



Appeal Decision

Site visit made on 31 January 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2022

Appeal Ref: APP/C1435/W/21/3279614

Spindles, Howbourn Lane, Buxted, Uckfield TN22 4QB

- 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 Andrew Taylor against the decision of Wealden District Council.
 - The application Ref WD/2021/0509/F, dated 25 March 2021, was refused by notice dated 1 June 2021.
 - The development proposed is erection of two detached dwellings & one detached garage to include access on to the A272 with pedestrian crossing point.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - whether the site would be an appropriate location for housing, having regard to local and national policy for the provision of housing.

Reasons

Character and appearance

3. The southern part of the appeal site (the site) is a parcel of land which has the appearance of a field. It is located to the south west of Spindles, which is a detached house in Howbourn Lane. It contains some trees and there is a hedgerow with some trees set above a bank along the A272 road boundary at the front. This relatively short, straight section of this road has a gentle gradient past the site and is bordered on both sides by similar landscape features. It forms a verdant, rural road corridor which is locally distinctive.
4. The proposal would sub-divide the site into two plots for two large, detached houses facing the A272 (the houses). The council did not object to their detailed traditional design, appearance or external materials, or to use of the northern part of the appeal site as a swale. Nor do I. The development would be in a Low Weald landscape area, near the edge of the High Weald Area of Outstanding Natural Beauty (the AONB). Intervening landscape features mean the site forms no appreciable part of the setting of the AONB at this point. The location and design of the development would therefore have a neutral effect on land within the AONB and not detract from its landscape and scenic beauty

or its wildlife or cultural heritage. I note that the Council did not object for this reason.

5. However, the houses would be substantial in scale and massing and one, in particular, would be sited closer to the A272, next to the junction with Spotted Cow Lane. Despite that land levels slope down across the site, away from the A272, a significant upper part and roof of both houses would project noticeably higher than retained boundary hedgerow and over or between trees. They would, therefore, be unduly prominent in more distant public views in both directions along the A272 (one way looking up and the other way looking down) and in shorter, upward views across the elevated site from Spotted Cow Lane, which is a public footpath¹.
6. Combined with their central positioning on each plot, and relatively large floorplans, the houses would also significantly reduce openness on the site. This would be particularly apparent as the site side of the A272 at this point has fewer roadside trees. Some groups of trees and a number of individual trees would be removed, including 8 category C and, in particular, 3 category B. These trees are not protected by a tree preservation order but are nonetheless of a variety of ages and in fair to good physiological or structural condition. Individually and collectively these trees are noticeable features on the site now and would otherwise be likely to remain as such for a significant period of time. The removal of these trees, especially the higher category B trees, would therefore seriously detract from the visual amenity of the area.
7. Approximately 70m of hedgerow and bank along the A272, including some trees, would be removed to facilitate the new vehicular access and requisite visibility sightlines². Despite that the hedgerow is category C, it is young to semi-mature in age, in good physiological condition and in fair structural condition. Its removal would result in a substantial reduction in roadside vegetation across almost the entire site frontage. Moreover, even if taken in the context of the length of hedgerow as it continues beyond the boundary of the site, to the junction with Howbourne Lane, about half in total would be lost. Either way, manifestly greater than a 'small section'.
8. The resulting scar would have a catastrophic adverse visual effect on the integrity of this landscaped road corridor. Furthermore, it would reveal a substantially greater part of the houses in immediate and shorter distance views from the A272, including a more domesticated setting with a large detached double garage, parking areas and parked cars, a shared intervening turning head with bin store and collection point and a short, incongruous section of footway.
9. Despite proposed re-instatement hedgerow planting behind the splays, and other new planting on the site, this would take many years to mature to have any appreciable screening effect. It would not alleviate adverse visual impact meantime. In any event, a new hedgerow would follow the angled alignment of the splay either side of the new access. This would be at odds with the straight alignment of the existing hedgerow and would permanently destroy its distinguishing symmetry with the hedgerow and tree line opposite. Nor would new planting overcome the fundamental incompatibility of the development in

¹ Buxted 84

² Tree Retention Plan, drawing number PJC/5449/20/B (Arboricultural Impact Assessment, 27 March 2020), prepared by PJC Consultancy Ltd

this location due to the inherent change to the nature of the site from rural countryside to residential, including the introduction of a new vehicular access point where there is currently no such gap in the hedgerow.

