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# Appeal Decision

Site visit made on 13 June 2022

**by Robert Parker BSc (Hons) Dip TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 August 2022**

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**Appeal Ref: APP/C1435/W/21/3286532**

**Hildenvale, Redbrook Lane, Buxted TN22 4QH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Ms Lauren Richards of TA Homes (Buxted) Ltd against the decision of Wealden District Council.
  - The application Ref WD/2020/1823/O, dated 9 September 2020, was refused by notice dated 25 May 2021.
  - The development proposed is demolition of equestrian buildings and the erection of 8 no. dwellings, access, landscaping and other associated infrastructure.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application is submitted in outline with details of access provided for consideration. All other matters are reserved for future approval. I have treated the submitted site layout plan as illustrative.
3. The Council issued its decision on the application prior to the publication of a revised National Planning Policy Framework ('the Framework') in July 2021. The main parties have taken account of the revisions in drafting their evidence and I have determined the appeal in the same manner.
4. The appellant has submitted a completed unilateral undertaking (UU) which secures financial contributions towards Suitable Alternative Natural Green space (SANG) and Strategic Access Management and Monitoring (SAMM). The Council is satisfied that the UU addresses its concerns over the impact of the proposed development on the Ashdown Forest Special Protection Area. The third reason for refusal therefore falls away.

## Main Issues

5. The main issues are:
  - a) the effect of the proposal on the character and appearance of the area;
  - b) the effect on highway safety on Redbrook Lane and the A272; and
  - c) whether, having regard to the housing land supply position, any adverse impacts in respect of the above matters would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework taken as a whole.

## Reasons

### *Character and appearance*

6. The appeal site is located on the north-eastern edge of Buxted and contains the detached dwelling known as Hildenvale, an annexe and various outbuildings which are used as stabling and kennels. There is also a riding arena and a pair of fenced paddocks. Access to the property is via Redbrook Lane, a private lane that doubles as a public footpath.
7. The site lies immediately outside of the defined development boundary for Buxted in the Wealden Local Plan 1998 (WLP). Paragraph 19.5.9 of the WLP explains that along Redbrook Lane a number of large properties in spacious grounds have been excluded from the development boundary due to their more rural character. This character is apparent when walking the public footpath which affords attractive views across open countryside to the north. The dwellings in the lane are sited within generous plots bounded by trees and hedging. Hildenvale is the exception in that it is clearly visible from the footpath with views up the driveway towards the dwelling in its elevated position above the lane. The paddocks in the foreground contribute positively to the countryside setting; this site does not read as part of the built-up area of Buxted, which is the reason it was excluded from the development boundary.
8. The proposal is to demolish the equestrian buildings and to construct 8 new homes on the site. The site layout shows a mix of detached and semi-detached properties arranged in a crescent around the existing dwelling which would be retained. The plan is only illustrative but the options for layout are limited. The individual plots would be significantly smaller than others in the lane, whatever the arrangement of buildings, and the density of development would be correspondingly higher. The site would take on a suburban quality, particularly when experienced from the adjoining public footpath, and this would be significantly harmful to the distinctive rural character of Redbrook Lane.
9. The area to the north of the A272 is already characterised by residential cul-de-sacs. Although some of these feature smaller plots, they are closer the centre of the settlement. The appeal site is important in making the transition between the built-up area and the countryside, and any development should respect this. The proposal would conflict with Policy EN27 of the WLP, Policy SPO13 of the Wealden (Incorporating Part of the South Downs National Park) Core Strategy Local Plan (2013) (CS) and the Wealden Design Guide Supplementary Planning Document (2008), insofar as these seek to promote local distinctiveness and development which respects the character of its surroundings.

### *Highway safety*

10. The site lies on Redbrook Lane, approximately 200 m from its junction with the A272 High Street. The lane is narrow and does not allow for two way traffic; vehicles are forced to pass within private driveway entrances. I observed that visibility at the junction with the High Street is problematic. Drivers exiting the lane struggle to see vehicles on the main road, particularly those approaching from the west, and they are forced to edge into the live carriageway to gain a better view. This creates a risk of collision. There is also insufficient space for vehicles to pass one another at the entrance to the lane, leading to situations where drivers seeking to enter the lane have to wait on the main road whilst other vehicles exit. This presents a hazard and disrupts the flow of traffic.

11. The appellant contends that flexibility should be applied and cites Manual for Streets (MfS). However, that guidance focuses on lightly trafficked residential streets. The principles of MfS are applicable to high streets and lightly-trafficked lanes in rural areas, but they are not a good fit for a scenario such as this, with a junction onto a classified A road taking high volumes of traffic. There is no record of accidents at the junction with the A272, but nonetheless I consider Redbrook Lane unsuitable for any increase in traffic movements. Additional comings and goings would lead to conflict with users of the public footpath.
12. It is contended on behalf of the appellant that the proposal would not lead to an increase in vehicle movements along Redbrook Lane, on the basis of the site's established use. The owner occupier of Hildenvale has provided a signed affidavit which details the traffic movements associated with the stables, dog breeding, and residential annexe. The Highway Authority considers it unlikely that 26 trips a day would be generated by stables which were permitted for private use only. It also queries the figure for the dog breeding, arguing that there is no evidence that the kennels have been in use in recent years or that they could reasonably come back into use.
13. It is not for me, in the context of a section 78 appeal, to make a determination regarding the lawfulness of existing uses on the site; this would require an application under section 191 of the Act. Local residents have questioned the figures provided by the appellant, but I have seen no counter evidence on traffic flows. I note that there is no suggestion from the Council that the site is the subject of any enforcement proceedings for breaches of planning control.
14. The evidence before me suggests that there would be no material increase in traffic movements along Redbrook Lane as a result of the proposed development. Notwithstanding this, WLP Policy TR3 states, amongst other things, that new development will be permitted where it does not perpetuate unacceptable traffic conditions. That is precisely the case here; the proposal would perpetuate an unacceptable situation resulting from the inadequate width of Redbrook Lane and its poor junction with the A272. This would lead to conflict with WLP Policy TR3.
15. I have taken account of paragraph 111 of the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Whilst this raises the bar in terms of highway impact, it does not justify a development which would give rise to unacceptable highway safety risk for its occupants and their visitors.

### **Other Matters**

16. The officer report indicates that the proposal would be required to provide a 35% contribution of affordable housing in line with Policy AFH1 of the Affordable Housing Delivery Local Plan 2016, based on the overall site area of 0.55 ha. There is no reason for refusal relating to a lack of affordable housing and the agreed UU makes no reference to it. Had I been minded to allow the appeal then I would have given the parties chance to comment on the discrepancy. However, as I am dismissing the appeal there is no purpose in doing so.
17. The first reason for refusal makes reference to the effect of the proposal on the living conditions of neighbouring residents. However, it is common ground that the site could be designed at the reserved matters stage to avoid such harm. I have no reason to take a different view.

## **Planning Balance and Conclusion**

18. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. The published position, incorporating a 20% buffer following the latest Housing Delivery Test results, is 3.66 years. This represents a large shortfall and as such the benefits of housing delivery carry substantial weight in favour of the scheme. I attach very limited weight to the conflict with WLP Policies GD2 and DC17 arising from the site's location outside of the settlement boundary. This factor cannot be determinative in a situation where the Council accepts that there is a need to breach development boundaries in order to meet objectively assessed housing need.
19. The proposal would contribute to addressing the housing shortfall on a site which is already built upon in part and which is within walking distance of Buxted railway station, bus stops and services in the village. The scheme would provide some limited support to local businesses and the construction industry, and it would bring economic benefits from the New Homes Bonus and Community Infrastructure Levy. The Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
20. Against these benefits, I must balance the harm. The proposal would conflict with the development plan taken as a whole, by reason of its deleterious effects on the character and appearance of the area and the perpetuation of unacceptable highway conditions which would affect the safety of occupants to the development. These adverse impacts would significantly and demonstrably outweigh the benefits, notwithstanding the benefits to housing land supply of delivering 8 new homes. As such, the proposal would not constitute sustainable development in terms of the Framework and Policy WCS14 of the CS.
21. For the reasons given above and having regard to all other matters raised, including the Council's slow progress on its replacement local plan and the site's location outside of nationally significant landscapes and local designations, I conclude that the appeal should be dismissed.

*Robert Parker*

INSPECTOR