



Appeal Decision

Site visit made on 28 November 2022

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/C1435/W/22/3294925

land adjacent to Collins Honda, Hailsham Road, Herstmonceux BN27 4JU

- 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 Abode Homes (Herstmonceux) Ltd against the decision of Wealden District Council.
 - The application Ref WD/2021/1121/MAJ, dated 8 October 2021, was refused by notice dated 31 January 2022.
 - The development proposed is the Erection of 29 dwellings (including 35% affordable housing provision).
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant's application form describes the proposed development as set out in the above heading. However, their appeal form describes the development as the 'Erection of 29 dwellings (100 percent affordable shared ownership tenure)'. On the appeal form they indicate that the description has not changed since the application. Nonetheless, the Council's decision and officer report, both refer to the former description, so is not clear how this anomaly has arisen. Accordingly, I have considered the appeal on the basis of the description used on the application form.
3. The appeal site was initially granted outline planning permission for 17 houses in 2016, although from the evidence this may have expired. During the course of this appeal however, planning permission was granted for the erection of 21 dwellings on the site, (including 35 % affordable), access, landscaping and other associated infrastructure, (WD/2022/1080/MAJ). A copy of this decision and the officers report, including several indicative plans, have been provided by the appellant. These are relevant to this appeal.

Main Issues

4. I consider that the main issues are:
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on living conditions for future and existing nearby occupiers in respect of overlooking and outlook; and
 - The provision of affordable housing.

Reasons

Character and appearance

5. The site is located to the south of the A271 Hailsham Road, between the former garage buildings of Collins Honda and 4 Ferndale Cottages. It lies a short distance from the village of Herstmonceux in an area generally characterised by dwellings set in generous plots, giving the immediate area a semi-rural character.
6. The appeal site comprises an 'L' shaped piece of grassland of some 1 hectare. It slopes down steeply from Hailsham Road towards the wooded valley below. The existing site access is past the Former Collins Honda buildings, to the bottom of the appeal site.
7. The proposed point of access is the same for both the recently approved scheme and this appeal, being from Hailsham Road, passing by 4 Ferndale Cottages (No 4). The proposed development of is for 29 dwellings, an increase of 8 dwellings above the recently approved 21. This would result in a significantly greater density on this relatively constrained site.
8. There is some existing tree and hedge screening from Hailsham Road, with an area of more significant woodland, towards the lower levels of the site. These provide some screening of the development from the road and the countryside to the south and west. There is limited further screening along the boundaries of the existing dwellings to the east, which are set notably higher than the site. The position of the site between existing commercial development and housing helps to reduce its impact on the wider character and appearance of the area. However, the proposed increase in density would be most obvious from within the site.
9. It is clear from the submitted plans that the dwellings would have small gardens, with significantly more built development fronting the internal access roads. Moreover, it would result in substantially more hard landscaping in the form of large, designated parking areas throughout the site. This together with the resultant lack of space to provide meaningful landscaping to soften the scheme, would result in an overly close grained form of development that appear incongruous in this semi-rural location.
10. For the above reasons, I find that the proposed development of 29 houses would introduce an overly dense form of development, in contrasting starkly with the predominantly semi-rural character of the area. Consequently, I find that the proposed development would cause significant harm to the character and appearance of the area. Accordingly, it is in conflict with saved Policies GD2, EN8, EN27 and DC17 of the Wealden District Council Local Plan (1998) (LP), WCS 14 of the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan (2013) (CS). In summary, these policies seek to ensure that the design of new development conserves and respects the character of adjoining development and the character of the landscape.

Living conditions

11. No 4 is set higher than the proposed new access and dwellings. It has a number of windows facing into the site. Plot 7 of the proposed development lies closest to No 4, being some 17.5 metres away. I have no reason to disagree

with the council, that mutual privacy could be maintained by imposing an obscure glazing condition to this plot. The height differences and relationship of the proposed dwellings to the existing properties, would ensure that there is no significant loss of light.

