



Appeal Decision

Site visit made on 29 October 2019

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2019

Appeal Ref: APP/P1425/W/19/3234681

Point House, 104 Allington Road, Newick, Lewes BN8 4NH

- 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 Millwood Designer Homes Ltd against the decision of Lewes District Council.
 - The application Ref LW/19/0129, dated 15 February 2019, was refused by notice dated 14 May 2019.
 - The development proposed has been described as "the retention of existing dwelling and erection of 5 dwellings; creation of two new vehicle accesses and landscaping."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description used above refers to the retention of the existing dwelling known as Point House, 104 Allington Road, Newick. However, the appeal site excludes the existing dwelling and the submissions do not show it to be within the appellant's control. This has not however affected the ability to assess the proposal and does not appear to have prejudiced any party.
3. During the course of the appeal the Housing Delivery Test (HDT) score for the Lewes District was revised. The main parties were given opportunity to comment on the implications for the assessment of this appeal, but no responses were received.

Main Issues

4. The main issues are:
 - The effect of the development on the character and appearance of the surrounding area.
 - Whether this is a suitable location for the proposed development.

Reasons

Character and Appearance

5. The appeal site is located at the edge of the settlement of Newick which has the character of a large village with its centre surrounding a village green. The A272 provides the main route through the village and passes the appeal site on the opposite side of the tree belt that borders the site. The site fronts onto Allington Road which has a changing character along its length, with an edge of

- settlement, foliage dominated appearance at the appeal site and open, undeveloped land opposite the site. These make way for a mixed, mostly residential environment along the approach towards the village centre.
6. The adjacent dwellings of The Ridings sit within a verdant setting that reflects the position of the road at the fringe of the settlement. The appeal site continues the transition from the settlement to its more rural surroundings, featuring a large dwelling within a generous plot that is accessed from Allington Road through a small gap in the tree belt that surrounds the site, including a woodland that is the subject of a Tree Preservation Order. Detached from the settlement and accessed from further along Allington Road are the dwellings of Oxbottom Close which also sit within a spacious, verdant setting.
 7. The proposal would see the erection of 5 dwellings around the existing dwelling of Point House with two new accesses being created from Allington Road. This would represent a substantial increase of built form and associated development at the site and cause the site to appear as part of the settlement of Newick rather than a transitional part of the urban fringe.
 8. The extensive tree coverage at the edges of the site and on adjacent land would soften and mitigate the visual effect of the development to some degree, but the development would not be obscured entirely and built form would be visible through the openings that would be created to provide access. In this context, the presence of the additional built form would be apparent from several public vantage points, including the public right of way to the south of the site, and as such the appearance of the site and its contribution to the character of the area would be eroded. Furthermore, although the Tree Preservation Order provides some assurance that the trees would be retained, it cannot be assured that the extensive vegetation coverage would be retained indefinitely and, in any event, this would not provide mitigation all year round.
 9. The appellant's Landscape Visual Impact Assessment makes the case that the site constitutes the garden of the host dwelling and as such is not a green space that defines the gap between Newick and surrounding parishes. However, the visual effect of 5 dwellings would be wholly different to the appearance of the existing garden and therefore the adverse effect on the transition from the settlement to the countryside would be substantial. Although the tree belt and the surrounding roads provide a degree of containment that would prevent further sprawl, this does not mitigate the effect of the development.
 10. Whilst the undue effect of the development would be relatively localised due to the topography and vegetation of the surrounding area, this does not diminish the effect of the development from those vantage points where it would be seen.
 11. The development would therefore have an unacceptable effect on the character and appearance of the surrounding area, contrary to policies CP10 of the Joint Core Strategy 2010-2030¹ (JCS) and saved policy and ST4 of the Lewes District Local Plan 2003 (LDLP). These policies combine to require that development conserves and enhances the natural environment of the District and does not erode the essential elements of the character and appearance of the area. The proposal also fails to accord with policy EN1 of the Newick Parish Council

¹ Lewes District Local Plan Part 1 – Joint Core Strategy 2010-2030 (Adopted May 2016)

Neighbourhood Plan (NNP) which requires that development respects the local landscape character and is designed to blend well with the existing built environment.

