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# Appeal Decision

Site visit made on 1 November 2022

**by Helen Smith BSc (Hons) MSc MA MRTPI**

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

**Decision date: 26 January 2023**

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**Appeal Ref: APP/C1435/W/22/3298263**

**Land adjacent to Cooks Corner Day Centre, London Road, Crowborough TN6 1TQ**

- 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 Mrs Dee Tormey against the decision of Wealden District Council.
  - The application Ref WD/2021/2200/F, dated 19 August 2021, was refused by notice dated 4 February 2022.
  - The development proposed is for the phased construction of 3no dwellings with access onto London Road.
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## Decision

1. The appeal is allowed and planning permission is granted for 'phased construction of 3no dwellings with access onto London Road' at Land adjacent to Cooks Corner Day Centre, London Road, Crowborough TN6 1TQ in accordance with the terms of the application, Ref WD/2021/2200/F, dated 19 August 2021, subject to the conditions in the attached schedule.

## Main Issues

2. The main issues are:
  - the proposal's effect on the High Weald Area of Outstanding Natural Beauty (AONB);
  - whether the proposal would be a suitable location for residential development, with particular reference to reliance on the private car.
  - the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC); and
  - Housing Mix

## Reasons

### *High Weald Area of Outstanding Natural Beauty*

3. The appeal site is a parcel of scrub land located on the northern side of London Road, Crowborough within the AONB. It is positioned near to existing residential development outside a defined development boundary, including that of the settlement of Crowborough which is approximately 1km from the appeal site. Therefore, for planning purposes the proposal is in the countryside.
4. The AONB is broadly characterised by its tranquil landscape of wooded, rolling hills, irregular-shaped fields and scattered farmsteads, which accentuates its

rural character. The undeveloped nature of the appeal site contributes positively to this rural character. Development in the countryside must conserve and enhance the landscape and scenic beauty of the AONB, as required by Paragraph 176 of the Framework and is a material consideration to which I attach great weight.

5. Paragraph 176 of the Framework requires that I must give great weight to the conservation and enhancement of the landscape and scenic beauty of an AONB.
6. The proposal is for the phased construction of 3no dwellings with access onto London Road.
7. The Council consider the proposal would be harmful to the AONB due to its scale and siting. However, the proposal would be positioned within a row of ribbon development and would be enclosed by existing built form on two of its sides. It would also be sited opposite residential development on the other side of London Road. As such, the proposal would not appear prominent in views from outside the site, due to the site's close proximity to existing built form.
8. Although the gap between the existing built form would be closed, the development would be of small scale and the mature vegetation to the site's boundaries would obscure views from the wider area. Therefore, the proposal would be visually contained.
9. Consequently, the proposed dwellings would be seen within the context of the existing residential buildings. Given the siting and scope of the development and its immediate residential context, I find that there would be no adverse impacts to the AONB and that as such its landscape and scenic beauty would be conserved.
10. Therefore, for this main issue, the proposal would accord with Policies EN6 and EN27 of the Local Plan. These policies, amongst other things, seek to conserve and enhance the landscape and scenic beauty of the AONB. In addition, the proposal would not conflict with the Framework (paragraph 176) in so far as it seeks to ensure developments respect and enhance the AONBs.

#### *Suitable Location*

11. Although the appeal site is within countryside, it is located opposite established residential development along London Road that stretches out from the settlement of Crowborough where a range of essential services and facilities, including supermarket and a doctor's surgery and transport connections to the wider area can be found. There is also a bus stop on London Road within walking distance of the site. Therefore, essential services and facilities could be accessed by transport modes other than the private car. Indeed, there are services and facilities within a relatively short distance of the site that could also be accessed by walking or cycling.
12. As such, while less than ideal, the way that those services and facilities are accessed by the occupants of the new dwellings, and whether they are accessed by bus or private motor vehicle, is unlikely to be different to nearby residents in this countryside location. Moreover, any increase in reliance on a private motor vehicle, which is not likely to be substantial, would be outweighed by the delivery of local benefits. Indeed, in addition to the benefits associated with three new dwellings, there may well be some social and economic benefits for the surrounding towns and villages.

13. Consequently, the proposal would accord with saved policies GD2, EN1, and DC17 of the Local Plan, and Policies SP03, WCS6 and WCS14 of the Core Strategy. Amongst other things, these policies restrict development outside development boundaries and focus new development within a sustainable pattern of development and settlement hierarchy, encourage a reduction in travel by private car, and generally secure sustainable development in line with national policy.

*Ashdown Forest Special Protection Area*

14. The appeal site is located near to the SPA and SAC. These are protected as a European Site of Nature Conservation Importance and are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European sites. I am the competent authority for the purposes of this appeal.
15. The SPA and SAC have been designated for their nature value. The qualifying features underpinning the SPA designation is the concentration of Dartford warbler and European nightjar. The qualifying features underpinning the SAC designation are the presence of European dry heath, North Atlantic wet heath and great crested newts.
16. The appeal site lies within the zone of influence for the SPA. The proposal therefore has the potential to impact on the integrity of the SPA through recreational disturbance. This is because the proposed development would increase the population of the local area and in the absence of suitable alternative recreational space, people are likely to visit the SPA. This increased recreational pressure may lead to disturbance of protected species and therefore, have potential effects on the features of the SPA.
17. I acknowledge that the SPA includes the presence of nesting bird species that must be protected from disturbance by recreational activities associated with the new development, such as additional footfall, dog walking, cycling and jogging. Although the development of three dwellings is unlikely to have a significant effect on the SPA, when considered in combination with other development in the locality there would be a cumulative impact.
18. I also acknowledge that the SAC is sensitive to increased atmospheric nitrogen deposition from sources such as increased traffic emissions, and the great crested newts must be protected. However, given the nature and scale of the proposed development, the impacts to the SAC would be limited.
19. This is supported by Council's submitted Environmental Impact Assessment Screening Matrix, which concludes that the proposed development is of a scale and nature that would not result in significant environmental effects to the SPA. Nevertheless, the Council's submitted evidence indicates that mitigation for proposed residential developments that would result in a net increase in residential units would be required in the form of a financial contribution.
20. The Council has already developed a mitigation strategy to address the effects of development throughout the area. Moreover, Natural England has advised the Council that an appropriate tariff per dwelling should be collected to fund

strategic measures across the SPA. I have consulted with Natural England who have not raised any objections to the proposal.

21. The appellant has submitted a completed unilateral undertaking, dated 14<sup>th</sup> October 2022, under S.106 which secures financial contributions towards Strategic Access Management and Monitoring Strategy for the Ashdown Forest SPA (SAMMS), and the Suitable Alternative Natural Green Space (SANGS). The Framework states that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
22. The Council is satisfied that the unilateral undertaking addresses its concerns over the impact of the proposed development on the SPA. Natural England has also confirmed that they are satisfied that the proposed financial contribution to mitigate the effect on the SPA would be sufficient to avoid an adverse impact to the integrity of the European Site and relevant features. I have no reason to reach a different conclusion.
23. Consequently, I am satisfied that the planning obligation secured would enable the delivery of mitigation sufficient to address the level of harm likely to be created by the development and would be pursuant to the Council's adopted strategy. I therefore find that, subject to the proposed mitigation, the proposal would not result in an adverse effect on the integrity of the SPA or the SAC either alone or in combination with other projects.
24. As such, the proposal would comply with the Habitats Regulations. It would also accord with policies EN1 and EN15 of the Local Plan and policy WCS12 of the Core Strategy. Collectively, these policies seek to protect biodiversity and safeguard nature conservation sites. In addition, the proposal would accord with the principles of the Framework that seek to protect wildlife and habitats.

#### *Housing Mix*

25. The Council concedes that it has an unmet five year housing land supply but is concerned about the unit size of the proposal. However, I have not been presented with any evidence from the Council to demonstrate why the proposed 4 bed units would not be appropriate.
26. The proposal has been informed by the existing neighbouring dwellings within the vicinity of the site that are generally, large detached dwellings. The appellant has also referred me to paragraph 10.30 of the Local Housing Needs Assessment (August 2021) for the district, which states "*in the market sector, a balance of dwellings is suggested that takes account of both the demand for homes and the changing demographic profile.*" The appellant claims that this shows there is a need for 4-bedroom market housing. Based on the evidence before me, I have no reason to form a different view.
27. Furthermore, the proposal would add 3 new units against the Council's housing deficit. Given that the delivery of housing is a central aim of the Framework, this is a matter to which I attach significant weight.
28. Consequently, I conclude that the proposed housing mix would be adequate. Therefore, for this main issue, I find no conflict with the Local Plan. The proposal would accord with the Framework when read as a whole.

### *Other matters*

29. I acknowledge that there were a number of representations, including those by Crowborough Parish Council in respect of the proposal, which in addition to the main issues included concerns relating to biodiversity, highway and pedestrian safety, flood risk and drainage issues. However, 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 3 new dwellings.
30. Whilst the proposal would not provide any affordable housing, the Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirements of an area and are often built-out relatively quickly.
31. Highway safety has been cited as a concern, but the Council and the relevant highway authority have raised no objection, subject to appropriate conditions which are included in the schedule. I have no reason to form a different view.
32. My attention has been drawn to the Day Care Building which has been granted approval (WD/2017/1444/F). At the time of my site visit, this building appeared to be in the early stages of construction. It has been suggested that the granting of this development has set a precedent. However, any future planning applications or appeals are decided on their own particular merits.
33. My attention has been drawn to a previously approved scheme (WD/2021/2860/F). However, full details of this case are not before me. I do not know the planning circumstances that led to this approval or its specific relationship to the site. In any event, I have determined this appeal on its own merits.
34. There are concerns that the local schools and services such as doctor's surgery and dentist are oversubscribed. However, there is no evidence before me to substantiate these claims.

### **Conditions**

35. The Council has suggested conditions which I have considered, making amendments where necessary in the interests of clarity and consistency, and to ensure compliance with the tests contained in the Planning Practice Guidance and paragraph 56 of the Framework.
36. It is appropriate that there is a condition requiring the development to be carried out in accordance with the approved plans for certainty. The Council has suggested a condition for a one-year commencement period; however, I find this would be overly constraining on the development process and may not be achievable. I find that the more usual timescale of three years would be reasonable.
37. A materials condition is appropriate to ensure that those used are in keeping with the area. Conditions relating to parking, access and visibility splays are all necessary for highway safety reasons.
38. Conditions relating to cycle storage and outside electrical sockets are appropriate to comply with the sustainability principles of local and national

policy. A condition relating to hard and soft landscaping has been imposed to ensure the satisfactory appearance of the development.

- 39. A suggested condition promotes energy and water efficiency. Policy EN1 of the Local Plan does promote both and this is supported in the climate change objectives of the Framework. The wording of this condition has been simplified.
- 40. Conditions are also warranted on the provisions and management for biodiversity improvement and to identify and ensure the survival and protection of important species and those protected by legislation.
- 41. I have omitted a condition suggested by the Council which would remove permitted development rights relating to gates, fences, walls and other means of enclosure. Given the scale of the proposed development and the limited nature of such permitted development works, such a condition is not necessary.

### **Conclusion**

- 42. For the reasons given, and having regard to all other matters raised, I conclude that the appeal is allowed.

*Helen Smith*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Location Plan, Drawing No: 07 D, dated: April 2020
  - Proposed Site Plan, Drawing No: 06 K, dated: April 2020
  - Plots 1 – 3 Block Plan, Drawing No: 01 F, dated: April 2020
  - Plot 1 – Proposed Plans and Elevations, Drawing No: 02 B, dated: April 2020
  - Plot 2 – Proposed Plans and Elevations, Drawing No: 03 C, dated: April 2020
  - Plot 3 – Proposed Plans and Elevations, Drawing No: 04 D, dated: April 2020
  - Proposed Access and Visibility Splays, Drawing No: 2021/5863/001/P2
- 3) No development shall commence until details/samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 4) The development shall not be occupied until space has been laid out within the site in accordance with Proposed Access and Visibility Splays, Drawing No: 2021/5863/001/P2 for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.
- 5) The development shall not be occupied until the vehicular access serving the development has been constructed in accordance with the approved plans. The access shall be retained thereafter.
- 6) The access shall not be brought into use until visibility splays of 2.4m by 109m are provided to the north and 2.4m x 110m to the south. Thereafter, the access shall be kept clear of any obstruction to visibility.
- 7) Prior to the first occupation, details for the provision of cycle storage, in accordance with East Sussex County Council's adopted standards, shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained thereafter.
- 8) Prior to the first occupation of any dwelling, provisions shall be made to facilitate an outside electrical socket to be supplied at each property to enable ease of installation of an electric vehicle charging point.
- 9) Before the development is first occupied or brought into use details of both hard and soft landscape works, including details of the species for the hedgerow planting on approved Proposed Site Plan, Drawing No: 06 K (dated: April 2020), shall be submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved

details before any of the development is first occupied. The scheme shall be managed and/or maintained in accordance with the approved scheme.

- 10) Prior to occupation, all new dwellings shall be constructed in accordance with details of water and energy efficiency measure which have first been submitted to and approved by the local planning authority.
- 11) The development hereby permitted shall be carried out in accordance with the precautionary mitigation approach set out in the approved Ecological Impact Assessment (dated: 31/08/2021).
- 12) Prior to the preparation of ground levels for the construction of the development hereby approved, a scheme for the enhancement of the site for biodiversity purposes, in accordance with the Ecological Impact Assessment (dated: 31/09/2021) to include timescales for implementation and future management, shall be submitted to and approved in writing by the local planning authority. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter retained.

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