The Planning Inspectorate

Appeal Decision

Site visit made on 16 March 2021

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021

Appeal Ref: APP/C1435/W/20/3260796
Baytree Cottage, Bay Tree Lane, Polegate, BN26 6QP

- 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 Philip Salvi against the decision of Wealden District Council.
- The application Ref WD/2018/1058/F, dated 14 May 2018, was refused by notice dated 7 April 2020.
- The development proposed is described as demolition of building used for storage of building materials/office and erection of dwelling with parking.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of building used for storage of building materials/office and erection of dwelling with parking at Baytree Cottage, Bay Tree Lane, Polegate, BN26 6QP in accordance with the terms of the application, Ref WD/2018/1058/F, dated 14 May 2018, and the plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

Procedural matter

2. The appeal form states that the appellant is Mrs M Adkins and the address of the property is Baytree Cottage, Sayerland Lane, Polegate, BN26 6QP. However, since the appeal was submitted, it has been confirmed that the appellant is Mr Philip Salvi and the address of the appeal site is Baytree Cottage, Bay Tree Lane, Polegate, BN26 6QP. The appeal has been determined on this basis.

Main Issue

3. The main issue is whether the appeal site is in a suitable location for housing, with particular regard to accessibility to local services and facilities and choice over transport modes.

Reasons

4. The Appeal site is located in an area of comparatively flat countryside to the north of the settlement of Polegate and to the east of the A22 Trunk Road. The surrounding countryside is characterised by fields enclosed by traditional rural hedgerows and trees; narrow lanes; and scattered dwellings and other buildings. The appeal site is separated from Polegate by the A27 bypass, which forms a physical, visual and functional barrier between the main built-up area of Polegate and the countryside to the north. However, there are two existing

foot/cycle bridges over the A27 linking the appeal site and the main built-up area of Polegate.

5. The appeal site comprises a small storage/office building; an area of hardstanding and vehicular access, which also serves Baytree Cottage and the grounds to that property. The building and hardstanding benefit from a Lawful Development Certificate for a commercial store/office, parking of commercial vehicles and the stationing of a skip for commercial waste. At the time of the appeal site visit there appeared to be little commercial activity taking place and part of the appeal site appeared overgrown and unused. The proposal is for the demolition of the office/store and its replacement with a modest sized bungalow, which would be sited a short distance to the north of the building to be demolished.

6. Policy WCS14 of the Wealden District (incorporating part of the South Downs National Park) Core Strategy Local Plan 2013 (CS) and Policy EN1 of the Wealden Local Plan 1998 (LP) state that in determining planning applications there is a presumption in favour of sustainable development. Although LP Policy EN1 is not referred to in the Council's decision notice, it is referred to in their delegated report and is consistent with CS Policy WCS14.

7. The LP and the CS, set out the settlement hierarchy for the District. They seek to ensure that the majority of residents in the District can access facilities whilst minimising the need to travel; and to conserve and enhance the rural environment. This includes preserving the landscape and environmental quality of areas within the rural fringes around existing settlements. This is in recognition that development can harm the rural character of the edges of settlements and can place abnormal demands on services. New development in rural areas is primarily restricted to meet an essential need, to support rural diversification and the sustainability of the countryside.

8. Consistent with this, CS Policy WCS6 identifies Polegate as a rural service centre which serves the local community and the surrounding area. It allows for a significant number of new homes to meet the economic needs of Polegate and the housing needs in the southern part of the District. It also retains a development boundary for policy purposes, outside which the rural policies in the development plan apply. LP Policies GD2 and DC17 seek to resist new residential development in the countryside to a limited number of exceptions that are catered for within other policies in the development plan. The proposal does not fall within any of these exceptions. However, this conflict with the above development plan policies is not the end of the matter.

9. The appeal site sits between Baytree Cottage and Spring Cottage and there are several other dwellings in the vicinity of the appeal site. As such, with regard to paragraph 79 of the National Planning Policy Framework (Framework), I find that the site is not 'isolated'. This does not however imply that a dwelling has to be isolated in order for restrictive policies to apply as there may be other circumstances when development in the countryside should be avoided.

10. The Framework states that notwithstanding their age, due weight should be given to adopted development plan policies according to their consistency with the Framework. The Framework advises that the purpose of the planning system is to contribute to the achievement of sustainable development, which, amongst other things, includes sustainable transport; helping to improve biodiversity; mitigating and adapting to climate change; and making effective

use of land. It advocates a plan led approach where planning policies and decisions should play an active role in guiding development towards sustainable solutions. In doing so they should take account of local circumstances, to reflect the character, needs and opportunities of each area. In relation to rural housing paragraphs 77 and 78 of the Framework support the provision of housing that meets local needs and where it will enhance or maintain the vitality of rural communities.

