



Appeal Decision

Site visit made on 11 December 2019

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Appeal Ref: APP/C1435/W/19/3233400

9, Upper Horsebridge, Hailsham, BN27 3BD

- 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 Philip Hawkins against Wealden District Council.
 - The application Ref WD/2018/1758/F, is dated 9 August 2018
 - The development proposed is demolition of detached bungalow with garage and erection of 4.No dwellings with parking at the rear and associated facilities.
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Decision

1. The appeal is dismissed and planning permission for demolition of detached bungalow with garage and erection of 4.No dwellings with parking at the rear and associated facilities, is refused.

Background and Main Issues

2. This is an appeal against the failure of the Council to determine the application within the required timescale. The Council has now confirmed that it would have refused the planning application had it been in a position to do so.
3. Having had regard to the representations of both main parties, the main issues in this appeal are as follows:
 - i) The effect of the proposal on the living conditions of neighbouring residential properties with particular regard to noise and disturbance; and
 - ii) whether or not the location of the development is appropriate for the residential development proposed, having regard to the effect on the character and appearance of the area.

Reasons

Noise and disturbance

4. The proposed vehicular parking area would be sited on the existing residential garden. Cars associated with the new development would therefore be parked in close proximity to part of the northern and western boundary of the site.
5. In each case the adjacent land comprises a residential garden. Whilst the parking area would be located a reasonable distance away from the adjacent dwelling along Upper Horsebridge, the neighbouring park home to the north would be enclosed by roads, parking spaces and hardstanding on three out of

its four sides, as a consequence of this development. The gap between the park home and new parking area would be small and because of this, the existing resident of this building would experience frequent noise and disturbance from parking and vehicular movements associated with the development.

6. There is an intention to erect a fence and landscaping along the northern site boundary, and the appellant has also suggested that an acoustic screen could be installed at the site in response to a planning condition. However, it has not been demonstrated with any certainty that such measures would be effective in reducing noise and disturbance to an appropriate level, nor that such an acoustic fence would have an acceptable visual impact. Accordingly, it would not be reasonable to deal with this matter by planning condition.
7. In conclusion, the siting of the rear parking area as proposed here means that the development would lead to significant noise and disturbance to the park home to the immediate north of the site. Consequently, there would be unacceptable harm to the living conditions of the occupants of this existing residential property. The proposal therefore conflicts with saved policy EN27 of the Wealden Local Plan (1998) ("Local Plan"), which seeks, amongst other things, to ensure that development does not create an unacceptable adverse impact on the amenities of adjoining developments, including through noise.

Location

8. The proposal is located outside of the development boundary set out in the Local Plan and also reflected in the Wealden Core Strategy (2013). Policies DC17 and GD2 of the Local Plan state that housing development will not be allowed outside these boundaries, unless it conforms with other policies in the plan. That would not be the case here and the proposal therefore conflicts with the development plan. The supporting text in the Local Plan makes clear that the purpose of such boundaries is to protect and enhance the countryside.
9. However, in this case the site has an existing, longstanding residential use. Furthermore, it is surrounded by other residential development on three of its sides, with other residential buildings facing Upper Horsebridge and a large park home complex to its north. The built form associated with the proposed development does not represent a significant increase over that exhibited by the existing detached residential building on the site. As a small residential terrace, it would reflect similar development on the other side of Upper Horsebridge.
10. Furthermore, whilst outside of the development boundary, the site is effectively contiguous with the built-up area of Hailsham, which is a large settlement. As such, there are shops, services and public transport links close to the site, and these are accessible by foot or bike. It follows that future occupants of the site would be able to access services and facilities without reliance on the car, and in this respect the proposal represents a reasonably accessible form of development.
11. All of these site-specific considerations weigh heavily in favour of the development. They outweigh the conflict with the development plan, on this specific issue. The location is therefore appropriate for the proposed residential development. It would not harm the Countryside, would complement the

existing built environment, and overall there would be no harm to the character and appearance of the area.

Other Matters

12. Both parties cite a number of other development plan policies. I have had regard to these, but my findings relate to the most relevant policies to the two main issues in the appeal.
13. Reference was also made to policies in the emerging Wealden Local Plan (Submission Document) January 2019. However, it has been established that there are significant problems with this plan which mean that it cannot proceed to adoption. These are set out in a letter from the Inspector examining the plan dated 20 December 2019 and published in the course of this appeal. As such, these emerging policies only attract minimal weight in my consideration of this case. This position is accepted by both main parties. This emerging plan has no bearing on my findings on the main contested matters in this appeal.
14. It is common ground between the parties that the Council cannot demonstrate a 5-year housing land supply. There is a significant shortfall with the Council only currently able to demonstrate a housing land supply of around 2.62 years. As such, the policies most important for determining the application are out-of-date. In these circumstances the National Planning Policy Framework ("the Framework") advises that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
15. The proposal would provide four residential units, an increase in 3 over the existing development on the site, helping to address an established shortfall. As noted previously, these would be well located in an existing built up area close to services and facilities. A reasonable standard of living accommodation would be provided for future occupants, and the gardens would be of an adequate size. The construction activity associated with the development would help support the local economy, as would future occupants of the development over the long term, primarily through increased spending in local shops. Furthermore, as a small site it could be delivered quickly. In all of these respects the proposal accords with policies in the Framework, which seek to boost the supply of homes whilst building a strong economy. Cumulatively, these benefits attract a moderate amount of weight in the overall planning balance.
16. However, for the reasons discussed in the first main issue there would be significant harm to the living conditions of the occupants of a neighbouring residential property. The proposal conflicts with the requirement, set out in the Framework, of achieving a high standard of amenity for existing users. For this reason, the proposal would not achieve a well-designed place and I attach substantial weight to the harm that would arise, in consequence.
17. Overall, even taking account of the significant shortfall in housing land supply, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development does not apply.

18. Reference is made to various other appeal decisions, including those in Wealden, where the presumption in favour of sustainable development has been applied. However, in this case there would be harm to the living conditions of an existing resident, which has been found to be an important consideration in the planning balance. Consequently, these other appeal decisions are not precedents that justify this development, as proposed in its current form.
19. The Council originally expressed concern about a likely increase in traffic generation associated with the proposal in relation to nearby habitats sites. Having considered the Inspectors findings in relation to its emerging plan it has abandoned its position and withdrawn the evidence submitted on this matter¹. As I am not intending to grant planning permission, it is not necessary to carry out an Appropriate Assessment in relation to this proposal.
20. There are also objections to the proposal from interested parties. These set out other concerns about the effect of the development on the living conditions of residential properties, including privacy and outlook; and concern about highway safety, amongst other matters. However, they do not raise issues that materially add to the harm identified in the first main issue in this appeal.

Conclusion

21. Whilst the location is appropriate for the residential development proposed, there would be unacceptable harm to the living conditions of the occupants of a neighbouring residential property, through noise and disturbance. Overall, the proposal conflicts with the development plan and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR

¹ Including the various other appeal decisions submitted in relation to this matter.