



Appeal Decision

Site visit made on 7 November 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Appeal Ref: APP/C1435/W/21/3284057

Land at Threeways, Nettlesworth Lane, Vines Cross TN21 9EN

- 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 Mr Alan Forward against the decision of Wealden District Council.
 - The application Ref WD/2020/1946/O, dated 24 September 2020, was refused by notice dated 2 September 2021.
 - The development proposed is demolition of existing workshop and erection of 4 no. dwellings and replacement workshop building together with parking provision, creation of new access onto Nettlesworth Lane and closure of existing access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with the principle of the proposed development and details of access to be considered at this stage, which in this case excludes the layout of routes within the development. Details of appearance, landscaping, layout and scale are reserved for future determination and in these regards the submitted plans represent only one possible way that the site could be developed.
3. The Council did not object to the principle of the replacement workshop building. I have determined the appeal on this basis.

Main Issues

4. These are:
 - whether the site would be a suitable location for the proposed housing in the context of local and national planning policy;
 - whether the development would have safe and suitable access; and
 - whether adequate parking and turning could be provided on the site for the replacement workshop building.

Reasons

5. The appeal site comprises a bungalow and a garage (two workshops used for car repairs, restorations and MOTs and a building used for car sales) each with associated outside areas. It is proposed to redevelop a majority of the site to provide four dwellings next to the bungalow and a single replacement workshop (Class B2) near the car sales building.

Location

6. The site is in Vines Cross, which is a small hamlet of dwellings in a rural setting. Saved Policies GD2, DC17 and EN1 of the Wealden Local Plan 1998 (LP) direct most new housing development to a settlement hierarchy of sustainable locations within defined development boundaries. Vines Cross is not one of these so housing here is restricted, unless as an exception there is a justified need or other reason for it to be in the countryside. Notwithstanding when the LP was adopted, it is broadly consistent with similar objectives of the National Planning Policy Framework in these respects. The rural areas strategy in Policy WCS6 of the Wealden Core Strategy 2013 (CS) maintains the approach of the LP. Vines Cross is an unclassified settlement without a defined development boundary.
7. The development plan therefore resists housing on the site. The proposed (all) market housing would not meet any other exception recognised by the development plan or the Framework for housing in the countryside.
8. Aside from a public house and the garage, Vines Cross has no services or facilities. Some exist in Horam and more at Heathfield, Hailsham and Eastbourne. While Horam is closest to the site and connects by regular bus services to these other locations, it is the smallest of these settlements and still over a mile away. The roads into and out of Vines Cross are narrow rural lanes, lined with hedgerow, without footways or street lighting and subject to a 60mph speed limit. This would not be conducive to walking or cycling, even to Horam, let alone during inclement weather or regularly to meet day-to-day living needs. As a result, future occupiers of the dwellings would undoubtedly be reliant on a private vehicle to meet these needs.
9. Even if this helped to enhance or maintain the vitality of the larger settlements at Heathfield, Hailsham or Eastbourne this small-scale development would have a limited proportionate effect in these regards. There is no evidence that four dwellings would support the vitality of Horam or Vines Cross or any other rural community in a meaningful way. Beyond Vines Cross this would anyway require travel using a private vehicle.
10. The dwellings would not be 'major' development but this part of the proposal would not promote walking, cycling or public transport or result in a pattern of development that supported these aims. While sustainable transport opportunities will vary between urban and rural areas, in this case the dwellings would fundamentally not be in a location that is or could be made sustainable by limiting the need to travel or offering a genuine choice of transport modes. It would be a significant development for these reasons.
11. I have been referred to some decisions for housing development on the site. Two appeal decisions¹ were some 15 years ago, when Vines Cross had a development boundary and there is no evidence that the same services and facilities exist now as then. In two more recent Council decisions², overcoming objections to some details of these previous schemes would not change the fact that when those decisions were made, as now, Vines Cross no longer had a development boundary. In another appeal decision³, a site at Cross-in-Hand

¹ APP/C1435/A/05/1182391 and APP/C1435/A/06/2024406

² WD/2012/2015/F and WD/2017/1176/F

³ APP/C1435/E/19/3240337

had access to, albeit limited, a number of services and facilities, including some buses to Heathfield and private vehicle use related to one dwelling. These decisions are not, therefore, directly comparable to the current appeal which I have determined on its individual planning merits.

12. I find that the proposal would not accord with the housing spatial strategy in the development plan. Consequently, the principle of residential development in this case conflicts with LP Policies GD2, DC17 and EN1 and with CS policy WCS6. It also conflicts with CS Policies SPO7, SPO8 and WCS14 in that the location of the dwellings would not reduce the need to travel by car, support sustainable modes of travel or support facilities and services to meet the needs of rural communities and improve social, economic and environmental conditions in the area. It would also be at odds with housing and sustainability objectives of the Framework. In this context, the site would not be a suitable location for the proposed housing.

Access

13. If outline permission were given, then access to the development would be fixed. I therefore need to be certain that these details would be satisfactory. There is no dispute between the main parties that an existing access onto Nettlesworth Lane would be suitable to serve the replacement workshop. It is also common ground that the width, junction radii and sightline dimensions for the proposed access to serve the housing part of the proposal would be acceptable. I have no reason to find otherwise.
14. However, the appellant's block plan shows the red line of the site to angle across the proposed access to leave a gap between the site and a dotted line drawn along one side of the lane. The appellant's visibility splay plans show this dotted line as a solid line and the edge of the public highway boundary. The block plan shows this gap is widens to the south of the new access, which includes front garden boundary hedgerow along the edge of the lane at an adjoining house. The appellant agrees that this hedgerow has a material effect on the sightline dimension that can be achieved, depending also on what off-set from the lane edge is used.
15. On this basis part of the access could not be constructed on land owned or controlled by the appellant or that is part of the public highway. Furthermore, whether using the appellant's 1m or 2.56m off-set, a significant part of the south sightline would be over land not owned or controlled by the appellant or not part of the public highway. In these circumstances, a condition could not ensure that the access or this sightline was achieved and maintained.
16. The evidence before me may well reflect tolerances associated with Ordnance Survey (OS) plans. However, there is no detailed topographic survey plan so no accurate or reliable portrayal of these features on the ground. A potential variance and gap of up to 2m in these regards is significant and could potentially have a marked effect on whether the access or the agreed sightline dimensions could be delivered. The absence of any recorded collisions along this stretch of the lane does not take into account the proposed access. While the main parties have referred me to photographs and to hand drawn lines on Google Streetview images, or to hand shaded overlays on small-scale OS plans, these representations lack sufficient precision so do not assist me.

17. Accordingly, I am not satisfied that the appellant has demonstrated that the housing part of the proposal would have a safe and suitable access. Consequently, it conflicts with LP Policies EN1 and TR3 and with CS Policy WCS14. These include that sustainable development should be acceptable in design with regard to satisfactory means of access for all road users.

Parking and turning

18. The car sales building and outdoor car sales area shown in the appellant's indicative layout is not part of the description of the proposed development. The lawfulness of this activity, how it is operated and in what form or extent it might continue at the site are not matters before me in this appeal.
19. If outline permission were given, the floor area of the replacement workshop would be fixed at 150m², as set out in the application form; but not the layout and appearance of this building or the layout of parking and a turning area for it (including loading/unloading). It is common ground between the main parties that this workshop would require 4 car parking spaces and 50m² for turning. I have no reason to disagree. Even with a single-storey workshop building the indicative layout shows 7 car parking spaces and significantly in excess of 50m² for turning, excluding the area shown hatched as 'car sales area'.
20. As such, these details could be reconciled at a reserved matters stage without prejudicing internal routes or landscaping on this part of the site. Conditions could ensure that sufficient parking and turning space is provided and thereafter retained, as well as to restrict the size or type of vehicle that might transport cars, or be used for general deliveries, to and from this part of the site. The Highway Authority has powers to restrict on-street parking on Nettlesworth Lane and the Council has powers to prevent encroachment of development beyond the site.
21. I am therefore satisfied that adequate parking and turning for the replacement workshop building could be provided on the site. Consequently, the proposal complies with LP Policies TR3 and TR16 and with CS Policies SPO13 and WCS14. These include that development should not create unacceptable traffic conditions and provide safe, on-site vehicle parking in accordance with Council's standards.

Other Matters

High Weald Area of Outstanding Natural Beauty (AONB)

22. A small corner of the site is in the AONB which is a nationally designated landscape with the highest status of protection. The development would not encroach into the countryside or the adjoining small fields bounded by hedgerow and trees which are characteristic of this part of the AONB. There would be a significant reduction in commercial buildings and outside activity on the site, including the part in the AONB, to be replaced with dwellings. I agree with the main parties that with appropriate reserved matters details the proposed development would conserve and enhance the landscape and scenic beauty of the AONB, including its setting.

Listed building

23. Hilltop is a Grade II listed building. Its significance includes its siting and historic origins as a house dating to the 18th century with intrinsic architectural

features comprising two storeys, three windows, alternate red brick and grey headers, hipped tiled roof, casement windows and doorway with stone cornice over. A distant, staggered part of its rear garden borders the site but the house faces away from it. In the context of the already developed environs around Hilltop, including on the site, I agree with the main parties that with appropriate reserved matters details the proposed development would have a neutral effect on the setting of the listed building. As such, it would preserve the setting and cause no harm to this designated heritage asset.

Ashdown Forest

24. The site is within a zone of influence of the Ashdown Forest Special Area of Conservation (SAC). It is designated due to the presence of European dry heath, North Atlantic wet heath and great crested newts. The heathland is vulnerable to atmospheric pollution, including vehicle emissions. The Council considers that there would not be a significant effect on the SAC from the proposed increase in residential development alone, or in combination with other plans and projects, in an area where increased traffic flows associated with new development would occur on roads which go through, or run adjacent to, the SAC. I return to the SAC below.

Other interested party comments

25. As well as the representations from Horam Parish Council and the Vines Cross Community Association, local residents have raised a number of other concerns. I have given due regard to these matters but on the objective evidence before me none of these are determinative in this case, so would not affect my decision or alter the outcome of the appeal.

Planning Balance

26. The appellant considers that the Council has a 3.28-years supply of deliverable housing sites. The Council has not disputed this figure and accepts that it cannot currently demonstrate a 5-year housing land supply. As a result, paragraph 11 d) of the Framework is engaged. For the reasons explained above and below, the AONB, Hilltop listed building and the SAC do not provide a clear reason for refusing the development proposed.
27. In terms of benefits, this small windfall site for four dwellings would make a modest contribution to housing supply and the dwellings could vary in size or type. A replacement workshop built to modern standards would make a more efficient and effective business use of previously developed, under-utilised land in this rural settlement.
28. These aspects of the proposal would be aligned with objectives of the Framework to significantly boost the supply of homes, meet specific housing needs and support the local economy. There is no apparent reason why the development would not be high-quality in design with sufficient parking and turning and be sympathetic to local character, including the surrounding built environment and landscape setting. This would be consistent with aims of the Framework to achieve well-designed places and protect the natural environment. The social, economic and environmental benefits associated with building and occupying the dwellings and the workshop are factors which I consider have moderate weight in favour of the proposal.

29. However, the Framework also sets out that in seeking to make effective and efficient use of land for new homes, it is necessary to consider the scope to provide sustainable travel modes that limit future car use. Such development also needs to function well and create places that minimise the likelihood of conflicts between all road users and avoid unacceptable impact on highway safety. The proposal would conflict with the Council's relevant development plan policies in these respects. These are consistent with aims of the Framework to balance meeting housing needs with these other objectives of sustainable development. The unsuitability of this location for the proposed dwellings and apparent deficiencies of the proposed access are both important factors against the development. As such, I give significant weight to each.
30. The adverse impacts of the proposal would, therefore, 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.
31. Since I intend to dismiss the appeal for these reasons, there is no need for me to consider the SAC any further as to do so would not affect my decision or alter the outcome of the appeal.

Conclusion

32. 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.
33. Consequently, for the reasons given above I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR