



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: 1 December 2022

Appeal Ref: APP/C1435/W/22/3297976

Allsworthy, Hailsham Road, Stone Cross, Pevensey, East Sussex BN24 5AS

- 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 Simon Zender (Hubjub Ltd) against the decision of Wealden District Council.
 - The application Ref WD/2020/2501/MAO, dated 30 November 2020, was refused by notice dated 25 March 2022.
 - The development proposed is for the erection of up to 22 dwellings consisting of 1, 2, 3 and 4 bedroom houses (including affordable homes) together with access road and parking.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Simon Zender (Hubjub Ltd) against Wealden District Council. It is the subject of a separate Decision.

Preliminary Matters

3. 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.
4. Prior to the Council's decision, the proposal and description of development was amended from 'up to 33 dwellings' to 'up to 22 dwellings' with the type and size of dwellings specified. I have used this description in the banner above.
5. The Council did not object to the details of the proposed access. I have determined the appeal on this basis.
6. As part of the appeal the appellant submitted an amended Planning Noise Report¹. It reflects an amended indicative site layout plan², altered as a consequence of the change to the proposal and description of development. The Council had an opportunity to consider this report in its appeal statement and it would not prejudice any party. I have therefore taken it into account in determining the appeal.

¹ Anderson Acoustics May 2022

² James Pearce + Ass (undated) drawing number 25890.100, 1:500 @ A2

7. During the appeal the appellant submitted an executed planning obligation in the form of a unilateral undertaking dated 23 September 2022. It relates to the provision of affordable housing and a self or custom build plot. The Council was given an opportunity to comment on the planning obligation and I have taken comments received into account. I return to the planning obligation below.
8. Since the appeal was lodged, the Council has withdrawn part of its reason for refusal relating to the effect of noise and air pollution on the future occupiers of the proposed dwellings. It no longer defends this aspect of its decision. I have determined the appeal on this basis.
9. I have been referred to the Council's Draft Submission Wealden Local Plan 2019 but it has been withdrawn from examination. The Council's new Local Plan is at an early stage. These previously proposed or emerging strategies and policies are subject to change, so both plans have no weight in this appeal.

Main Issues

10. These are:

- the effect of the proposed development on the character and appearance of the surrounding area; and
- whether the site would be a suitable location for housing in the context of local and national planning policy for the provision of housing.

Reasons

11. The appeal site comprises a yard at the front, next to Hailsham Road, and contains a mobile home, some touring caravans and buildings allied to this residential use of this part of the site. The majority of the site lies to the rear and is a long, broadly rectangular open swathe of rough grassland mostly bordered by trees. It is proposed to redevelop the site to provide up to 22 dwellings, including affordable housing and a self or custom build plot.

Character and appearance

12. Notwithstanding that the proposal is for 'up to' 22 dwellings, if outline permission were given then development including for 22 dwellings, to be provided as 1, 2, 3 and 4+ bedroom houses (in accordance with the schedule in section 17 of the amended application form) would be fixed. I therefore need to be certain that the site could be developed for 22 houses of this size in a manner appropriate to the relevant surrounding area.
13. The site is near a small cluster of dwellings in a rural setting on the north side of the elevated A27 Pevensey Bypass. Despite its proximity, Stone Cross is to the south of the A27. Large scale residential development in this urban area is visually separated from the site due to wide belts of trees and topography. The more sporadic form of housing near the site is mostly arranged as a long, closely spaced linear frontage along the south side of Hailsham Road, with some housing on the other side or as short off-shoots along side roads. It reflects the generally more open countryside and limited intrusive or extensive residential development in this area and is locally distinctive.
14. A large part of the site, towards the far end, lies beyond a perpendicular line of trees to the north. These mark the boundary between a large field and the ends of long rear gardens of some dwellings on the south side of Hailsham

Road, including some that have been developed with appreciable ancillary outbuildings and structures. Notwithstanding trees on three sides of this part of the site, even a modest density of housing here would be at odds with the general spread of this existing residential development and use. It would unduly consolidate housing at a considerable distance in-depth behind Hailsham Road and significantly more so than five backland houses recently constructed opposite the site, on the north side of Hailsham Road, which replaced commercial buildings.

