
Appeal Decision

Site visit made on 26 November 2019

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2019

Appeal Ref: APP/P1425/W/19/3231655

"Marchants", Lower Station Road, Newick, Lewes, BN8 4HT.

- 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 & Mrs R Baradaran-Azimi against the decision of Lewes District Council.
 - The application Ref. LW/19/0087, dated 18 December 2018, was refused by notice dated 9 May 2019.
 - The development proposed is the erection of a 3 bedroom dwelling and garage with associated landscaping.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the principle of development in this location accords with the strategy in the development plan;
 - The effect on the character and appearance of the area; and
 - Whether the site lies in an area with good accessibility.

Reasons

Background

4. The appeal site forms part of the garden of 'Marchants' a two storey detached house which lies on the edge of a ribbon of houses along Lower Station Road and on the corner with Oxbottom Lane. The site generally lies within an area of countryside between the villages of North Chailey to the west and Newick to the east. It is proposed to sub-divide the garden and erect another detached house with a double garage at the front.
5. I note that a previous proposal for the erection of a 6 bedroom detached house was refused by the Council in 2017 and a subsequent appeal was dismissed under ref. APP/P1425/W/17/3188426. In that decision the Inspector concluded that the proposal would conflict with development plan policies on the location

of development; would erode the semi-rural character of the area; and would not have reasonable access to shops and services by means other than the car. Overall the inspector concluded that the proposal did not amount to sustainable development. The present scheme is submitted in order to try and overcome the objections to the development. The appellants say that the design of the dwelling has been substantially amended and that there have been changes to planning policy.

Policy context and housing land supply

6. The development plan includes saved policies in the Lewes District Local Plan (LDDP) adopted in 2003 and the Lewes District Local Plan Part 1: Joint Core Strategy 2010-2030 (LPP1) adopted in 2016. The Council is also preparing a Local Plan Part 2 - Site Allocation and Development Management Policies DPD (LPP2) and I understand that this has been through the formal examination process and the Examining Inspector's final report is awaited. However, I have not been advised of any final decision or adoption of this plan, therefore I am not able to give it full weight. Neither have the parties referred to its provisions.
7. I understand from the appellants' agent that the appeal site falls within an area to which the Chailey Neighbourhood Plan will apply, but this has not been made following a referendum and cannot be afforded much weight at the moment.
8. It is the appellants' case that when the application was made and also when the appeal was lodged the Council could not demonstrate an adequate supply of new housing sites to meet the recognised need and therefore policies in the development plan that restrict the supply of housing should be considered as out of date, as referred to in footnote 7 of the National Planning Policy Framework (NPPF).
9. The appellants' agent refers to the April 2018 Housing Land Supply Position paper which refers to a 4.89 years supply based on a 5% buffer. The October 2018 Position paper indicated a 5.22 year supply, but the appellants say that this conclusion was at odds with the results of the more recent 2018 Housing Delivery Test (HDT) released in February 2019 which specified a HDT of 50% for Lewes district and was a clear indication that a 20% buffer should be used in the housing land supply calculation.
10. However, I note that very recently the Ministry has reassessed the Council's 2018 HDT outcome¹. The Ministry accepts the Council's unique circumstances, (regarding the housing requirement and supply following the partial quashing of the Local Plan Part 1 – concerning the South Downs National Park Authority) and have issued a revised HDT for that year. In this, revised figures for the homes required over the last three years are compared with those delivered over the same period and the HDT has now been reassessed and set as 86% delivery. The consequence of this is that the Council is required to produce an action plan, but this appears to me to be overtaken by the imminent adoption of the LPP2 following its Examination.
11. In the Council's representations for the appeal, the Council sets out its HLS position as at 1 April 2019 of 5.59 years and the Council gives a comprehensive

¹ By letter from the Director, Planning, MHCLG dated 22 October 2019.

breakdown of the analysis and the appellants have not challenged this detailed assessment, only the application of the HDT.

12. Having regard to all of the above on housing land supply, I am satisfied that the Council can demonstrate an adequate supply of new housing sites at the moment and that policies in the development plan that restrict new housing development should not be considered as out of date.

Whether the principle of development in this location is acceptable

13. Saved Local Plan Policy CT1 indicates that new development will be confined to defined settlements and will not normally be allowed outside of the boundaries of these settlements unless one of the specified exceptions apply. The appeal site does not lie in an area recognised as part of the settlements of either Newick or North Chailey and the proposal for a single dwelling is not one of the exceptions listed in the policy. In planning terms, the appeal site should therefore be regarded as countryside and there is a general presumption in the development plan strategy against new residential development in this location.