10. I saw that in addition to Spindles there are some other nearby dwellings. However, most of these are in rows along one side of Spotted Cow Lane and one side of Howbourne Lane or continue mainly in rows along this road and much further to the north including in Buxted Wood Lane, located in-depth well behind the A272 on lower ground. The houses would not form a row or part of any other row.
11. Some dwellings alternate along either side of the A272 in each direction from the site. However, there are no dwellings on the opposite side of this road facing the site and others are separated by intermittent pockets of undeveloped open countryside or landscaped gardens. This sequence and limited extent of loose-knit built form maintains a mainly spacious, rural environs along the A272. Indeed, the site forms such a pocket between Howbourne Lane and Spotted Cow Lane due to its innate openness, its trees and roadside hedgerow and its separation from frontage development in each direction along the A272.
12. As a result, due to landscape features or topography, and the siting and separation of some of these dwellings, most have no meaningful visual or spatial relationship to the site. The houses would not, therefore 'round off' existing residential development or be observed in the context of any significant number or 'cluster' of these dwellings or other built form. In contrast, inserting the houses onto the site would reduce the visual and spatial separation between residential development along the A272 at odds with the prevailing pattern of such development. It would also consolidate a sporadic form of residential development in the countryside and cause an undesirable intensification and progression of residential development beyond Buxted and undermine its separate identity. Such gradual, creeping urbanisation is an acknowledged pressure within the Low Weald landscape.
13. Considering the above, I find that the proposed development would cause significant harm to the character and appearance of the area. Consequently, it would conflict with the Council's Local Plan³ (LP) Policies EN1, EN8 and with its Core strategy⁴ (CS) Policies SPO1 and WCS14. These policies include that development should take account of countryside resources, protect distinct landscapes and improve environmental conditions having regard to location, layout, retention of boundary trees and hedges and the setting of settlements.

Appropriate location

spatial strategy

14. Having regard to the character and appearance of the area the site is plainly not in a built-up or urban area. On the evidence before me, I am not certain that the Council has granted planning permission⁵ for use of the site as part of the residential or domestic curtilage of Spindles, as the appellant suggests. I cannot, therefore, establish that it is previously developed 'brownfield' land⁶.

³ Wealden District Council – Wealden Local Plan, December 1998

⁴ Wealden District (incorporating part of the South Downs National Park) Core Strategy Local Plan, February 2013
⁵ WD/2019/2486/F

⁶ Framework Annex 2: Glossary

The proposed dwellings would, though, be geographically near Spindles and some other dwellings and would not, therefore, be isolated.

15. However, despite a post box, there is no obvious social cohesion or discernible centre or focus to an established local community at this point along the A272. As a result, this scattered arrangement of residential development at this conjunction of local roads does not form part of any hamlet, village or other settlement, even absent any basic facilities.
16. The site is also outside of the defined settlement 'development boundary' for Buxted in the Council's development plan, by a significant distance (about 470m). The houses would not, therefore, be next to, or visually or physically well-related to, the development boundary of Buxted, or any other development boundary. Consequently, while the site and the houses would be on the approach, along the A272, towards Buxted, they would not be on any appreciably built-up or developed 'outskirts' of Buxted. A transitional or fringe area, such as between Buxted to the west of the site and the wider open, undeveloped countryside to the east, are not unusual or unexpected but this does not itself constitute the 'eastern edge' of Buxted. The site is unequivocally not any part of Buxted for planning purposes but in a distinctly rural location.
17. A purpose of the development boundaries is to focus growth on sustainable settlements. LP Policies GD2 and DC17 do not permit housing outside development boundaries unless it conforms to other policies in this plan. The proposal does not meet any of the exceptions for housing in the countryside contained in LP Policy DC2. I note the Council accepts that sites beyond development boundaries will be required to meet housing land supply, but its strategy is for such development to occur closer to village centres to afford easier access to facilities and services and reduce landscape and visual impact.
18. Even though it would be just two houses, and there are some nearby dwellings, the proposal would nonetheless unduly consolidate a more dispersed pattern of residential development. It would not result in new housing focussed in, or at, Buxted or any other sustainable location or one that could easily be made sustainable. The proposal would, therefore, be at odds with aims of the Council's spatial strategy, settlement hierarchy and its objectives for the countryside.

accessibility to services and facilities

19. Another purpose of the development boundaries is to reduce the need to travel by all modes of transport. I appreciate that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, the Framework also states that the planning system should actively manage patterns of growth in support of sustainable transport objectives and that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities.
20. Buxted is a 'local service centre' with some shops and other services and facilities. It is nonetheless defined as a settlement with a 'more limited supply of social and economic infrastructure, including employment, where local residents depend upon other centres to meet a broad range of needs with some form of accessibility to those centres'.

21. While road gradient, lack of street lighting and a reasonably busy main road, including buses and HGVs, would not be conducive to cycling in both directions, I accept that some future occupiers of the houses could cycle into Buxted. I also acknowledge that there is a community bus service along the A272, including access to Uckfield (a 'strategic centre'), Crowborough and Hadlow Down with bus stops at least within 600m of the site, albeit an infrequent service. The railway station in Buxted includes access to Uckfield and London, though I have not been provided with specific details of up-to-date service frequency or timings. I have not been informed of the settlement status of Hadlow Down or whether it has facilities and services.
22. The proposed crossing point would give future occupiers of the houses better access to the footpath on the south side of the A272 into Buxted, which is currently partly obstructed by vegetation overgrowth. However, use is also restricted in places by uneven surface and gradient change (including that it is uphill on the way back) and lack of dropped kerbs or tactile pavement across some junctions. It is also unlit for most of its length. These circumstances would materially reduce the attractiveness of walking, especially for children, parents with pushchairs and the disabled or visually impaired.
23. The services and facilities in Buxted, including the railway station, are at least 1.5km from the site and up to 1.8km. I saw that the primary school is even more distant. While the appellant has referred to a 'walking distance' of 1 mile, the appellant's Technical Note⁷ refers to a mean average walking journey of approximately 1km, though longer for 'regular commuters' (ie for travel to work purposes). Even if the railway station is within commuter walking distance, the other services and facilities would all be significantly further than 1km from the site. In this appeal, walking would not therefore be a genuine choice for occupiers of the houses seeking to meet some day-to-day living needs.
24. While I do not disagree with the Highway Authority (East Sussex County Council) that the dwellings would be in a 'moderately' accessible location in terms of the range of travel modes that would potentially be available to some future occupiers of the houses, the appeal site is nonetheless outlying from the centre of Buxted and the location of the houses would not be conducive to walking on a regular basis. It is, therefore, more likely that the majority of journeys would be made by car and this would instead increase the prospect of more convenient travel to Uckfield (Heathfield or Crowborough) including for employment, leisure and some education needs, with less reliance on local services and facilities in Buxted.
25. Even if future occupiers were to use a car as a means to support local services and facilities on a regular basis, that would not overcome the fundamental incompatibility of the site as a barrier to encouraging walking. Moreover, the limited scale of the development would have a limited influence on enhancing or maintaining the vitality of Buxted, or any other nearby village in the immediate or wider rural area. The proposal would not limit the need to travel a significant distance, particularly by car.
26. I have been referred to an appeal decision at Saxon Court⁸. The Inspector noted the existence of the footpath, the train station and facilities in Buxted but

⁷ Reeves Transport Planning (undated)

⁸ APP/C1435/W/20/3254759

also had regard to the co-location of the proposed houses in a group of houses next to a care home, and, as a result, the possibility of shared journeys or employment without the need to travel. The Inspector found that there were, albeit limited but nonetheless, 'adverse impacts through the location' of the site, but these were outweighed by other benefits of that development. The circumstances of that case are materially different to the current appeal.

27. I have also been referred to another appeal decision at Tanyard's Farmhouse⁹. I acknowledge the absence of a footway in that case. Nevertheless, from what is set out in the Inspector's decision, the current appeal has more in common with the circumstances of that case and the Inspector's findings on accessibility given the location of both sites significantly beyond 1km in relation to facilities and services in Buxted.
28. Taking all of the above into account, I find that the appeal site would not be an appropriate location for housing, having regard to local and national policy for the provision of housing. Consequently, the proposal would conflict with LP Policies EN1, GD2, and DC17 and with CS Policies SPO7, WCS6 and WCS14. These policies include that development should be acceptable in location, within recognised settlements, reduce the need to travel by car, make it easier to travel by more sustainable modes of transport (with improvements in journey quality for trips on foot), improve social conditions in the area and sustain rural communities. Housing in the countryside, which will otherwise be protected, must be necessary.

Other Matters

Ashdown Forest

29. The appeal site is within a zone of influence of the Ashdown Forest Special Protection Area (the SPA) and the Ashdown Forest Special Area of Conservation (the SAC). These are designated sites¹⁰ due to the presence of European dry heath, North Atlantic wet heath with bog heather, great crested newts and Dartford warbler and Nightjar breeding birds. The heathland is vulnerable to atmospheric pollution, including vehicle emissions, in an area where increased traffic flows associated with new development would occur on roads which go through, or run adjacent to, the SAC. The breeding birds are vulnerable to the recreational impact of people in an area where the proximity of the occupiers of new houses would be such that they would be likely to visit the SPA for recreational purposes. I return to the SPA and the SAC in my decision below.

Designated heritage assets

30. Two dwellings in Spotted Cow Lane, known as Swifts and Applegarth, are Grade II listed buildings. The significance of both buildings derives principally from distinctive details of their design and appearance, including materials, and their historic association as part of the evolution of surrounding built form and rural landscape. Due to the more distant position of Swifts, in a lower part of the lane, and its siting and orientation and intervening landscape features and built form, the site does not form part of the setting of this building.
31. Applegarth would be closer to the houses and is orientated more towards the site. The development would be within the setting of this building. However, it

⁹ APP/C1435/W/19/3232260

¹⁰ Conservation of Habitats and Species Regulations 2017 (as amended)

is also in a sunken part of the lane with intervening landscape features. While it could be seen from part of the site, and parts of the houses would be observed from it (though less so the house closest to the A272) there would be no significant visual or spatial interrelationship between this building and the houses. As a result, development of the site in the manner proposed would not unduly erode any important views towards, or from, this listed building. It would also not significantly alter the way in which it is experienced, which is mainly from a lower part of the lane rather than the upper part, the A272 or the site.

32. Accordingly, the development would not have a detrimental impact on the setting of either listed building and would not detract from their special architectural and historic interest. It would therefore preserve the listed buildings and their settings. I note that the Council did not object for this reason.

Additional neighbour comments

33. Notwithstanding local resident concerns, the Highway Authority advised that subject to a road safety audit, safe and suitable access to the site could be achieved and that traffic generation would not have an adverse impact on the highway network. The Council was also satisfied that the development would not exacerbate existing surface water drainage conditions off-site. In the absence of any compelling objective evidence to the contrary, I have no reason to find otherwise. While there would be some trees, hedgerow and other vegetation lost on the site, there is no evidence of any significant unacceptable adverse impact on ecology with regard to habitat or species and appropriate biodiversity mitigation measures would be implemented.

Previous Council decision

34. I appreciate that the proposal is a revised scheme, further to a previous decision of the Council to refuse similar development, and that the appellant considers it addresses the Council's previous objections. Nonetheless, I have considered the proposal and the appeal on its individual planning merits and the evidence before me.

Planning Balance

35. The Council considers that it has a 3.66 year housing land supply and it is not disputed by the appellant. I have no reason to disagree. Notwithstanding the measures it has referred to in seeking to address this situation, it cannot, therefore, currently demonstrate a five year housing land supply. Accordingly, by virtue of footnote 8, Framework paragraph 11 d) is engaged.
36. In terms of benefits, the provision of two houses on an available and otherwise deliverable site would make a small, but notable, contribution to housing supply in the district. This would be aligned with objectives of the Framework to significantly boost the supply of homes. The social, economic and environmental benefits associated with building and occupying the houses, including a CIL¹¹ payment and biodiversity enhancements, are factors which, commensurate with the modest scale of the proposal, carry moderate weight in the scheme's favour.

¹¹ The Community Infrastructure Levy Regulations 2010 (as amended)

37. The site is not at risk of flooding. The development would be high-quality in external appearance and materials and subject to conditions there would be adequate car parking and adequate provision for refuse and recycling. There would be no adverse impact on the living conditions of the occupiers of existing dwellings. The absence of harm, or compliance with the Council's development plan and the Framework, in these regards are therefore neutral factors in my decision.
38. However, while the Framework recognises that small, windfall sites, and efficient or effective use of land, can make an important contribution to meeting housing requirements, it also seeks to conserve the natural environment and the intrinsic character and beauty of the countryside, whereas the proposal would cause significant harm to the character and appearance of the area. The Framework also seeks to avoid new housing in rural areas that is not well-related to services and facilities, does not enhance or maintain the vitality of rural communities and does not limit the need to travel, especially by car. The site would not be an appropriate location for housing in these terms. The proposal would conflict with the Council's relevant development plan policies and diminish the Council's objectives in these respects. These are consistent with aims of the Framework to balance meeting housing needs with the objectives of sustainable development. Consequently, I give substantial weight to these considerations.
39. Notwithstanding that the benefits would be aligned with the Framework, and the scale of shortfall in the Council's five year housing land supply, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. Accordingly, the presumption in favour of sustainable development does not apply in this case.
40. Since I intend to dismiss the appeal for these reasons, there is no need for me to consider the SPA or the SAC any further.

Conclusion

41. The proposal would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding.
42. Therefore, for the reasons given above I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR