



Appeal Decision

Site visit made on 4 April 2022

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/U1430/W/21/3274795

Land to south west of Strand Meadow, Burwash, East Sussex TN19 7BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Park Lane Homes (SE) Ltd., against the decision of Rother District Council.
 - The application Ref WD/2020/1822/P, dated 2 October 2020, sought approval of reserved matters related to residential development of 30 dwellings pursuant to condition Nos 1, 2, 3, together with discharge of conditions; 7 (foul and surface water drainage), 8 (parking and turning of vehicles), 9 and 10 (archaeology), 13 (levels) and 19 (landscaping) of a planning permission Ref RR/2017/582/P, granted on 7 March 2018.
 - The application was refused by notice dated 23 February 2021.
 - The development proposed is for a residential development with access from Strand Meadow.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 21 April 2022.

Decision

1. The appeal is allowed and reserved matters is hereby approved for a residential development with access from Strand Meadow at land to south west of Strand Meadow, Burwash, East Sussex TN19 7BS in accordance with the terms of the application, Ref WD/2020/1822/P, dated 2 October 2020, and the plans submitted with it, pursuant to the conditions 1, 2 and 3 of planning permission RR/2017/582/P, granted on 7 March 2018 and the conditions set out in Annex A.

Application for costs

2. An application for costs was made by Park Lane Homes (SE) Ltd against Rother District Council. This application will be the subject of a separate Decision.

Procedural Matters

3. The Government published a revised National Planning Policy Framework (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.

Main Issue

4. The main issue in this appeal is:

- the effect of the development on the character and appearance of the area, including the scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

5. The appeal site is a steep-sided parcel of land that is located in the AONB at the end of 'Strand Meadow' which is an established residential area within the development boundary of Burwash. In addition to the more contemporary dwellings found along 'Stand Meadow', the built environment in and around Burwash is typified by the tight-knit linear dwellings seen on 'High Street' as well as the pitched roofed, tile-hung rural type dwellings found on the settlements' edge and beyond.
6. The proposal would see the construction of up to 30 new dwellings on the appeal site for which the Council previously gave outline planning permission¹, including access, subject to conditions and an agreed Section 106 agreement. Subsequent to that, a full application² related to design was dismissed on appeal for reasons related to the character of the AONB; specifically the scheme did not relate well to the character and appearance of the 'High Street'. Therefore, the reserved matters appeal before me is limited to the details of appearance, landscaping, layout and scale, including parking.
7. The development would be located within the AONB. Therefore, for planning purposes the proposal is located in the countryside. As such, the development should conserve and enhance the landscape and scenic beauty of the AONB as set out in Paragraph 176 of the Framework. This would include considerations of scale and the requirement to limit the extent of development within the AONB.
8. The Council contest that the appearance and layout of the dwellings would be more akin to the closely packed and straight-lines of the High Street, I find to the contrary. Indeed, in response to the concerns related to the previous scheme for the site, the appeal scheme would not only accord with elements of the historic centre of Burwash, but also reflect some of the more contemporary aspects of the settlement, as seen on nearby Strand Meadow and Beechwood Close. Moreover, it would also blend with the more rural style built-form in the wider area, such as some of the dwellings lining Shrub Lane.
9. From a detailed perspective, the development would incorporate local features such as the use of hung tiles, pitched roofs, casement windows and decorative black railings. While I acknowledge that the development would be relatively linear with some sections set at a right-angle to the site boundary, in my view the varied orientation of the proposed dwellings, in combination with its reduced ridge heights and modest pallet of materials, would help to minimise the vertical emphasis of the elevations and reduce the visual scale of the proposed development generally.

¹ RR/2017/582/P

² RR/2018/1787/P

10. The parking and turning area would meet the East Sussex County Council parking provision requirement and provide some parking opportunities for visitors or those living nearby. In relation to their design the parking areas would be relatively linear and include some retaining walls. Nonetheless, the proposal would include a shared surface and the use of 'Grasscrete'.
11. As such, the parking area would be similar in appearance and layout to other edge of settlement provision of this type. Furthermore, its position within the site is relatively low and would be softened by additional landscaping.
12. Whilst the proposed earth movement and excavations to accommodate the scheme may introduce some harsh elements this is unavoidable given the challenging terrain.
13. I note the ongoing concerns of the High Weald Unit related to the scheme. However, notwithstanding the greater length of the proposed development in comparison to the previous layout, other than from a small number of the neighbouring dwellings on Rother View and Beechwood Close which are set on higher ground to the rear, the positioning of the two-storey scheme and its' parking area would be relatively hidden at the base of the hedge and tree-lined appeal site slope. My opinion is reinforced by the findings of the appellants' submitted Landscape and Visual Impact Assessment. What is more, the proposed replacement planting and landscaping would mature over time and further diminish the overall effect of the development in the wider views.
14. I conclude therefore, that the proposal would meet the requirements of Policies, EN1, EN3, OSS4 and RA1 of the Rother Local Plan Core Strategy 2014, and Policies DEN1 and DEN2 of the Rother Development and Site Allocations Local Plan 2018, which say, amongst other things, that the siting, layout and design of development should maintain and reinforce the natural and built landscape character of the area in which it is to be located, and Paragraphs 130 (c) and 176 of the Framework.

Other Matters

15. Conditions 7-10, 13 and 19 related to the development were imposed under the previous outline permission RR/2017/582/P. As was the requirement for a S106 agreement that included provision for affordable housing. These are noted, but are matters for the Council to conclude with the appellant.
16. I acknowledge that there were a large number of representations from interested parties, including those submitted by the High Weald Unit, Etchingham Parish Council, and the 'Burwash Save Our Fields' Group in respect of the proposal, which in addition to the main issues included concerns related to; anti-social behaviour, sustainability, access by foot to the village centre, ecology and woodland, site drainage, affordable housing and viability, highway safety and local infrastructure. However, I have little evidence before me to persuade me that the scheme would generate anti-social behaviour, be inaccessible by foot, or create unreasonable demands on local infrastructure or highway safety given the relative size of the scheme. Matters of sustainability, affordable housing, drainage and ecology are subject to conditions or planning obligations which meet the requirements of Paragraph 55 of the Framework.

17. Therefore, given my findings above and the suggested conditions provided by the Council, I have found no justification to dismiss the appeal or the benefits associated with the provision of up to 30 new dwellings against the Council's housing land supply.

Conditions

18. I have considered Paragraph 56 of the Framework and the national Planning Practice Guidance and imposed the following conditions; for certainty, a condition requiring that the development is carried out in accordance with the approved plans, and a condition related to external materials. In the interests of the character and appearance of the area generally, there is a condition related to garden sheds and cycle storage. In respect of highway safety there is a condition for parking and turning. A condition has been imposed to protect trees on site during construction. There are conditions to enhance or protect landscaping, biodiversity and the ecology of the site. A condition related to water efficiency has been imposed to meet sustainability requirements. I have also included a condition for flood risk, water quality and maintenance of drainage systems to ensure future maintenance of the drainage system and drainage of the site generally.

Conclusions

19. For the reasons given above the appeal should succeed and reserved matters are hereby granted, subject to the conditions set out in Annex A.

J E JOLLY

INSPECTOR

Annex A – Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and details: Drawing Nos:
 - DR A 0020 P02, dated Jan 2020, site location plan
 - DR A 0022 P11, dated Jan 2020, roof plan/layout
 - DR A 0023 P10, dated Jan 2020, proposed site plan 1 of 4
 - DR A 0024 P10, dated Jan 2020, proposed site plan 2 of 4
 - DR A 0025 P09, dated Jan 2020, proposed site plan 3 of 4
 - DR A 0026 P09, dated Jan 2020, proposed site plan 4 of 4
 - DR A 0027 P07, dated Jan 2020, plots 1-4
 - DR A 0028 P06, dated Jan 2020, plots 5-6
 - DR A 0029 P06, dated Jan 2020, plots 7-8
 - DR A 0030 P07, dated Jan 2020, plots 9-10
 - DR A 0031 P06, dated Jan 2020, plots 11-12
 - DR A 0032 P07, dated Jan 2020, plots 13-14
 - DR A 0033 P07, dated Jan 2020, plots 15-16
 - DR A 0034 P06, dated Jan 2020, plots 17-18
 - DR A 0035 P06, dated Jan 2020, plots 19-20
 - DR A 0036 P06, dated Jan 2020, plots 21-25
 - DR A 0037 P06, dated Jan 2020, plots 21-25
 - DR A 0038 P06, dated Jan 2020, plots 26-27
 - DR A 0039 P06, dated Jan 2020, plots 28-29
 - DR A 0040 P06, dated Jan 2020, plot 30
 - DR A 0042 P04, dated May 2020, street scenes
 - DR A 0043 P03, dated Jul 2020, site sections PLG/1640/20 B, dated Aug 2020, landscape proposals (excluding the use of cotoneaster)
 - PLG/1641/20 B, dated Aug 2020, landscape proposals (excluding the use of cotoneaster)
 - DR-D-0250-S4-P01, dated Sept 2020, Common Parts Maintenance
 - 2018/4357/002D, dated 24/08/20, swept path analysis
 - Arboricultural Assessment Report by The Ash Partnership (September 2020)
 - Ecological Appraisal Update by The Ash Partnership (September 2020)

- Written Scheme of Investigation for an Archaeological Evaluation by Chris Butler Archaeological Services Ltd (February 2018).
 - An Archaeological Evaluation Excavation by Chris Butler Archaeological Services Ltd (August 2018).
- 2) No above ground works shall commence until details of the following have been submitted and approved by the Local Planning Authority, and the development shall thereafter be completed in accordance with the approved details: a) Details/specifications of all external materials for the dwellings. b) Details/specifications of all materials for the external road surfacing, paving, steps and railings. c) 1:10 scale drawings of proposed details including fenestration, eaves details, porch/window canopies, chimneystacks, and utility boxes (including the location of such boxes on the buildings) The development shall not be occupied until the parking and turning areas have been provided in accordance with the approved plan, Drawing Nos. 0022 P11, 23 P10, 24 P10, 25 P09 and 26 P09, dated Jan 2020 and the areas shall thereafter be retained for that use and shall not be used other than for the parking and turning of motor vehicles.
 - 3) The development shall not be occupied until the parking and turning areas have been provided in accordance with the approved plan, Drawing Nos 0022 P11, 23 P10, 24 P10, 25 P09 and 26 P09, dated Jan 2020 and the areas shall thereafter be retained for that use and shall not be used other than for the parking and turning of motor vehicles.
 - 4) The development shall not be occupied until the garden sheds/cycle store have been provided in accordance with the approved plan 0022 P11, 23 P10, 24 P10, 25 P09 and 26 P09, dated Jan 2020 and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles and the storage of domestic items.
 - 5) No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity, incorporating the recommendations made in the Ecological Appraisal Report (The Ash Partnership, September 2020), the provision of log piles and hibernacula for reptiles and measures to maintain permeability of the site for wildlife, has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following: a) purpose and conservation objectives for the proposed works; b) review of site potential and constraints; c) detailed design(s) and/or working method(s) to achieve stated objectives; d) extent and location /area of proposed works on appropriate scale maps and plans; e) type and source of materials to be used where appropriate, e.g. native species of local provenance; f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development; g) persons responsible for implementing the works; h) details of initial aftercare and long-term maintenance; i) details for monitoring and remedial measures; and j) details for disposal of any wastes arising from works. The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 6) No development shall take place and no equipment, machinery or materials shall be brought onto the site until fencing for the protection of the trees to be retained on the boundaries and within the site has been provided in accordance with the details set out within the Ash Partnership 2020 Arboricultural Assessment Report, dated September 2020 and in accordance with the recommendations of BS 5837:2012 (Trees in relation to design, demolition and construction) and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, unless otherwise agreed in writing with the Local Planning Authority.
- 7) No development shall take place (including any demolition, ground works, site clearance) until a biodiversity method statement for the protection of badgers and dormice has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the: a) purpose and objectives for the proposed works; b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used); c) extent and location of proposed works shown on appropriate scale maps and plans; d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction; e) persons responsible for implementing the works; f) initial aftercare and long-term maintenance (where relevant); and g) disposal of any wastes arising from the works. The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.
- 8) No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity, incorporating the recommendations made in the Ecological Appraisal Report (The Ash Partnership, September 2020), the provision of log piles and hibernacula for reptiles and measures to maintain permeability of the site for wildlife, has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following: a) purpose and conservation objectives for the proposed works; b) review of site potential and constraints; c) detailed design(s) and/or working method(s) to achieve stated objectives; d) extent and location /area of proposed works on appropriate scale maps and plans; e) type and source of materials to be used where appropriate, e.g. native species of local provenance; f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development; g) persons responsible for implementing the works; h) details of initial aftercare and long-term maintenance; i) details for monitoring and remedial measures; and j) details for disposal of any wastes arising from works. The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 9) A landscape and ecological management plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority prior to occupation of the development. The content of the LEMP shall include the following: a) description and evaluation of features to be managed; b) ecological trends and constraints on site that might influence management; c) aims and objectives of management; d) appropriate management options for achieving aims and objectives; e) prescriptions for management actions, together with a plan of management compartments; f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period; g) details of the body or organisation responsible for implementation of the plan; h) ongoing monitoring and remedial measures. The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.
- 10) The dwelling(s) hereby approved shall meet the requirement of no more than 110 litres/person/day water efficiency set out in Part G of Schedule 1 of the Building Regulations 2010 (as amended) for water usage. The dwelling(s) hereby permitted shall not be occupied until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the dwelling(s) has been constructed to achieve water consumption of no more than 110 litres per person per day.
- 11) Prior to the commencement of development further details shall be submitted to and approved in writing by the Local Planning Authority in respect of: a) agreement of a phasing plan in association with Southern Water for the foul drainage connections to the public sewer; and b) the submission of additional detailed design matters for the surface water drainage as set out at points 1-4 in the LLFA consultee response dated 27 November 2020. The drainage works as applicable, are to be completed in accordance with the approved details prior to the occupation of each dwelling hereby approved.

*****End of Conditions*****