some limited opportunity to access a sustainable mode of transport, I consider the location is not well served in terms of walking and cycling. Thus, it is likely that the majority of journeys by future occupiers of the proposed dwelling to access services and facilities would be made by private car.
15. I have had regard to the appeal decision¹ provided by the appellant. However, the particular circumstances of that case are not directly comparable to the appeal proposal, given that a bus stop abutted the site and a school bus service was available nearby. As such, a comparison is of limited relevance in this instance. Furthermore, my attention has been drawn to a number of other appeal decisions², however there is little information before me relating to the particular circumstances of these developments. Accordingly, I have considered the appeal before me on its individual planning merits.
16. Overall, I find the appeal site would not be a suitable location for a new dwelling with particular regard to the settlement strategy and its inaccessibility to services and facilities and an undue reliance on the use of the private car. Therefore, the proposal would fail to accord with LP Policies EN1, GD2 and DC17 and CS Policies WCS6 and WCS14 in so far as these policies restrict development within the countryside and require new development to be in sustainable locations. It would also fail to accord with provisions of the Framework which require development to be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

¹ APP/C1435/W/16/3150981

² Appeal References 3204982 and 3217430

17. Furthermore, the proposal would conflict with the aims of the emerging LP, in particular Policies WLP4, WLP7, WLP10 and RAS2 insofar as these policies seek to locate development within or adjacent to defined settlement boundaries.

Character and appearance

18. The appeal site consists of part of the side garden and the existing detached double garage and access driveway to Sherwood Rise, one of a pair of semi-detached dwellings fronting Swansbrook Lane. Sherwood Rise is the end dwelling within a small cluster of dwellings and a Methodist Chapel positioned around the junction with the A267. Additional dwellings are sporadically arranged along the A267 and Swansbrook Lane. To its front beyond a boundary of mature trees and hedgerows lies a golf course with open views towards the wider countryside. Consequently, the area has a pleasantly open and semi-rural character and the appeal site makes a positive contribution to the character of the surrounding area.
19. As the proposal would make use of garden land outside of a built-up area, the site can be considered as previously developed land. The Framework does not preclude development of such sites, however, the determining factor is whether or not this can be achieved without causing harm to the local environment. However, in my view, the appeal site makes an important and valuable contribution to the overall rural character of the area.
20. The proposal would introduce a substantial sized dwelling together with parking spaces and an enlarged access driveway to serve both the existing and proposed dwellings. Whilst the proposed dwelling would be two storeys in height, similar to the adjacent built form, its ridge and eaves height would be significantly in excess of its neighbour. Furthermore, by reason of its unrelieved height and prolonged width together with the inclusion of a hipped roof structure and window detailing that are uncharacteristic of the prevailing built form, the proposal would appear bulky, unduly dominant, poorly related to nearby built form and incongruous within the surrounding area. As such, it would fail to positively contribute or enhance the distinctive character of the area.
21. The appeal site is partially enclosed by the presence of mature trees and vegetation that would be retained as part of the proposed scheme. In addition, I accept that the appeal site is largely screened from neighbouring views due to the presence of existing built form. However, given its elevated position above the highway the proposed dwelling would be highly prominent in public views from the junction with the A267 and the visual impact of the proposal would be substantial in partial views from the golf course and the wider countryside, particularly during periods when vegetation is less dense, for instance, during winter months.
22. Although the proposal would utilise materials similar to those of neighbouring dwellings, the introduction of a dwelling together with hardstanding areas and domestic paraphernalia would amount to an intensification of sporadic development along this part of Swansbrook Lane and it would harmfully erode the open characteristics and landscape character of the Low Weald area.
23. The appellant states that the Council have approved a number of developments contrary to Policy EN8 within the locality, including the crematorium. However, I have no evidence relating to the particular circumstances of these

developments and whether the circumstances are therefore comparable to the appeal proposal.

24. Accordingly, I conclude that the proposal would harmfully erode the character and appearance of the surrounding area including the Low Weald Landscape Area. Thus the proposal would be contrary to LP Policies EN8 and EN27, CS Policies SP01 and WCS14 and the guidance of the Wealden Design Guide Supplementary Planning Document (2008). Among other things, these policies and guidance are permissive of development subject to enhancing and managing the distinct landscapes of the district and respecting the character of adjoining development by way of scale, form and design.
25. In addition, the proposal would conflict with the aims of the emerging LP, in particular Policies EA4 and BED1 insofar as these policies require development to protect, maintain, enhance, reinforce and complement the key characteristics of the landscape character. The proposal would also conflict with similar provisions of the Framework which seek to ensure that developments are sympathetic to local character including the surrounding built environment and landscape setting.

Whether the proposal makes adequate provision for mitigation to the Ashdown Forest and Lewes Downs Special Conservation Area.

26. The Council advises that the appeal site lies within the vicinity of the Ashdown Forest and Lewes Downs which are designated as Special Areas of Conservation (SACs) and are therefore designated as 'European' sites. In essence, the Council's objection concerns the individual and cumulative impacts of development on the special habitats of Ashdown Forest and Lewes Downs from additional traffic resulting in increased atmospheric pollution, in particular, nitrogen disposition.
27. It is the appellants case that the proposal will generate only a marginal increase in the use of private motor vehicles. Furthermore, the proposed dwelling would include photo voltaic panels and electric charging points to enable the use of electric and hybrid vehicles. However, whilst these features would assist to reduce the overall carbon footprint of the proposed dwelling, taking the proposal and the other planned development under consideration in combination, I conclude that there is a real risk that such overall development would generate additional vehicle movements through or adjacent to Ashdown Forest and Lewes Downs to the extent that this is likely to have a significant effect on the European site and conflict with its conservation objectives.
28. Albeit electric vehicle charging points are recognised under emerging Policies AF1 and AF2 as part of a package of mitigation measures required on all new development, this is in addition to a mitigation tariff being secured. However, there is no legal agreement before me to demonstrate that the mitigation would be effective and whether it would be secured for the specified purpose in the first place, and in a timely way. Accordingly, on the evidence before me, I am unable to conclude that the proposed development would not, in combination with other plans and proposals, have a significant adverse effect on the integrity of the Ashdown Forest and Lewes Downs SACs, and therefore a precautionary approach is appropriate. Therefore, the proposal would be contrary to CS Policy WCS12 in so far as this policy requires development to protect and enhance biodiversity.

Highways

29. Access to the appeal site would be taken via the existing driveway to Swansbrook Lane, which lies in fairly close proximity to the junction with the A267, a classified road with a 50 mph speed limit.
30. The Council have drawn my attention to the findings of the Inspector in relation to a proposed change of use at Meadows Farm, Swansbrook Lane³ ("the 2015 appeal"). Albeit that appeal was concerned with a use that would have likely generated far more vehicular movements than the appeal proposal, an additional dwelling in this location would generate additional vehicular trips and result in an intensified use of the junction and as such is relevant to the appeal proposal.
31. In the instance of the 2015 appeal, the principal issue of concern was highway safety at the junction of Swansbrook Lane as a consequence of substandard visibility to the north of the junction. The Inspector concluded that whilst there was adequate stopping distance for southbound vehicles approaching the junction, the incidence of vehicles turning into Highland Farm or Coggers Lane would likely present as a distraction to overtaking vehicles in noticing a car pulling out of the junction of Swansbrook Lane. I see no reason to disagree with the opinion of the previous Inspector on this point.
32. Albeit visibility has slightly improved by the removal of a hedge along the front boundary to the Chapel, a relatively tall hedge remains to its side. Taken together with the boundary of Thorne Lea, I find that sightlines towards the direction of Horam would be limited. As a consequence, a vehicle would need to edge a considerable way into the highway to achieve a clearer view of oncoming traffic. Moreover, given the fast speed of travelling vehicles there would be significant potential for vehicle conflict.
33. As in the previous appeal, there is no objection to the proposal by the Highway Authority (HA). However, the HA predict that an additional five vehicular movements would be generated by the proposal per day. Whilst I accept that not all journeys would be taken via this junction, there would be some additional use of it. Albeit an absence of recorded road traffic accidents at this junction, a more intensive use of the junction would prejudice highway safety.
34. Accordingly, the proposal would result in a material increase in the use of the junction which has substandard visibility and thus there is a significant harm to highway safety. Therefore, the proposal fails to accord with LP Policy TR3 and CS Policy SPO12 insofar as these policies require new development does not create or perpetuate unacceptable traffic conditions and achieve significant improvements in the safety records on Wealden's roads.
35. In addition, the proposal would conflict with the aims of the emerging LP, in particular Policy INF4 insofar as this policy requires that resulting traffic movements should not create a severe impact including compromising safety of road users. The proposal would also be contrary to the Framework where development should be prevented if there would be an unacceptable impact on highway safety.

³ APP/C1435/A/14/2229312

Planning balance and conclusion

36. It is common ground that the Council are presently unable to demonstrate a five year supply of land for housing. In such circumstances, the Framework states that policies which are the most important for determining the application should not be considered up-to-date. However, paragraph 14(d)(i) goes on to state that planning permission will be granted unless there are relevant policies within the Framework that protect areas or assets of particular importance. Footnote 6 of the Framework gives examples of such policies which include those relating to habitats sites.
37. The proposal would make a very modest contribution to the supply of housing through an additional unit, and there would be some economic benefits with regards to construction and occupation of an additional house.
38. Paragraph 177 of the Framework explains that the presumption in favour of sustainable development does not apply where the proposal is likely to have a significant effect on a habitats site, either alone or in combination with other plans or projects. In this regard, CS Policy WCS14 has similar provisions to the Framework. I have found that the proposal will adversely affect the integrity of the habitats site, the Ashdown Forest and Lewes Downs SACs. I therefore find that relevant policies within the Framework indicate that the development should be restricted. The 'tilted balance' is therefore not engaged.
39. I therefore move on to separately consider the 'planning balance'. In terms of benefits of the proposal, the construction of a dwelling makes a modest contribution to housing supply, construction costs and jobs, albeit for a temporary period, and support for nearby services and facilities.
40. In addition, the proposal makes efficient use of the land and would include the proposal being constructed to a high specification and to lifetime living standards which would be fully accessible to wheelchair users at ground floor level and capable of future adaptation to allow first floor access. However, these considerations do not outweigh the harm I have identified above.
41. I accept that the proposed development would be capable of being undertaken without any adverse impact on sewerage, trees and the living conditions of neighbouring occupiers. In addition, the proposal makes provision for adequate parking and turning space within the appeal site. However, the absence of harm is a neutral factor that weighs neither for nor against the proposal.
42. I have carefully considered the appellant's desire to downsize to a smaller dwelling and remain living within Coggers Cross. However, personal circumstances can seldom outweigh general planning considerations and do not outweigh the harm I have identified above.
43. Accordingly, my finding in relation to paragraph 11 of the Framework, along with all other material considerations, indicates that planning permission should not be granted. The appeal is therefore dismissed.

E Brownless

INSPECTOR