15. Houses on this part of the site, even if smaller and high quality in design with an appropriate vernacular, would nonetheless be evident in public views from Hailsham Road, along the frontage near the site access, and from rising ground towards its junction with Hankham Road. This would give an appreciably greater built-up feel to the immediate area with a commensurate loss of openness. The site is not in an area nationally or statutorily designated for its landscape, built quality or important views and the impact of the proposal would be localised. Nevertheless, the site is in the recognised Low Weald landscape. The absence of greater public visibility does not mean there would be no innate harm to the character and appearance of this countryside or that the change to the site that is proposed would not be significant.
16. The previously developed front of the site could have houses on it with some facing Hailsham Road, rather than side on. Permanent living accommodation here, and visual enhancement of this part of the site, would sit more comfortably as part of the frontage of existing dwellings. Some houses could be arranged in a closely spaced frontage(s) along a broadly linear new road, extending in limited depth towards the central part of the site as an off-shoot of Hailsham Road. This would broadly be in-keeping with the overall pattern of the appearance, layout and scale of nearby housing and allow for appropriate landscaping to reflect the rural context. It would also avoid houses facing away from a road, set at right angles served off private drives. An urban or sub-urban housing estate of this sort would be incongruous in this rural location and at odds with the prevailing layout of nearby residential development.
17. There is, therefore, no fundamental reason why a suitable arrangement, number and size of houses on an appropriate part of the site would unduly expand the visual or spatial presence of Stone Cross north of the A27, erode this part of the setting or fringe of Stone Cross or unacceptably diminish gaps to adjoining open countryside or other settlements. The most valuable greenfield buffer in this regard lies in other directions beyond the developable part of the site and this cluster of existing dwellings.
18. However, appropriate provision for other aspects of the proposal within the developable part of the site would need to be made; such as car parking, private garden amenity space (thus plot sizes), drainage, a formal equipped play area, an informal play area, biodiversity or landscape margins and to protect important trees to be retained. Housing would also need to account for a slope on part of the site and ensure satisfactory living conditions for future occupiers, for instance with regard to privacy, outlook and natural light.
19. An outline application can provide a means to establish certain parameters of proposed development, including in this case a maximum number of houses and their size in terms of bedrooms. But there are fundamental difficulties in the development of a significant part of the site. The proposal before me does

not, therefore, provide sufficient assurance that if outline planning permission were granted, satisfactory details of the reserved matters could be resolved to allow for the balance of the site to be developed for 22 houses of the size proposed in a manner appropriate to the character and appearance of the surrounding area. Consequently, it conflicts with Saved Policies EN8 and EN27 of the Wealden Local Plan 1998 (LP) and with CS Policy WCS14. These policies include that development should conserve the character of the Low Weald landscape, respect the character of adjoining development, promote local distinctiveness and avoid unacceptable backland development to improve social and environmental conditions in the area.

Location

20. Saved LP Policies GD2, DC17 and EN1 direct most new housing development to a hierarchy of sustainable locations within defined settlements. This includes Stone Cross but the site is not in this development boundary. The LP therefore resists housing on the site and the proposal would not meet an exception recognised by the LP for housing in the countryside. It would therefore conflict with these policies. However, CS Policy SPO3 postdates the LP. It sets out that new housing will be provided by, amongst other things, sustainable extensions to existing towns including development focussed 'in and around' Stone Cross. In other words, that some development boundaries, including at Stone Cross, may be breached in certain circumstances.
21. In this case, the site is very close to the development boundary of Stone Cross, which is a 'service centre' with a range of jobs, services and facilities with a purpose to serve nearby communities and the wider rural area. It is connected to this settlement by a continuous, albeit currently narrow and partly lit, pavement. This would be convenient and conducive to regular walking and cycling to these local services and facilities as a means to meet day-to-day living needs. This would include buses to larger settlements such as Hailsham and Eastbourne with request bus stops near the site in Hailsham Road. As a result, it is likely that future occupiers of houses would not be reliant on a private vehicle to meet these needs but have a genuine choice of transport modes. The site would be in an already sustainable location for housing and a development of up to 22 dwellings would have a positive, albeit modest, effect in support of the vitality of Stone Cross and these other settlements.
22. Even if new housing development at Stone Cross has already exceeded an anticipated growth level of 650 dwellings, CS Policy WCS4 expresses this figure as 'at least' this number of homes. Similarly, CS Policy SPO03 aims to provide 'at least' 9,440 homes in Wealden District. In both cases numbers based on housing growth that does not reflect up-to-date full objectively assessed housing need. I do not interpret either as a cap and to do so would be at odds with objectives of the National Planning Policy Framework which I return to in the Planning Balance below. Furthermore, applying full or overriding weight to Saved LP Policies GD2, DC17 and EN1 would plainly counteract and undermine the contemporary objectives of the Council to deliver more new housing by the means expressed in the CS.
23. I find that the proposal would accord with the spatial strategy of the development plan taken as a whole. Consequently, the principle of residential development complies with CS Policy SPO3. It also complies with CS Policies SPO7 and WCS14 in that the location of the houses would reduce the need to

travel by car, support sustainable modes of travel and support facilities and services to improve social, economic and environmental conditions in the area. It would also be aligned with housing and sustainability objectives of the Framework. In this context, the site would be a suitable location for housing.

Other Matters

Affordable and self or custom build housing

24. The appellant's planning obligation would secure 35% of the proposed dwellings as affordable housing (AH) on the site, with the number and type of AH dwellings to be agreed with the Council at a reserved matters stage. This would help to meet an identified local AH need, which is acute with worsening affordability, and comply with Policy AFH1 of the Council's Affordable Housing Delivery Local Plan 2016. I am therefore satisfied that this aspect of the planning obligation would be reasonable, necessary and proportionate and make the proposal acceptable in planning terms. As such it would accord with the provisions of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and the tests for planning obligations set out in the Framework and relevant Planning Practice Guidance (PPG).
25. As of March 2022 there were 158 people on the Council's self-build and custom housebuilding register, so there is a need for this type of housing and suitable plots. The Council also seeks to meet its statutory obligations³. However, there is no evidence of an unmet identified local need for such a plot in or around Stone Cross or whether it is a preference of people on the register to live in this particular area. There is also no apparent objective basis for 5% of the dwellings in this case to be self or custom build plots and it is not clear if such provision is supported by any development plan policy (Policy AFH1 is silent in this regard). In these circumstances, I am not satisfied that providing a serviced self or custom build plot would be reasonable, necessary or proportionate. Accordingly, this part of the planning obligation does not comply with the CIL Regulations or the Framework and PPG tests.

Listed building

26. The White House is a Grade II listed building. Its significance includes its siting and historic origins as a dwelling dating to the 18th century with intrinsic original architectural features comprising two storeys, stuccoed elevations, tiled roof, casement windows and gabled porch. It is located in Hankham Road, about 60m from the closest part of the site with no meaningful inter-visibility due to trees and buildings. I agree with the main parties that the proposal would have a neutral effect on the setting of the LB, thus would preserve the setting and cause no harm to this designated heritage asset.

Pevensey Levels

27. The site is within a zone of influence of the Pevensey Levels Special Area of Conservation, Ramsar site and Site of Special Scientific Interest. These are nationally and internationally important sites, designated predominantly for their wetland features such as birds, invertebrates and vegetation. These interest features rely on a high quality of water and stable water levels. A significant effect on the integrity of these sites would be likely to occur from

³ Self-build and Custom Housebuilding Act 2015 (as amended) and Self-build and Custom Housebuilding Regulations 2016

the proposed residential development alone, or in combination with other plans and projects, in an area where increased discharge of foul and surface water poses an inherent risk to the stringent water quality targets of these sites. I return to the Pevensey Levels below.

Other interested party comments

28. As well as the representations from Westham Parish Council, The Stone Cross Action Group and Sussex Ramblers, 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.

Other decisions

29. The Council⁴ has granted planning permission for new housing at Stone Cross, but other than the backland houses opposite the site it is on the south side of the A27 and mostly for a significantly greater quantum of development. In appeal decisions⁵ for housing development in Wealden District and elsewhere the findings made by the Inspectors and the weight given to relevant considerations in the planning balance derive from the specific circumstances of each case. In respect of a development plan examination⁶, the Inspector had to reconcile a plan-led strategy for the whole of that Council area, not individual development management proposals. These decisions are not therefore directly comparable to the current appeal which I have determined on its individual planning merits. On this basis, none of those decisions, or my decision, set a precedent either way.

Planning Balance

30. The appellant considers that the Council has less than the 3.66-years supply of deliverable housing sites claimed by the Council but has not suggested an alternative figure. Nevertheless, the Council accepts that it cannot currently demonstrate a 5-year housing land supply (it is common ground that the shortfall is, on the Council's figure, nearly 2,000 homes). As a result, paragraph 11 d) of the Framework is engaged. For the reasons explained above and below The White House listed building and the Pevensey Levels sites do not provide a clear reason for refusing the proposal.
31. In terms of benefits, residential development on this small to medium sized windfall site, in a sustainable location, would make a notable contribution to meeting housing requirements. The house sizes would allow occupation by single persons through to large families. These aspects of the proposal would be aligned with objectives of the Framework to significantly boost the supply of homes and meet specific housing needs, particularly for affordable housing. Notwithstanding this, the precise number of houses and their sizes (including the affordable houses) is uncertain for the reasons set out above. This lessens the weight that can reasonably be attached to each of the above considerations and the social, environmental and economic benefits associated with building and occupying the new homes. Accordingly, I give moderate weight to each of these factors in support of the appeal.

⁴ WD/2017/0177/F, WD/2017/1063/MAO, WD/2012/2583/MAO and WD/2020/1039/MAJ

⁵ APP/C1435/W/19/3227196, APP/C1435/W/17/3178137, APP/C1435/W/17/3179061, APP/C1435/W/21/3274822, APP/C1435/W/20/3265449 and APP/V0510/W/21/3282449

⁶ Mid Sussex Site Allocations Development Plan Document

32. However, the Framework sets out that in seeking to make effective and efficient use of appropriate land in rural areas to provide new homes, development also needs to achieve well-designed places and conserve the natural environment. The appellant has not demonstrated that the proposal would be sympathetic to the area's prevailing local character, including surrounding built environment and landscape setting, or that it would establish or maintain a strong sense of place with respect to arrangement of streets and spaces to create attractive and distinctive places to live. It would also conflict with objectives of the Framework to ensure that development protects valued landscapes and respects the intrinsic character and beauty of the countryside.
33. The unsuitability of part of the site for housing has a fundamental influence on these considerations, leading to conflict with the Council's relevant development plan policies. These policies are consistent with aims of the Framework to balance meeting housing needs with these other objectives of sustainable development. These are important factors against the proposal and as such I give significant weight to each of these.
34. Even if housing land supply is less than 3.66-years, 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.
35. Since I intend to dismiss the appeal for these reasons, there is no need for me to consider the Pevensey Levels sites any further as to do so would not affect my decision or alter the outcome of the appeal.

Conclusion

36. 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.
37. Consequently, for the reasons given above the appeal should not succeed.

Robin Buchanan

INSPECTOR