



Appeal Decision

Site visit made on 7 January 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Appeal Ref: APP/C1435/W/19/3232687
Winton, Amberstone, Hailsham, BN27 1PE

- 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 John Noakes against Wealden District Council.
 - The application ref WD/2018/2112/F, is dated 20 September 2018.
 - The development proposed is erection of two new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two new dwellings, at Winton, Amberstone, Hailsham, BN27 1PE in accordance with application ref WD/2018/2112/F, dated 20 September 2018, but subject to the attached schedule of conditions.

Procedural Matter

2. The right of appeal is given only to the original applicant. As such, the appeal proceeds in the name of Mr John Noakes, who was the named applicant on the planning application form.

Reasons

3. This is an appeal against the failure to give notice of a decision within prescribed timescales. However, in a letter dated 7 January 2020 the Council advise that they do not wish to contest the appeal. This supersedes its original position, which set out concerns about the effect of the proposal on habitats sites. As such, the Council's view is that the appeal should be allowed subject to planning conditions.

Development boundaries

4. The site falls outside of the development boundaries set out in the Wealden Local Plan (1998) ("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 normally be allowed outside these boundaries. Accordingly, the proposal 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.
5. However, in this case the site sits within an established built-up area and has a longstanding residential use. Furthermore, it is surrounded by existing residential development on three of its sides. It is contiguous with the built-up

area of Hailsham, within close proximity to services and facilities including bus routes. The design of the development would respect the existing residential housing that surrounds it. In these circumstances there would be no harm to the countryside.

6. These site-specific material planning considerations justify an exception to the approach towards new development outside such boundaries, as set out in the adopted planning policies. This is an appropriate location for the residential development proposed.

Habitat sites

7. The Council initially contested the appeal on the basis of in combination effects upon the Ashdown Forest, which is designated as a Special Protection Area (SPA) and Special Area of Conservation (SAC), along with the Lewes Downs SAC.
8. The Ashdown Forest contains a large area of lowland heath and includes both European dry heath and North Atlantic wet heath. This provides a habitat for internationally important bird species, including the Dartford Warbler and Nightjar. The Lewes Downs SAC comprises calcareous grassland, including the the priority habitat orchid rich sites.
9. The Council's original concern was that the proposal would result in additional traffic movements depleting the air quality in these areas through, amongst other things, additional nitrogen emissions. This was reflected in modelling carried out by the Council of the impact of new residential development on these sites, undertaken during the development of its emerging plan. However, the letter from the examining Inspector, dated 20 December 2019 and published in the course of this appeal, expresses fundamental concerns with the approach adopted by the Council and the modelling used. This means that the plan cannot proceed to adoption in its current form.
10. Following this, the Council has withdrawn its objection to the proposal on these grounds. In doing so it appears to accept the advice of Natural England that the quantum of growth formerly envisaged in the emerging local plan would not adversely affect the integrity of these habitats sites through air quality impacts. The level of development proposed here, at 2 additional dwellings, is of a very limited scale; far lower than the amount proposed in the emerging local plan. Accordingly, it is reasonable to conclude that the air quality impacts of two dwellings within an existing built up area would be negligible in relation to the habitat sites identified above. Consequently, a likely significant effect can be ruled out and there is no need to carry out an appropriate assessment in relation to this proposal.

Other Matters

11. Adequate provision for waste storage is shown on the proposed plans. No other issues have been raised in the consultation that took place whilst the application was under consideration by the Council that would justify the refusal of planning permission. The proposal complies with the National Planning Policy Framework ("the Framework"), which seeks to achieve well-designed places whilst delivering a sufficient supply of housing.

Conditions

12. Conditions are necessary for legal reasons and in the interests of certainty; to ensure a satisfactory standard of development is achieved in relation to the prevailing character and appearance of the area; and to ensure that provision is made for appropriate drainage as part of the development.
13. The Council also suggested conditions that would remove permitted development rights in respect of the new dwellings. However, the proposal has not been justified on the basis that it comprises a farm workers dwelling. Nor is the removal of such rights justified by a general desire to control new development. These would be detached properties in well sized plots, with a reasonable degree of spacing between them and other existing development. The removal of permitted development rights is not necessary to make the development acceptable in planning terms.
14. In some cases, I have amended the wording of the Council's proposed conditions to avoid the need for pre-commencement conditions and to ensure that they comply with the policies on the use of planning conditions, as set out in the Framework and Planning Practice Guidance.

Conclusion

15. Whilst the proposal does not comply with the development plan, other material planning considerations, as discussed in my reasoning above, indicate that the appeal should succeed.

Neil Holdsworth

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date on which this permission is granted.
- 2) No development above ground level shall take place until details of surface water drainage, which shall follow the principles of sustainable drainage as far as practicable, have been submitted to and approved in writing by the Local Planning Authority. The drainage shall be provided in accordance with the approved details before first occupation of the related dwelling.
- 3) Before preparation of levels on site for the development hereby approved, details of the finished ground floor levels of the buildings in relation to the existing and proposed site levels, the adjacent highway and adjacent properties, together with details of levels of all accesses to include pathways, driveway, steps and ramps shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved under the terms of this condition.
- 4) Before construction above ground level of the dwelling hereby approved, samples of materials to be used on the external surfaces of the development shall be made available for inspection on site and adequate notice given to the Local Planning Authority who will arrange inspection and thereafter approve in writing. The approved materials shall be used in the implementation of the development.
- 5) No part of the development hereby approved shall be occupied until the car parking spaces and turning area shown on drawings numbered 1718/250/03 C, have been provided in accordance with the approved plans. Once installed, this area shall be retained for its intended purpose thereafter.
- 6) The development shall be carried out in accordance with the following approved plans:
 - 1718/250/01 A
 - 1718/250/02 A
 - 1718/250/03 C
 - Design & Access Statement

END OF SCHEDULE