12. Policy HO1.6 of the NNP states that the erection of dwellings within the gardens of existing dwellings will not be supported, but I have been made aware of an appeal decision² and the comments of the Independent Examiner of the NNP which have identified that not supporting this type of development does not mean that it should be prevented if the proposal represents sustainable development. However, for the reasons set out above, I have found that the development of the gardens in the manner proposed would be harmful to the character and appearance of the area. As such, even if the view is taken that policy HO1.6 of the NNP does not prevent development, this policy does not weigh in favour of the proposal.

Suitability of the Location

13. Although the second reason for refusal does not indicate why the proposal would be detrimental to the aims and objectives of the NNP, the Officer Report indicates that conflict arises as the site is not allocated for housing within the NNP.
14. In this regard, the Officer Report states that Spatial Policy 2 of the JCS requires that a minimum of 100 dwellings shall be constructed at Newick and that the NNP has identified sites for this quantum of development. As the housing target is stated to be a minimum rather than a maximum, it would not prevent the provision of additional dwellings. Furthermore, as policy HO1.1 addresses all new housing "whether built on sites identified in this Neighbourhood Plan or on other sites within the Parish," it is clear that the NNP does not preclude development at other sites. Not being one of the sites allocated for development within the NNP does not therefore, in itself, render the proposal contrary to the NNP.
15. However, the site is outside the planning boundary for Newick and the proposal is therefore contrary to policy CT1 of the LDLP which states that development will be contained within the Planning Boundaries of the District. Although the Council's Strategic Housing and Economic Land Availability Assessment has found that the site could represent a natural, developable extension to the settlement, this does not constitute part of the development plan and as such I give it minimal weight.
16. As set out above, since the submission of the appeal, the HDT score for the Lewes District has been revised. Both main parties were given opportunity to comment on the implications of the revised HDT score for their cases, but no responses were received. The revised HDT score indicates that there has not been a significant shortfall of housing delivery and, as such, I have no up-to-date reasoning before me that suggests that the approach set out at paragraph 11d) of the Framework should be engaged. I do not, therefore, have grounds to conclude that the development plan policies that are most important for determining the appeal are out-of-date.
17. As such, I give full weight to policy CT1 of the LDLP and the planning boundary of Newick. The proximity of the site to the planning boundary is not a reason

² APP/P1425/W/18/3197657

to disregard its status and it does not appear to have been drawn any more arbitrarily than any other settlement boundary. Furthermore, the presence of a highway signpost along the A272 is not indicative of the edge of the settlement and this does not, therefore, override the content of the development plan.

18. The appellant's case has not been made on the basis of the absence of a suitable supply of housing alone. It has been identified that the site is close to the settlement boundary of Newick and the facilities and services it hosts as well as bus stops that provide connections to other nearby settlements. It has also been highlighted that the site represents previously developed land and that the development of such land is supported by the Framework. These factors weigh in favour of the proposal. However, given that the proposal relates to 5 dwellings, the benefits arising from the proposal are modest and therefore do not outweigh the harm that has been identified as a result of the conflict with the development plan.
19. For these reasons, the site represents an unsuitable location for the residential development proposed. The development would therefore be contrary to policy CT1 of the LDLP which requires that, other than in the case of exceptions which are not applicable to this proposal, development is restricted to locations within the Planning Boundaries of the Lewes District.

Other Matters

20. The appellant has provided a legal agreement to facilitate a contribution towards mitigating an effect arising from the proximity of the site to Ashdown Forest. Given the findings in respect of the main issues, it is not necessary to consider this matter further, especially as this would mitigate the effect of development rather than represent a benefit to weigh against the harm identified.

Planning Balance and Conclusion

21. Bringing together my conclusions on the main issues, I have found that the site would not represent a suitable location for the development and the development would be harmful to the character and appearance of the area. Some benefits would arise from the proposal but, overall, I find that they would not outweigh the harm that has been identified.
22. For the reasons given above I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR