



Appeal Decision

Site visit made on 7 February 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th February 2022

Appeal Ref: APP/C1435/W/21/3277221

Land adjacent to Recreation Ground, Blackboys TN22 5LR

- 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 Joshua Feldman against the decision of Wealden District Council.
 - The application Ref WD/2020/2553/F, dated 2 February 2021, was refused by notice dated 17 May 2021.
 - The development proposed is the erection of 9 no. dwellings with associated access, landscaping and associated infrastructure.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on:
 - the character and appearance of the area; and
 - the setting of the grade II listed Old Mill House.
3. It is also necessary to consider what effect the lack of an adequate housing land supply should have in the appeal. I consider this issue in my conclusion.

Reasons

Character and appearance

4. The site lies outside the small settlement of Blackboys, separated from it by the village recreation ground and pavilion. Opposite the site is a loose group of houses fronting Framfield Road. To the west, separated by a public footpath is a detached house set in extensive grounds. Further north and west are similar scattered groups of houses. While of individual form and design, these houses front on to their respective roads and are generally set back in generous gardens, which allows for mature trees and other planting that helps integrate them into their countryside setting. These characteristics contrast with the more compact development in the village, where dwellings are sited closer together, have smaller gardens and are of more regular, and in cases suburban, appearance.
5. The character and appearance of the area is likely to change to some extent in the future, with outline planning permission having been granted on the appeal

site for 7 dwellings¹ and separately on a larger site to the west for 50 dwellings². This will result in a more contiguous, built up appearance to the western approach to the village and a consolidation of some of the scattered groups of houses. Nevertheless, with careful layout and design, the new development should be able to be integrated into the area in a manner that reflects its character, appearance and rural setting.

6. The extant permission on the appeal site was made in outline with all matters reserved for later approval other than access. Siting and layout were therefore not considered at that time, although an illustrative plan showed 3 pairs of semi-detached houses and a detached house set back and facing Framfield Road, served off an internal drive, with an open landscaped area to the front.
7. The majority of the proposed layout follows a similar theme with 3 pairs of semi-detached houses and, in this case, 2 detached houses set back and facing Framfield Road with a landscaped area to their front. While buildings would be closer to the eastern boundary and marginally closer to one another than in the outline illustrative layout, they would still be separated by their respective garages and have moderate sized plots with adequate garden space for future occupants. Setting the buildings back from the road, and having an open landscaped area at the front, would be important in retaining a sense of space and to allow room for mature planting to develop, to help integrate the development into its rural setting.
8. The one element of the scheme that departs from the character and appearance of the area is the dwelling proposed on Plot 1. This would result in a form of development that is uncharacteristic of the general layout of scattered dwellings to the west of the village, with the dwelling much closer to the road than is typical of others, which are set further back.
9. The siting of the dwelling would also have it turning its back to the road, resulting in its rear elevation facing the road, and the domestic paraphernalia normally present in a rear garden being more visible. I accept that this could be partly screened by additional hedge planting across the remainder of the road frontage, but it would take some time to establish and still would not be a comfortable relationship between the dwelling and public views of it.
10. The useable garden space at the rear of the dwelling on Plot 1 would also be small for a dwelling of this size, north facing, and backing onto the busy Framfield Road. It is therefore likely that more domestic use would be made of the side garden, which would reduce the area for landscaping in front of the other proposed dwellings.
11. For the reasons given above, and in so far as they apply to Plot 1, I conclude that the development would have a cramped and contrived appearance, at odds with the semi-rural character and appearance of the area. It would therefore conflict with saved Policies EN8 and EN27 of the Wealden Local Plan 1998 and Policy WCS14 of the Wealden District Core Strategy Local Plan 2013, which seek to conserve character, achieve good design and promote local distinctiveness.

¹ WD/2020/0048/O

² WD/2020/0700/MAO

Setting of Old Mill House

12. Old Mill House is a grade II listed building located on the opposite side of Framfield Road to the appeal site. Its significance lies in its architectural and historic interest as a Wealden hall house, now much altered. Its name suggests that it was associated with a former windmill, demolished in the middle of the last century. It is unclear from the submitted evidence, but the windmill was positioned either in the southwest corner of the appeal site or just outside in what is now the western corner of the recreation ground. No visible sign of the windmill remains.
13. The Council wishes to retain a visual link between Old Mill House and the site of the former windmill. Despite disagreeing with the need for such a link, the appellant has included a visual corridor on the site layout plan. This is criticised by the Council, which considers that the position of the proposed dwelling on Plot 2 would obscure the visual path between Old Mill House and the site of the windmill thereby destroying the historical connection between them.
14. While I accept there may have been a historic association between Old Mill House and the former windmill, the two are and appear to have always been functionally and visually separate. Old Mill House, which is much older than the former windmill, is divided from the site of it by the intervening Framfield Road and the appeal site. It is also visually screened from it by the hedges on either side of the road. Even when the windmill was in situ, access to it appears to have been from Framfield Road via a track along the western side of the appeal site rather than any direct link between it and Old Mill House. I do not therefore consider it necessary to retain an unobstructed visual path between the two in order to preserve the setting of Old Mill House, which I consider to be confined to its immediate environs.
15. Development on the site would be seen from Old Mill House, although it would be separated from it by the road and, other than the dwelling on Plot 1, would be set back from the road frontage such that it would not impinge on views of the listed building or its garden. Using the terminology of the National Planning Policy Framework (the 'Framework'), the limited impact the development would have would cause less than substantial harm to the significance of the listed building. The public benefit of additional housing would more than outweigh any such limited harm that might be caused to its setting.
16. I conclude that the proposed development would not impinge unduly on the setting of Old Mill House and would not negatively affect its historic association with the site of the former Floyed windmill. It would therefore not conflict with Policies EN1 and EN27 of the Wealden Local Plan 1998 or Policy SP02 of the Wealden District Core Strategy Local Plan 2013, in so far as they relate to the preservation of heritage assets and their settings. In reaching that conclusion, I have had regard to the statutory duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting.

Other Matters

17. Previous appeals for development on the site were dismissed because of what was understood to be potentially adverse effects on the Ashdown Forest Special

Protection Area and Special Area of Conservation³. Since then, appeal and case law decisions have resulted in the Council reappraising whether such adverse effects would be caused by new development. In the case of the Special Protection Area, the appeal site is now considered to be far enough away so as not to materially increase recreational pressure on the Ashdown Forest. In the case of the Special Area of Conservation, the development, even when taken in combination with other development, would not materially affect air quality to the extent that it would harm the ecological integrity of the Ashdown Forest. The Council therefore concludes that appropriate assessment is no longer required for development on the appeal site. I see no reason to disagree with this judgement.

Conclusion

18. The Council acknowledges that it cannot demonstrate a 5 year housing land supply in the District. In such circumstances, for proposals involving the provision of housing, paragraph 11d) of the Framework says that planning permission should be granted unless, amongst other criteria, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This approach is confirmed by the case law referenced in the appellant's statement⁴.
19. In this case, outline planning permission has already been granted for 7 dwellings on the site. The proposed development for 9 dwellings represents an increase of 2 dwellings to the District's future housing stock. I consider the adverse impact that would be caused to the character and appearance of the area would significantly and demonstrably outweigh the modest benefits arising from the net increase in the housing stock, over and above that already permitted. Consequently, the 'tilted' balance introduced by paragraph 11d) is not sufficient to outweigh the harm identified with the policies in the development plan and Framework when taken as a whole.
20. Consequently, I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR

³ APP/C1435/W/17/3189368 and APP/C1435/W/19/3220569

⁴ Suffolk Coastal DC V Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East BC [2017] UKSC 37 and Hallam Land Management Ltd v SSCLG [2018] EWCA Civ 1808