11. With regard to accessibility, paragraph 103 of the Framework confirms that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

12. The closest community facility/service on the north side of the A27 is a service station. It includes a petrol filling station, convenience store, fast food outlet, hotel and restaurant. This facility is approximately 500 metres from the appeal site and can be accessed via a local public footpath and cycle path route, which passes very close to the appeal site. Whilst partially unlit this route nonetheless provides for convenient, easy and safe access during daylight hours.

13. One of the foot/cycle bridges over the A27 is located adjacent to the appeal property and the other is some 400 metres to the east and accessed via the footpath/cycleway network. They provide direct physical and functional links between the appeal site and the main built-up area of Polegate and it is clear that they are used by residents. Immediately to the south of the bridges is an area of parkland, with the built-up area of Polegate just beyond. Within Polegate there are a broad range of services and community facilities, bus routes, a school and railway station. Using these bridges, the school and closest bus stop are within one kilometre of the appeal site whilst the High Street and railway station range between one and 1.3 kilometres from the appeal site.

14. Immediately to the south of Polegate is the settlement of Willingdon, with Eastbourne beyond, which together offer an extensive range of services and facilities. Although it would be unrealistic to expect residents to walk or cycle to them, they are a relatively short drive away.

15. I have also taken into account that some 50% of the residents in the District live in rural areas and the appeal site is clearly more accessible than many rural homes. Furthermore, as the proposal would result in just one additional dwelling, any increase in car travel would be modest.

16. Having regard to the above factors, I find that walking and cycling to the service station and local facilities in Polegate during daylight hours would be a realistic option for occupiers of the proposed dwelling. However, whilst there are a broad range of community services and facilities within a relatively short driving distance of the appeal site, this does not fully mitigate the fact that the occupiers of the proposed dwelling would be reliant on the use of private vehicles for most journeys.

17. The Framework supports the provision of business sites in rural areas to support the rural economy. In this instance the business unit is very small and shares the existing access and parking area with Baytree Cottage. As such it is not ideally placed to serve business uses that are not associated with the occupation of Baytree Cottage. Also, much of the site is already in domestic

use. For these reasons, I find that the loss of this small business unit would not have a material impact on the rural economy. At the same time the occupiers of the proposed dwelling would be highly likely to use local facilities and services, thereby supporting the local economy.

18. The existing storage/office building has the appearance of a large utilitarian domestic garage. Whilst modest in form and height, its white painted blockwork side wall and almost flat roof hidden behind a false pitch are clearly visible from and have a visually degrading impact on the street scene. The proposed bungalow would sit comfortably between the dwelling at Baytree Cottage and the dwelling at Spring Cottage. It would be traditionally designed with brick walls under a steeply pitched plain tiled roof. The proposed dwelling would face the road and would be positioned behind a generous front garden with ample room for soft landscaping and the retention of all boundary planting.

19. Subject to the use of external materials that reinforce the traditional rural character of dwellings in the locality; the retention of the boundary planting; and provision of an appropriate soft landscaping scheme, the proposed development would respect and preserve the character and appearance of its rural surroundings. It would also ensure that the scheme complies with CS Policy WCS12 which deals with biodiversity. Whilst this policy is referred to in the Council's decision it has not been evidenced why it should be taken into account in dealing with the reason for refusal and so is not addressed further in this decision.

20. The appellant and the Council have referred to a number of appeal decisions which address accessibility, the redevelopment of sites and building conversions. I find that none of these schemes are directly comparable to the proposal in relation to proximity to villages and larger settlements; the nature and scale of the proposal; the location and setting of the sites; and the range of policies applicable. They do however serve to highlight the need to assess the proposal in light of the prevailing planning policies and the individual merits of the proposal.

21. For these reasons, I find that the proposal would preserve the landscape and environmental quality of the area and would contribute to the economy of Polegate. However, the site does not have good transport accessibility and the proposal would not meet an essential need, support rural diversification, or the sustainability of the countryside. At the same time, the proposal would result in a modest level of harm to the achievement of the Council's adopted spatial strategy as a whole.

22. I therefore conclude that the proposed dwelling would not be located in a suitable location for housing, with particular regard to accessibility to local services and facilities and choice over transport modes. It would conflict with CS Policies WCS6 and WCS14 and LP Policies EN1, GD2 and DC17 as set out above.

Planning Balance

23. Both the Council and the appellant advise that the District does not have a deliverable supply of sites to provide a minimum five-years supply of housing sites. The Council has confirmed that they can only demonstrate a housing land supply of 3.28 years and that the Council delivered just 83% of the

required housing over the past 3 years. Therefore, the development plan policies that are most important for determining the appeal are out-of-date and the tilted balance as set out in paragraph 11d of the Framework is engaged. In this instance criterion i is not applicable, but criterion ii is.

24. The Council's current housing strategy has not provided for the housing land supply required. Hence the weight to be given to the above development plan policies in this respect is substantially reduced due to the Council's significant shortfall in housing land supply.

25. The appeal site does not have good accessibility and the proposal would not meet an identified local need, or enhance or maintain the vitality of a rural community, in accordance with paragraphs 77 and 78 of the Framework. However, as a result of the aforementioned housing land supply situation, I give limited weight to these adverse impacts and policy conflict.

26. The proposed development would provide a small family dwelling and so would make a very small contribution to the supply of homes in the District, which is a social benefit. In view of the level of shortfall in the District's housing land position and the withdrawal of the new Local Plan in 2020 this is a benefit of the scheme to which I give moderate weight in the planning balance.

27. The proposed development would be more accessible than many rural homes and a full range of community services and facilities would be within a short distance of the appeal site, with the scope for some journeys to be made by sustainable modes. Furthermore, the dwelling would be located on previously developed land. Paragraphs 117 and 121 of the Framework respectively promote the effective use of land and taking a positive approach to proposals for alternative uses on unallocated developed land, to meet identified needs. I give a modest amount of weight to these environmental factors in the planning balance.

28. The construction of the dwelling would provide employment and the occupiers of the proposed dwelling would likely support local services and facilities in Polegate. In these ways the proposal would support the economic and social objectives of sustainable development, to which I give modest weight.

29. Due to the small scale of the proposed development the weight given to the above benefits is limited. However, in this instance the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits resulting from the proposal when assessed against the policies in the Framework taken as a whole. I therefore find that the presumption in favour of sustainable development should be applied.

30. The proposal would conflict with the development plan, however this conflict is outweighed by other material considerations, including the provisions of the Framework and in particular paragraph 11. Accordingly, for the reasons stated above and taking all other matters into consideration, I conclude that the appeal should be allowed.

Conditions

31. I have reworded some of the Council's proposed conditions in the interests of clarity and consistency. It is necessary to specify conditions confirming the time limit for development and approved plans to ensure clarity and certainty.

Conditions relating to landscaping and the protection of trees and hedges during demolition and construction, the removal of demolition materials from the site, and approval of the external materials of the proposed development are required in the interests of respecting the character and appearance of the area. Water and energy efficiency measures and the provision of on-site parking spaces are necessary in the interests of energy efficiency and highway safety. Neither the council nor the appellant have raised any concerns to these conditions and their wording.

Conclusion

32. For the reasons set out above, the appeal is allowed.

Elizabeth Lawrence

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. The development hereby permitted shall be carried out in accordance with the following approved plans: BAY 201B, BAY 202, BAY 205A and BAY 206A, all date stamped 6 June 2018.

3. Before demolition of the existing building or any groundworks are undertaken for the development hereby permitted, a scheme of landscape proposals shall be submitted to and approved in writing by the local planning authority, which shall include full plans and specifications for all hard and soft landscape works, to include proposed boundary treatments, and indications of all existing trees and hedgerows on the land, including those to be retained together with measures for their protection during the construction of the development. The development shall be carried out in accordance with the approved details.

   All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner, and any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

4. Before any groundworks are undertaken for the construction of the dwelling hereby permitted, the existing storage/office building on the application site shall be demolished and all arising materials shall be removed from the site (or the arising materials re-used or retained in a position on site to be agreed by the local planning authority in writing and thereafter so retained).

5. Before any groundworks are undertaken for the construction of the dwelling hereby permitted, full details for the incorporation of water and energy efficiency measures, the promotion of renewable energy and sustainable construction within the development shall be submitted to and agreed in writing by the local planning authority and the development shall be carried out in accordance with the approved details and thereafter so retained.

6. Before any construction above ground level of the dwelling hereby permitted, samples of materials to be used on the external surfaces of the dwelling shall be made available for inspection on site and approved in writing by the Local planning authority. The development shall be carried out in accordance with the approved details.

7. Before first occupation of the dwelling hereby permitted, the vehicle parking spaces and turning area shown on drawing no. BAY 201B, date stamped 6 June 2018, shall be provided, and thereafter shall be retained for such purposes.