Effect on Character and appearance

14. The appeal site lies on the eastern end of a long ribbon of houses of varying forms, but 'Marchants' and 'The Down House' on the opposite corner with the adjacent Oxbottom Lane are more open and verdant with much larger gardens than most others in Lower Station Road. In visual terms this openness leads into the open countryside on the eastern side of the lane.
15. In the appeal scheme I acknowledge that the size and form of the detached house has been reduced so that the dwelling is now similar in scale and design to 'Marchants' and I am satisfied that the house itself could fit on the site in an acceptable manner. However, like the previous Inspector I am concerned that a further dwelling here would result in the loss of openness on this prominent corner site. Even taking account of the existing trees and roadside hedges that are shown to be retained, I do not consider that the proposal would result in an acceptable form of infilling as much of this open form that contributes to the semi-rural character would be lost by the sub-division of the site.
16. I have taken account of the appellants' agent's comparative analysis of gross volumes, floor areas, width of frontage and plot ratios, but I consider that these comparative figures do not pay sufficient regard to the open nature of the existing site and the degree to which the present open character of the garden land would be lost.
17. Overall on this issue I conclude that the proposed dwelling would result in the loss of openness of this prominent corner site and would harm the character and appearance of the area. As such it would not accord with LPP1 Core Policy 11.

Whether a location with reasonable accessibility

18. In the previous appeal the Inspector concluded that the occupiers of a new dwelling on the appeal site would be reliant on the use of a car. At my site visit I looked at the relationship of the appeal site to the limited village centres at North Chailey and Newick and to the bus route along the A272. I have the same concerns as the Inspector that the appeal site does not have reasonable

accessibility to a range of transport. Even though the new house may be designed to have an electric vehicle charging point, to my mind the occupiers of the new dwelling in this location would be very dependent on the use of a car (electric or otherwise) for their day to day activity.

19. I recognise that paragraph 103 of the NPPF indicates that sustainable transport solutions will vary between urban and rural areas but it appears to me that the appeal proposal would not contribute to a sustainable pattern of growth that would reduce the need to travel to help address the effects of climate change. I conclude on this issue that the location of the proposed dwelling would conflict with the objectives of Core Policy 13 to reduce the need to travel and promote a sustainable system of transport.

Other matters

20. I note that in the consideration of the application the Council made reference to the wrong neighbourhood plan area – it should be North Chailey but was said to be Newick. Moreover, the North Chailey area appears to have a need for residual housing growth for 30 dwellings but the evidence supplied goes on to indicate that such additional housing should be identified in the LPP2 and there is little other evidence to suggest that the appeal site would be supported in either the local plan or neighbourhood plan. In any event the Chailey Neighbourhood Plan has not been made following referendum and I am not able to give this aspect much weight at this stage.

Planning balance

21. The planning issues in this case need to be considered in the context that the Council can demonstrate a five year supply of a new housing sites at the moment having regard to the governments' revised result of the Housing Delivery Test which does not now indicate a substantial under-provision.
22. In respect of the main issues, I have found that the principle of additional housing development in this location does not accord with the saved policy in the Local Plan as the site lies outside of the recognised settlements of both North Chailey and Newick. Moreover, although the revisions to the design and scale of the previously rejected scheme would result in a new house more appropriate for the plot, I have found that the proposal would result in the loss of much of the openness of the present large area of garden on this prominent corner site and would harm the semi-rural character of this area of countryside. I have also found that the location of the site is away from day to day services and facilities and a good range of transport options. The occupiers of the proposed house would be likely to be dependent on the use of a car. Consequently, a new dwelling here would not contribute to a sustainable pattern of growth and reduce the need to travel.
23. The proposal conflicts with the relevant policies of the development plan that I have identified, but this must be balanced with other considerations including the benefits of development.
24. The proposal would make a small contribution to housing supply, especially with the cumulative effect of small 'windfall' sites, but I have not found that this supply is materially short at the moment. I also recognise the social and economic benefits which the appellants say would arise from the scheme. However, I find that these are very limited in nature and do not outweigh the

adverse effects in terms of the harm to the character and appearance of the area and the poor accessibility of the site. I conclude that the proposal does not constitute sustainable development when the NPPF is read as a whole.

25. Overall, I find that the other considerations put forward do not outweigh the conflict with the development plan and this indicates that planning permission should not be granted.

Conclusion

26. For the reasons give above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR