



## Appeal Decision

Site Visit made on 10 May 2021

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 21 June 2021**

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**Appeal Ref: APP/P1425/W/20/3263505**

**5 Greenhill Way, Peacehaven BN10 7UL**

- 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 Brian Philp against the decision of Lewes District Council.
  - The application Ref LW/20/0452, dated 6 July 2020, was refused by notice dated 22 September 2020.
  - The development proposed is described as the construction of a 2 bedroom bungalow to the land at the rear.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of a 2 bedroom bungalow on land at the front of 5 Greenhill Way, Peacehaven BN10 7UL in accordance with the terms of the application, Ref LW/20/0452, dated 6 July 2020, and the plans submitted with it, subject to the conditions set out in the attached schedule.

### Preliminary Matter

2. In the banner heading above, the description of development is taken from the application form and refers to the appeal site as 'land at the rear', ie of No 5 Greenhill Way. It is evident from the appeal documents and my site visit that the land proposed to be developed is at the front of No 5 and is the appeal site. In my decision above I have amended the description of development in the interests of clarity.

### Main Issue

3. The main issue is whether the development proposed would provide a suitable location for housing, having regard to the character and appearance of the area and the need to travel.

### Reasons

4. The appeal site is a rectangular shaped parcel of land. About half of it is a mown lawn and the rest comprises hard surfaces, a two bay car port, a large workshop/storage shed and a smaller garden shed. There are boundary walls, fences and some hedgerow on three sides between about 1.2m to 1.8m high. It is open at the front, next to a private cul-de-sac road opposite No 5, which is a detached bungalow. This bungalow is in a row of mainly similar dwellings, on the edge of residential development along the north side of Telscombe Road, within the Council's defined settlement 'planning boundary' for Peacehaven.
5. On one side of the appeal site is a detached bungalow at No 14 Greenhill Way with a field beyond. On the other side is an undeveloped parcel of land with a

group of trees beyond. To the rear is a small open grassed area set within another group of trees. Beyond these trees, on lower ground, are some individual dwellings set within a patchwork of groups or belts of trees, hedgerows and fields. All of this land, including the appeal site and No 14 is in the countryside, which is known as 'the Valley area'. On the other side of the Valley area, the countryside is also within the Sussex Downs Area of Outstanding Natural Beauty (AONB) and the South Downs National Park (SDNP), over 300m away at the closest point<sup>1</sup>.

6. The Lewes District Local Plan Part 2, February 2020 (LPP2) is a recently adopted plan. LPP2 Policy DM1 seeks to protect the distinctive character and quality of the countryside outside of the planning boundary by restricting development to that which is consistent with a specified plan policy or needs a countryside location. I note that the LPP2 states that 'Whilst land outside of the planning boundaries is regarded as countryside for planning policy purposes, this does not represent an absolute restriction on development' and that 'The potential for new development outside of the planning boundaries... to conserve... the intrinsic qualities of the rural area is recognised'<sup>2</sup>.
7. On the evidence before me, the lawful use of the appeal site is not clear, though it has an overt domestic feel. It would be redeveloped to provide a detached bungalow with one of the sheds retained. There would as a result be a greater degree of urbanisation of the appeal site than already exists and, to that extent, increased countryside encroachment. The appellant has not suggested that the appeal proposal would be a form of development that is specified by any of the Council's development plan policies, or that it needs to be in the countryside.
8. However, the proposed bungalow and its plot would be similar in size, siting, layout, design, appearance, scale and massing to the bungalows nearby, including No 5 and, in particular, No 14. I note that this is common ground with the Council<sup>3</sup>. Moreover, although by definition the development would be in the countryside, it would nonetheless be demonstrably within this particular local pattern of residential development and be discernible as part of the built-up area of Peacehaven. It would not therefore be isolated and would have more affinity with, and be readily assimilated into, this immediate residential context. Indeed, for these same reasons, the appeal site is not suitable or appropriate for outdoor equestrian, leisure or recreation use, as is otherwise envisaged in the Valley area by saved Policy PT20 of the Lewes District Local Plan, March 2003 (LP).
9. The bungalow would be well set back from the lower land to the north and well screened and contained by the surrounding groups and belts of trees, and by the bungalow at No 14. As I saw at my site visit, it would not therefore have any meaningful visual or spatial relationship to the wider, more distinctive, and mostly undeveloped open countryside of the Valley area beyond, including to the north east and north west. Nor would it be conspicuous or prominent in reciprocal public views from roads or footpaths in these parts of the countryside. I note that this is also common ground with the Council<sup>4</sup>. It would not therefore unduly interfere with the appreciation of the transition in the

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<sup>1</sup> Council's officer report.

<sup>2</sup> LPP2 paragraph 4.7.

<sup>3</sup> Council's officer report.

<sup>4</sup> Council's officer report.

prevailing nature of land use and development between the planning boundary, across the Valley area and towards the distant edge of the SDNP and the AONB, which is otherwise the primary concern of LP saved Policy PT19.

10. The appellant suggests that Peacehaven is a 'District Centre' and that the Lewes District Local Plan Part 1, May 2016 (LPP1) accepts these are 'Accessible settlements by road and public transport containing a range of shops, employment opportunities and facilities including a secondary school. Such settlements are not reliant upon other centres to meet day to day needs...'. The appellant considers that the appeal site is 'within easy walking distance of regular bus services (Telscombe Road), Meridian Community Primary School, the Peacehaven Community Garden and Tesco Express. Further facilities in the town centre are also easily accessible to the south'. I also note that the Council agrees that the appeal site is in a 'fairly sustainable location (in terms of proximity to bus stops and being within 30 minutes' walk to Peacehaven town)'<sup>5</sup>. On the evidence before me, I have no reason to disagree in these regards. Plainly, the development would be next to existing dwellings within Peacehaven and therefore be equally accessible to these services and facilities, including by non-car modes of travel.
11. The Council is concerned that if planning permission is granted for the development it could set a precedent 'likely to encourage further applications in this area to the north of the planning boundary'. However, I have determined this appeal on its individual planning merits and the site specific circumstances of this case, including the particular relationship of the appeal site and the development proposed to its immediate and wider context. Consequently, even if other applications were made it is not inevitable that this would result in further planning permissions.
12. I find that while not fully in accordance with LPP2 Policy DM1, the development proposed would nonetheless conserve the intrinsic qualities of the countryside in the Valley area and so would not undermine this objective of the policy. It would also provide a suitable location for housing having regard to the character and appearance of the area and the need to travel and would not therefore cause unacceptable harm in these regards. The Council indicates that it has a 5-year housing land supply and this is not disputed by the appellant. On the evidence before me, I therefore have no reason to differ in this regard. Nonetheless, the delivery of housing by the appeal proposal would be aligned with the Government's objective in the National Planning Policy Framework (Framework) to 'significantly boost' the supply of homes<sup>6</sup>. Accordingly, a single dwelling would be a modest benefit in this respect.
13. The development would also accord with LPP1 Policies CP2, CP11 and CP13 and LPP2 Policy DM25<sup>7</sup>. These policies include that development should conserve the character of the built-up and rural environments, be sympathetic in siting and layout to the site and its immediate surroundings, including views, and be compatible in scale, form, height, massing and proportions to existing buildings, building lines, roofscapes and skylines. It should also reduce the need to travel and promote a sustainable system of transport and land use.

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<sup>5</sup> Council's officer report.

<sup>6</sup> Framework paragraph 59.

<sup>7</sup> Provided in the Council's appeal questionnaire.

14. It would also be consistent with Framework paragraphs 102, 103, 108, 110, 124, 127(a), (b) and (c). These include that development should create high quality places, add to the overall quality of the area, be visually attractive as a result of good layout and be sympathetic to local character, including the surrounding built environment and landscape setting. In location and scale the pattern of growth should support access to, and the use of, existing transport infrastructure and promote sustainable transport modes.

### **Other Matters**

15. Some interested parties also objected to additional traffic using the private road and Greenhill Way. Next to the appeal site, the private road is a shared surface for pedestrians and cars from four dwellings. It includes a tight bend which is likely to encourage low vehicle speeds and while some cars may reverse onto the road, it is wide enough for two vehicles to pass. Visibility is otherwise generally good and the amount of traffic and pedestrians using this road is likely to be relatively low. A single dwelling would not add significantly to this, including visitors, or to traffic in Greenhill Way, which includes pavements. Two parking spaces<sup>8</sup> within the appeal site would satisfy the Highway Authority's standards<sup>9</sup>. Any unauthorised parking in the private road, including for deliveries, would be a private matter between the respective parties and in Greenhill Way, a regulatory matter for the Council or the Police.

### **Conditions**

16. The Council has outlined some possible conditions<sup>10</sup>. The appellant has had an opportunity to comment on these and has not objected. I have considered the Council's suggestions and in light of the tests and advice in Framework paragraph 55 and in Planning Practice Guidance.<sup>11</sup> In addition to the compulsory standard time limit condition, I have imposed conditions specifying the approved plans, to ensure certainty, and so that the proposed bungalow will match the appearance of the adjoining bungalow at No 14 and therefore be appropriate in its surroundings.
17. The Council believes that part of the appeal site has been used for quarrying sand and gravel. To be certain that it is suitable for the proposed use, I agree with the Council that a condition should be included to ensure that, if required, any risk to human health is mitigated. I also agree with the Council that there is a likelihood of undue disturbance to the living conditions of the occupiers of nearby dwellings during construction works, for example from the operation of equipment and machinery or from the delivery of materials to the site, if this were to occur at unsociable hours. I have therefore included a condition to control the hours of working.
18. As suggested by the Council, and to support the use of renewable or low carbon energy sources and to promote a net gain for biodiversity, I have imposed conditions to ensure that suitable measures in this regard are incorporated into the development. This would accord with the Government's objectives with respect to climate change and conserving the natural environment. The appellant proposes foul drainage to a mains sewer and

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<sup>8</sup> Despite 4 spaces stated in the application form, 2 spaces are shown in the appellant's plans and are referred to in the appellant's appeal statement.

<sup>9</sup> Council's officer report.

<sup>10</sup> Council's officer report and an email dated 10 June 2021.

<sup>11</sup> Paragraph ID: 21a-003-20190723.

surface water to a soakaway<sup>12</sup>. The bungalow would obliterate most of the grassed area and possibly leave some or all of the hard surfaces in situ. In order to ensure that there is no net increase in surface water run-off from the appeal site, and to reduce the risk of flooding in this regard, I have included a condition that would allow the Council to approve details of hard and soft landscaping, including surface water drainage. This would also ensure that satisfactory living conditions were provided for outdoor use of the appeal site by future occupiers.

19. I have also included a condition to ensure that satisfactory provision of car parking would be provided within the site and thereafter maintained. This could also help to discourage on street parking on the private road. As suggested by the Council, I have also imposed conditions so that the Council can approve details of secure cycle parking and refuse storage and to ensure that the approved details are maintained thereafter. These would, respectively, encourage the use of this mode of travel by future occupiers and visitors, rather than the private car, and ensure that these occupiers would have an appropriate standard and type of refuse collection facility.
20. The proposed bungalow would be sited on the edge of the built-up area with the countryside, be next to a boundary with No 14 and also reasonably close to other nearby bungalows and gardens. There is therefore a possibility that further development of the bungalow, or in its garden, could cause harm to the character and appearance of the area, to the residential amenity of existing occupiers of these other properties or significantly reduce the garden space for the future occupiers of the bungalow. I have therefore imposed a condition to restrict some permitted development rights with regard to the enlargement, improvement or alteration of the bungalow by extensions or other additions, including to its roof, and with regard to the provision of a building, enclosure, pool or container within its curtilage. The appellant or a future owner would as a result need to submit a planning application for any such development and this would give the Council an opportunity to consider it on its planning merits.
21. The appellant has not proposed any boundary treatment next to the private road. Although suggested by the Council, it is not necessary to impose a condition in this regard as any gate, fence, wall or means of enclosure more than 1m high above ground level would require planning permission<sup>13</sup> and below this height would not interfere with sightlines. A planning application for any taller boundary would, amongst other things, give the Council an opportunity to consider potential vehicular and pedestrian conflict.
22. I am satisfied that these conditions would serve a useful planning purpose and are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

## Conclusion

23. For the reasons given above, I conclude that the appeal should succeed.

*Robin Buchanan*

INSPECTOR

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<sup>12</sup> Application form.

<sup>13</sup> The Town and Country Planning (General Permitted Development)(England) Order 2015 - Schedule 2, Part 2, Class A paragraph A.1(a)(ii).

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - LDS20-GW-001 Existing location and block plans
  - LDS20-GW-002 Proposed location and block plans
  - LDS20-GW-003 Proposed site plan
  - LDS20-GW-004 Proposed property
- 3) The external materials to be used for the walls, roof, windows and doors of the dwelling hereby approved shall match in colour and texture those used in the bungalow at No 14 Greenhill Way.
- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 5) Site preparation and construction works, including deliveries taken at or despatched from the site, shall take place only between 0800 and 1800 Monday to Friday and between 0800 and 1300 on Saturday, and shall not take place at any time on Sunday or on Bank or Public Holidays.
- 6) No development above slab level shall take place until details of a scheme for the dwelling hereby approved to secure a source of energy supply from renewable or low carbon energy sources, and to provide an electric vehicle charging point, shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to occupation of the dwelling and thereafter retained in operation.

- 7) No development above slab level shall take place until details of a scheme for biodiversity enhancement on the appeal site, including a programme for implementation, shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved programme and thereafter retained.
- 8) The dwelling hereby permitted shall not be occupied until details of a scheme for hard and soft landscaping, including sustainable surface water drainage, and a programme for implementation and maintenance, shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details and thereafter retained.
- 9) The dwelling hereby permitted shall not be occupied until space has been laid out within the site for two cars to be parked and that space shall thereafter be kept available at all times for that purpose.
- 10) The dwelling hereby permitted shall not be occupied until details of cycle parking and refuse bin storage have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to occupation of the dwelling and thereafter maintained in accordance with the approved details.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the Order') (or any order revoking and re-enacting that Order with or without modification), no development within Class A, Class B, Class C or Class E of Part 1 to Schedule 2 of the Order shall be carried out to the dwelling hereby permitted.