



Appeal Decision

Hearing Held on 25 February 2020

Site visit made on 26 February 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 30 March 2020

Appeal Ref: APP/P1425/W/19/3237569

45 Allington Road, Newick BN8 4NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Fairfax Acquisitions Limited against the decision of Lewes District Council.
 - The application Ref LW/18/0993, dated 13 December 2018, was refused by notice dated 3 May 2019.
 - The development proposed is an outline application for 16 new dwellings, including 40% affordable units, with the provision of a new vehicular and pedestrian access via Allington Road. Provision of public open space and a new community car park to serve George V playing fields, associated infrastructure and landscaping including a 20 metre deep tree buffer to the southern boundary. Demolition of existing buildings and structures (revised application following LW/17/0905).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with all matters reserved except for access. The details submitted with the application include reference to layout. Whilst not formally part of the scheme and provided for illustrative purposes, I have nevertheless treated these details as a guide as to how the site might be developed. I have determined the appeal on this basis.
3. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.
4. In part, the development plan comprises policies of the Lewes District Local Plan Part 1: Joint Core Strategy (2016) (the LPP1). On the 24 February 2020, Lewes District Council adopted the Lewes District Local Plan Part 2: Site Allocations and Development Management Policies (the LPP2) which, amongst other matters, replaces Saved Policy CT1 of the Lewes District Local Plan Part 1 (2003) with Policy DM1 of the LPP2. Since its adoption, the policies of the LPP2 also comprise part of the development plan.

Main Issue

5. The main issue in this appeal is whether the proposal would constitute an appropriate form of development with particular regard to the provisions of local and national policy in respect of the location of the development and the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Character and Appearance

6. The appeal site comprises land measuring approximately 1.2 hectares in area, which is located on the southern side of Allington Road, Newick. The site is separated from residential development located on the southern side of Allington Road by a public footpath which adjoins the northern boundary of the site. The site slopes downhill from north to south, with the incline of the slope increasing towards the southern boundary. A further public footpath runs adjacent to the southern boundary of the site. The appeal site is predominately grassland, but also includes some trees, sheds and remnants of a glasshouse which the evidence before me indicates were last used for horticultural purposes.
7. Whilst I acknowledge that the policies of the development plan and the Newick Neighbourhood Plan (the NNP) do not place a cap or limit on the quantum of housing to be delivered, it is not disputed that the appeal site, with the exception of the area to be used to provide access to the site from Allington Road, is located outside of the settlement boundary.
8. Policy DM1 of the LPP2 provides that outside of the settlement boundaries, the distinctive character and quality of the countryside will be protected, and that new development will only be permitted where it is consistent with specific development requirements or where a need for a countryside location is demonstrated. Policy CP10 of LPP1 seeks to conserve and enhance the District's natural environment and landscape character. Policy EN1 of the NNP states that new development within the parish should respect local landscape character.
9. It has been put to me by the Appellant that Policy CP10 of the LPP1 and Policy EN1 of the NNP are not consistent with paragraphs 170 -173 of the Framework with regards to the distinction drawn between designated landscapes, valued landscapes and other landscapes. However, in my view the provisions of Policy CP10 of the LPP1 and Policy EN1 of the NNP are consistent with the aims and objectives of paragraph 170 of the Framework in that they seek to conserve and enhance the intrinsic character and beauty of the countryside.
10. The evidence before me indicates that the parish of Newick is located within the Low Weald, which the supporting text to Policy CP10 of the LPP1 describes as having its own special character comprising a gentle rolling landscape with low lying land containing a patchwork of small fields, ancient woodland and waterways. The text further provides that the extensive views from the South Downs National Park, located south of the appeal site, towards the Low Weald is of particular value.

11. The southern side of Allington Road close to the appeal site is characterised by detached dwellings set within well-proportioned grounds forming a ribbon development which fronts onto the highway. To the rear of these dwellings, the character of the area changes significantly to that of more open countryside with the public footpath which is located adjacent to the northern boundary of the site, marking the transition from the urban form of the village to the more open countryside located south of the village.
12. There are open areas of land to the west and east of the site which are currently used as orchards and playing fields associated with the village and the school. In my view, the appeal site contributes positively to the character and appearance of the Low Weald as described in the supporting text to Policy CP10 of the LPP1, by providing an undeveloped buffer between the built form of Newick and the more open countryside located south of the site. Whilst it is acknowledged that the appeal site is not covered by any statutory or non-statutory landscape designations, in my view it nonetheless does have value in terms of its contribution towards the green buffer that exists between the urban form of Newick and the more open countryside south of the site and village.
13. The proposal seeks to introduce 16 new dwellings at the appeal site with a further substantial area of hardstanding being included in order to provide additional parking for the village and its playing fields located east of the appeal site. Whilst I acknowledge that the proposal would provide some screening vegetation adjacent to its southern boundary, the appeal site would nonetheless be visible from the network of public footpaths adjacent to the site and within the wider area. Specifically, by reason of the sloping nature of the land, the appeal proposal would be highly visible from the surrounding predominately open countryside south of the appeal site.
14. Whilst I acknowledge that the proposal is in outline and that matters of design and layout are reserved for a later date, the constraints of the appeal site are such that, when viewed from the public footpath and wider open landscape south of the appeal site, the appeal scheme would not be seen as forming a natural or logical extension of the village, but rather that the proposal would be viewed as a projection and encroachment of the built form of Newick into the countryside.
15. By reason of the inclusion of a substantial area of hardstanding to provide parking and due to the likely presence of domestic paraphernalia associated with residential occupation of the proposed dwellings, the appeal scheme would substantially alter the appearance of the more open undeveloped areas south of the village, which makes a considerable and noteworthy contribution to the rural character and appearance of the locality, and would be significantly harmful to the quality and intrinsic beauty of the surrounding countryside south of Newick.
16. Furthermore, the proposal would not reflect the character and appearance of the ribbon form of development which is located on the southern side of Allington Road and therefore would be harmful to the character and appearance of the village. Whilst I acknowledge that the nearby development at Allington Place comprises dwellings arranged in a cul-de-sac as opposed to a ribbon fronting onto Allington Road, that development is located north of the open areas of playing fields and countryside and does, in my view, form a

logical part of the village which infills the space between the King George V playing fields and the Mainwaring Robertson Field located east of the appeal site.

17. For the above reasons, the appeal scheme would have a significant and harmful effect on the character and appearance of the surrounding area and the village of Newick. Accordingly, the proposal would conflict with Policy DM1 of the LPP2 and Policy CP10 of the LPP1 which, amongst other things, seek to protect the distinctive character of the countryside. The appeal scheme would also be contrary to the objectives of Policy EN1 of the NNP and would conflict with the provisions of paragraph 170 of the Framework which requires that proposed development contributes to and enhances the natural environment by recognising the intrinsic character and beauty of the countryside.
18. The Council have also cited Policy CP11 of the LPP1 and Policy H01.1 of the NNP within their reason for refusal. Whilst I have carefully considered the written and verbal submissions of the Council with regards to the application of these policies in relation to the scheme, it is apparent from the wording of these policies that they primarily concern matters of design. As the planning application is in outline with matters such as appearance, layout, scale and landscaping reserved, no assessment of the appeal proposal in light of these policies is required.

Planning Balance

19. It has been put to me by the Appellant that the Council cannot currently demonstrate a five year housing land supply, by reason of the method used in the calculation of the requirement and due to the evidence which the Council has provided to support the assertion that sites will be deliverable within the required period. The Council disagrees with the Appellant's position, maintaining that it can adequately demonstrate a five year housing land supply. I have had careful regard to the evidence put before me.
20. If I were to agree with the Appellant, that a five year housing land supply could not be demonstrated, the Framework provides that relevant policies for the supply of housing should not be considered up to date, and further states that where the development plan is out of date, 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 when taken as a whole.
21. Turning to the benefits of the scheme, it is maintained by the Appellant that the proposal would provide social, economic and environmental benefits. With regards to the economic benefits, there is no dispute between the main parties that the scheme would provide employment opportunities during the construction phase and I accept that housing at this location may help maintain the vitality of Newick and other nearby settlements through the spend of future occupants of the proposed scheme and the potential for such expenditure to create additional jobs within the area.
22. The Appellant has further made reference to the New Homes Bonus as a benefit. However, New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. I am mindful, in this regard, that the Planning Practice Guidance makes it clear that it would not be

- appropriate to make a decision based on the potential for a development to raise money for a local authority. Accordingly, whilst the Bonus is a material planning consideration, it is not one to which positive weight can be attached.
23. By reason of the scale of the appeal scheme, I do, however, give moderate weight to the benefit of local expenditure, including the potential creation of additional employment resulting from that spend, which would flow from the long-term occupation of the proposed dwellings.
24. In terms of the social benefits of the scheme, I acknowledge that the proposal would provide a mixture of housing including seven units of affordable housing in an area where it is not disputed by the Council that there is an affordable housing need. Furthermore, the proposed scheme would be accessible to a range of services and facilities located within Newick. However, these benefits are again tempered by the modest size of the proposal and, consequently, I attach moderate weight to these considerations in the determination of this appeal.
25. The Appellant has also put it to me that the provision of a substantial area for car parking at the site, would provide a benefit to the community for those making use of the playing fields close to the appeal site. However, there is no evidence before me which indicates that such a facility is needed, or any evidence that it would provide a benefit to the community. On the contrary, it was put to me at the hearing by local residents that additional parking was unnecessary given that at times when events were being held at the playing fields, parts of the open community land was used to provide additional parking. There is no evidence before me which indicates that there are concerns about illegal or obstructive parking in the area which would be indicative of parking stress, and consequently I attach only very limited weight to the provision of a community car park at the appeal site.
26. In terms of environmental benefits, the Appellant maintains that the proposal would provide biodiversity enhancements through the provision of additional trees and planting to create a green buffer in the southern most section of the appeal site. The Appellant has also put it to me that it is their intention to provide energy efficient dwellings utilising up-to-date construction methods. However, in my view any such potential benefits of the scheme would be limited by the scale of the proposal and attract only limited weight in the determination of this appeal.
27. Against these benefits, and for the reasons given above, the proposal would result in significant harm to the character and appearance of the surrounding area. By reason of the importance that the Framework places on the conservation of the environment and the recognition of the intrinsic character and beauty of the countryside, I attach significant weight to these harmful effects in the determination of this appeal.
28. In summary, even if I were to conclude that there is a shortfall in the five year supply of housing, and that the shortfall is of the scale suggested by the Appellant around three years, the significant harm to the character and appearance of the surrounding area and the harm to the character of the village would significantly and demonstrably outweigh the moderate benefits which the proposal would provide.

Other Matters

29. It is acknowledged that the site was included within the Council's Strategic Housing and Economic Land Availability Assessment. However, that document is not policy and has no statutory status in the allocation of the site for development and, consequently, I have attached only very limited weight to this consideration in the determination of this appeal.
30. The Appellant has referred to a number of appeal decisions within their submissions, which it is maintained support the case for the Appellant with regards to the location of new housing within the District. Whilst I have been provided with copies of the Decisions for these appeals, I have relatively limited information in respect of the considerations which formed those decisions. In any event, the appeals cited by the Appellant relate to sites which do not appear to share all of the same characteristics as the appeal site and, consequently, I have determined this appeal on its own merits.
31. The site falls within close proximity to the Ashdown Forest. This is, amongst other things, a Special Protection Area and a Special Area of Conservation, which is a European designated site. The significance of these areas derives from, amongst other things, the extent of lowland heath within it, which is an important habitat for wildlife including birds of European importance.
32. The Appellant has provided a signed planning obligation which, it is maintained, would provide the required mitigation in relation to the European designated site. The Council has not put to me that the mitigation provided would be insufficient to meet the requirements in relation to the European designated site. However, I have not found it necessary to examine this matter in any greater detail as, for the reasons outlined above, I am dismissing the appeal for other reasons and therefore it would not alter my overall conclusion in relation to this appeal.

Conclusions

33. For the reasons given above, I conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR

APPEARANCES

FOR THE APPELLANT

C Boyle QC	Landmark Chambers
I Newton	Hyland Edgar Driver
S Brown BSc.(Hons), DipTP, MRTPI	Woolf Bond Planning
G Ritchie MRTPI	Woolf Bond Planning
T Rodway	Rodway Planning Consultancy

FOR THE LOCAL AUTHORITY

J Cattell	Lewes District Council
V Pullan	Lewes District Council
N Sharp	Lewes District Council
T Thom	Lewes District Council

INTERESTED PERSONS

1. C Armitage
2. A Black
3. P Willcox
4. L Willcox
5. J Lucas
6. C Wikins
7. T Turk
8. C Timm
9. M Payne
10. A Smith
11. J Samson
12. R Bailey
13. J Bailey

DOCUMENTS SUBMITTED AT HEARING

1. Letters of Notification dated 18 December 2019 and 25 February 2020.
2. Copy extracts from Planning Practice Guidance 2014 and 2019 versions.
3. Report to Fylde Borough Council on the Council's Annual Position Statement and dated 15 January 2020.
4. Copy adopted Lewes District Local Plan Part 2: Site Allocations and Development Management Policies.

5. Signed Copy Section 106 Planning Obligation document dated 25 February 2020.
6. Copy written statement of C Wikins