



Appeal Decision

Site visit made on 6 September 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2021

Appeal Ref: APP/B1415/W/21/3270095

142 Bexhill Road, St Leonards-on-Sea TN38 8BL

- 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 Adam Slater of RIA Homes Ltd against Hastings Borough Council.
 - The application, HS/FA/20/00888, is dated 20 November 2020.
 - The development proposed is the construction of six houses and associated access/hard landscaping works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has indicated that, had it not failed to determine the application within the prescribed period, it would have refused planning permission for the following reason: *'It has not been demonstrated that the proposed development is acceptable in terms of vehicular and pedestrian access, that the swept path details are not sufficient to assess the impact on the A259 by large turning vehicles, nor the turning head within the site boundary, and that as a whole the application was submitted with incomplete highway related detail and the amended plan did not fully address the matters raised initially by the Highway Authority. As such the proposed development would give rise to increased hazards to highway users to the detriment of their safety, contrary to the National Planning Policy Framework, and contrary to Policies DM3, DM4 of the Hastings Development Management Plan 2015'.*
3. Outline planning permission was granted in 2018 for six detached family houses on the appeal site¹. While that permission has now lapsed it established the principle of six detached dwellings in a similar form to that now proposed. The Council has raised no objection to the current proposal in terms of residential development of the site or to the layout, scale, external appearance or landscaping of the proposed scheme.

Main Issue

4. Having regard to the previous outline planning permission, and the views of the Council, I consider the main issue in this appeal to be the effect of the development on highway safety.

¹ HS/OA/16/00788

5. It is also necessary to consider what effect the lack of a 5 year housing land supply should have in the appeal decision. I address this issue in my conclusion.

Reasons

6. In response to the Highway Authority's initial concerns, the appellant submitted a revised layout plan² showing further details of the access geometry and swept paths both at the access with the A259 Bexhill Road and the turning head within the site. While the revised plan provides sufficient detail to satisfy the Highway Authority as regards widening the access where it meets the A259, corner radii, footway provision within the site and surface material, objection is still maintained on two grounds. These objections are: firstly, to the tracking template used and consequent uncertainty over the ability for a long wheel base lorry, such as a refuse truck, to gain access and turn within the site; and secondly, the lack of pedestrian access to the nearby public footpath 415 towards the northern end of the site.
7. The swept path diagrams are not dimensioned but are to scale and indicate the turning paths for a vehicle approximately 10m in length. This is shorter than the 11.99m required by the Highway Authority. The consequence of using a shorter template than required is that it does not adequately demonstrate whether a refuse truck of the length required could turn within the site. There is some additional space at the northern end of the site, and it may be that a turning head with the necessary length and geometry could be laid out, but that is uncertain and therefore not a matter that could be addressed through the use of a condition.
8. The Highway Authority raises no objection to the revised geometry of the access with the A259 as regards its width and corner radii. No detail is shown of the A259 carriageway but I observed on my site visit that visibility is good in both directions and there are no obstructions within the highway that would prevent larger vehicles turning into or out of the access. However, because the swept path template is shorter than required, it is not certain whether a vehicle of the length required could clear the highway while another vehicle was waiting to exit the access. A swept path of the correct length is necessary to demonstrate whether this would be achievable.
9. As regards the adjacent public footpath 415, while a pedestrian connection towards the northern end of the site would be desirable, I do not consider that the lack of such a connection is sufficient to justify the refusal of planning permission. The footpath could still be accessed from the southern end of the driveway. Although it would add some additional walking distance for occupiers of the proposed dwellings, that would not be so inconvenient as to dissuade them from using the footpath. I note the Highway Authority's concern that if not installed as part of the development an informal connection may arise in any event because of it being the natural desire line. If that were to be the case and such an informal arrangement were to cause harm, then it would be open to the Authority to take appropriate action.
10. Because the swept path diagrams do not show a vehicle of the length required, the revised layout plan does not demonstrate with sufficient certainty that a refuse vehicle could enter and exit the site in forward gear, or that there would

² 17.936/03.H

be no conflict for vehicles using the modified access. Consequently, there is a risk that the access and turning arrangements as shown on the revised layout plan would lead to a loss of highway safety. The proposed development would therefore conflict with Policies DM3 and DM4 of the Hastings Development Management Plan 2015, which require safe access and good accessibility for new development.

Other Matters

11. As noted by the Highway Authority, an agreement or highway licence is likely to be necessary for works on or adjacent to the highway. This is a separate matter to the appeal.
12. Neighbouring residents have expressed concern at an existing problem with foul drainage, potential problems with surface water drainage and the effect of the development on wildlife. Foul drainage capacity is separate from this appeal and is a matter for Southern Water as the responsible drainage authority. Surface water drainage would be provided in accordance with a proposed drainage strategy³, and an ecological appraisal⁴ has been carried out on the site to assess the impact of the development on ecology. In both the latter cases the relevant authorities are satisfied that no harm would be caused, subject to the imposition of conditions. I see no reason to disagree with those judgements.

Conclusion

13. The Council acknowledges that it cannot demonstrate a 5 year housing land supply and has not met the most recent housing delivery test. In such circumstances, paragraph 11 of the National Planning Policy Framework requires planning permission to be granted unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusal, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
14. The provision of 6 additional dwellings is of benefit, particularly given the shortage of housing land supply. However, highway safety is an important matter, not only for future occupiers of the development but also for other road users. I consider that the harm that would be caused to highway safety would significantly and demonstrably outweigh the benefits in this instance. The 'tilted' balance provided by paragraph 11 of the Framework is therefore not sufficient in this case to outweigh the conflict with the policies in the development plan and Framework when taken as a whole.
15. I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR

³ Borne Project Services Ltd, Drainage Strategy

⁴ Mayhew Consultancy Ltd, Preliminary Ecological Appraisal