12. However, there would be some potential for overlooking part of the rear garden of No 4, from plots 8 to 15. At the time of the site visit, there was at least one outbuilding sited close to the boundary. This and the higher land levels help to preserve the privacy of the part of the garden closest to the dwelling at No 4. Nonetheless Plots 12 to 15 are sited some 15metres from the centre of the remaining garden and would still give rise to some overlooking. I am mindful that the recently approved scheme would also give a similar opportunity for overlooking, although from fewer plots. That said, No 4 has a large garden and the areas furthest from the house are generally less likely to be fully private, with some overlooking common. I therefore consider the additional harm caused by the proposed development to be limited in this respect.
13. The close grained nature of the development, results in the proposed dwellings having very small gardens. From the evidence, the side boundary garden of plot 25 would be enclosed by the side wall of plot 24. The scale and proximity of this wall would appear unacceptably overbearing in such a small garden. Moreover, the layout means that the relationship between the plots results in some actual or perceived overlooking of the gardens of other plots, including plots 6, 7 and 8; and plots 15 and 16. This results in significant harm to the living conditions for those future residents.
14. For these reasons, I find that the proposed development would lead to limited harm to the living conditions of the residents of 4 Ferndale Cottages, but significant harm to future residents of the proposed development. The development is therefore contrary to saved Policy EN27 of the LP which aims to ensure that new development does not have an unacceptable impact on adjoining developments and provides a satisfactory environment for future occupiers.

Affordable housing provision

15. It is not in dispute that affordable housing is a high priority in the District. In response, Policy AFH1 of the Wealden District Council Local Plan Affordable Housing Delivery Plan (2016) (AHDP), requires that new residential development of over 5 units, provide 35% of its dwellings to be affordable, with financial contributions in lieu of on-site provision where appropriate. It makes clear that new housing development will be required to provide for a mix of dwelling size, type and tenure.
16. There is nothing before me to suggest that the need for the affordable housing sought by the Council and arising from the proposed development, is not necessary.
17. This proposal would provide 11 units (37.9%) on site provision. During the course of this appeal details of the tenure have been secured by a certified s106 agreement dated 8 December 2022, duly signed and sealed by the parties. I have reviewed this agreement and I am satisfied that it would secure the level and type of provision required. Accordingly, I find no conflict with Policy AFH1 of the AHDP.

Planning balance and other matters

18. It is not disputed that the Council cannot demonstrate a 5 year housing land supply. As such housing delivery policies are deemed to be out of date. Therefore, housing delivery needs to be considered in the context of paragraph 11 of the National Planning Policy Framework. Paragraph 11 provides a presumption in favour of sustainable development and planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. I acknowledge that the proposed development would contribute toward the District's targets for housing delivery, affordable housing and 5-year land supply. I also recognise that the proposal would provide limited additional social and economic benefits, through the build process and future residents using local businesses and services. These undoubtably weigh in favour of the proposal. However, given that the proposal would only provide an additional 8 dwellings, over that already approved, I attach moderate weight to these social and economic benefits.
20. Notwithstanding the above benefits, due to its density and layout, the development would cause significant harm to the character and appearance of the area and further harm to the living conditions of existing and future residents. Consequently, the proposed development conflicts with the development plan as a whole, with the benefits significantly and demonstrably outweighed by the identified harm such that the appeal is dismissed.
21. The Habitat Regulations require an assessment to be undertaken, as to whether a proposal would be likely to have a significant effect, on the interest features of a protected site.
22. The appeal site lies within the zone of influence of the Ashdown Forest Special Area of Conservation (SAC) and Lewes Downs SAC. It would provide a net total of 29 dwellings. Therefore, the development may have the potential to cause harm to these designated areas. Whilst the council do not consider that the proposed development would impact on the integrity of these sites, I am mindful that the decision maker must carry out their own appropriate assessment where necessary. Nonetheless, as I have already identified, substantive harm to the character and appearance of the area, such that the appeal should be dismissed, there is no need to consider this further.
23. My attention has been drawn by the appellant to several appeal decisions from 2017. I have had regard to these and all of the other matters raised. To my mind, the scale and context of these appeals differ from the proposal before me and their assistance is therefore limited. I also note that since 2017 the council's housing shortfall appears to have increased from 2.67 years reported in (APP/C1435/W/17/3178137), to the 3.66 years cited in the appellant's statement for 2022.
24. Accordingly, whilst I acknowledge that there remains a deficit in the council's 5 year housing supply, I find that the harm I have identified to the character and appearance of the area and to the living conditions of future occupiers,

significantly and demonstrably outweighs the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

25. Having regard to the above findings I conclude that the appeal should be dismissed.

Hilary Orr

INSPECTOR