
Appeal Decision

Site visit made on 16 January 2023

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/D3830/W/22/3299499

Hatchgate Cottage, Hatchgate Lane, Cuckfield RH17 5DU

- 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 Mr Shaun O'Donovan of KPS Developments Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/21/4090, dated 7 February 2022, was refused by notice dated 21 April 2022.
 - The development proposed is Demolition of existing dwelling and erection of 8 homes with access from Hatchgate Lane and associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matters and main issues

2. During the appeal process, the appellant submitted a completed planning obligation to secure financial contributions towards primary and secondary education, libraries, total access demand, community buildings, formal sport, children's play space and local community infrastructure.
3. The proposal would include 7 more dwellings, and as the financial contributions would be necessary to mitigate their occupiers' increased demand for infrastructure in accordance with Policy DP20 of the Mid Sussex District Plan 2014-2031 (LP) they would be necessary to make the development acceptable in planning terms. The contributions have been calculated on the basis of the increased number of people who would be living at the site, so they are directly related to the development, and they have been calculated in accordance with the published tariffs, so they are fairly and reasonably related in scale and kind to the development. Because the completed obligation satisfies all 3 tests in The Community Infrastructure Levy Regulations 2010 (as amended), I shall take it into account.
4. The appellant also submitted its Arbtech Bat Emergence and Re-Entry Surveys report dated 9 May 2022, which could not be carried out at the application stage, during the appeal process. In consequence, the Council has confirmed that it does not seek to defend its reasons for refusal 2 and 3 regarding infrastructure contributions and bat roosts. I see no reason to disagree.
5. The main issues are the effect that the proposed development would have on:
 - the rural character of the countryside, and
 - the living conditions of the occupiers of Plots 4 and 7, regarding privacy.

Reasons

Rural character

6. The irregular shaped appeal site includes a modest bungalow which is situated close to Hatchgate Lane and towards the roughly north east corner of a large plot on the south side of Hatchgate Lane. The site is within the countryside, but its roughly south west side boundary with 6 Hatchgate Lane and Massabielle adjoins the built-up area boundary of the Category 2 larger village of Cuckfield.
7. Within the village, Hatchgate Lane runs roughly north east from Broad Street to turn sharply north west, where it becomes Wheatsheaf Lane. Hatchgate Lane continues roughly east as a private road and bridleway, which leads past the mostly open west part of the site to the discrete farmstead cluster including the bungalow at the site and Hatchgate Farm, Hatchgate Barn and The Barn, which are broadly close to the lane. Beyond that, the lane continues as a public bridleway through Blunts Wood and Paige's Meadow to Haywards Heath. The open countryside to roughly north and south of the lane is mainly characterised by irregular shaped fields edged by hedgerows with occasional trees and woodland blocks.
8. The vegetation on the north east side of Wheatsheaf Lane and by the site's boundary with 6 Hatchgate Lane and Massabielle partly screens the village from its mainly open countryside setting. The bend in the lane and the vegetation by Hatchgate Lane within the site, beyond its junction with Wheatsheaf Lane, also partly screens the farmstead group in views from the built-up area to roughly west. So, there is a distinct change in character in the Hatchgate Lane street scene by its junction with Wheatsheaf Lane, where the tight-knit urban character of the development to roughly west meets the informal and largely verdant rural character in the countryside to roughly east.
9. The proposal includes 5 2-storey dwellings (2 semidetached pairs and a detached dwelling) close to the lane, and a new road leading to 3 detached dwellings (2 bungalows and one 2 storey chalet style dwelling) towards the narrower back of the site. The road would also lead to barn style car ports and parking spaces for the 4 semidetached dwellings beyond the ends of their back gardens.
10. The proposal's aims include to retain important landscape features including some existing trees and the hedgerow by the lane, for some dwellings to provide an active frontage to the lane, to minimise the visual impact of parked vehicles, to make effective use of the site, and to respect the change in character along the nearby part of Hatchgate Lane.
11. The spaces between the dwellings by the lane would reflect some of the loose knit character of the existing farmstead buildings. However, the dwellings at Plots 1 and 2 would extend the existing row of 6 semidetached dwellings within the urban area into the countryside, and the new opening for the road would break the important continuity in the hedgerow, which contributes positively to the rural character in the nearby part of Hatchgate Lane.
12. Because the dwellings on Plots 1 to 5 would be sited close to Hatchgate Lane, and the row of dwellings at the back of the site would enclose the gaps between them and the view down the new road, the proposal would fail to respect the verdant openness that is important to the character of the rural

area. The shallow plots would also contrast starkly with the lengthy back gardens further east, which harmonise with their rural setting. Instead, the proposal would extend the urban area along the rural lane, to the detriment of the form and character of the remaining buildings in the farmstead group, which make a positive contribution to the rural and landscape character of the countryside.

13. The new road with its car ports and parking spaces, and the row of dwellings towards the back of the site, would look squeezed-in behind Plots 1 to 5, so the important openness that separates the existing farmstead cluster from the urban area would be harmfully diminished. The shallow front and back gardens would leave little room for greenery to respect the mainly verdant character in the wider countryside. The eaves of the dwellings by the lane would reduce towards the east, there would be 2 bungalows at the back of the site, and the density would be lower than that within the built-up area. Even so, the urban character and appearance of the proposal would be unsympathetic to its mostly rural surroundings.
14. Due to the number, scale and layout of the dwellings and their plots, and the extensive areas of hard surfacing within the site, the proposal would have an unacceptably built-up character and appearance. So, the proposal would be harmfully at odds with the rural character of the countryside, and it would fail to maintain or enhance the rural and landscape character of the District.
15. As Massabielle is within the built-up area and is barely visible from the public domain, it provides little support for this damaging scheme. The computer generated images do not alter my findings. The appellant says that conditions to control the residential curtilages and for a long term management plan would ensure that the hedgerow by the lane would endure, but as the hedgerow includes living plants, this and other hedgerows that partly enclose the site could not reasonably be controlled by condition for more than a few years.
16. Therefore, I consider that the proposal would harm the rural character of the countryside. It would be contrary to LP Policy DP12 which aims to protect the countryside in recognition of its intrinsic character and beauty, LP Policy DP15 and Policy CNP5 of the Cuckfield Neighbourhood Plan 2011-2031 (NP) which seek to protect and enhance the countryside, LP Policy DP26 and NP Policy CNP1 which seek high quality design and respect for context, and relevant guidance in the Mid Sussex Design Guide Supplementary Planning Document SPD. It would also be contrary to the National Planning Policy Framework (Framework) which recognises the intrinsic character and beauty of the countryside, and which seeks to achieve well-designed places.

Living conditions

17. Due to their siting, the rear facing balconies of the dwellings on Plots 5 and 8 would allow the dwellings' occupiers to overlook the back gardens of the dwellings on Plots 4 and 7 respectively. The balconies would be sited some way from the common boundaries between the adjoining plots, and some mutual overlooking would reasonably be expected from the windows in the backs of the dwellings. However, unlike the partly contained outlook from a rear facing window, users of the balconies could directly overlook the gardens of the neighbouring dwellings almost up to the backs of those homes.

18. Because the areas closest to the backs of dwellings are often the most frequently used, the overlooking that could occur from the balconies would harm the neighbouring occupiers' privacy. This harm could be avoided by installing Juliet balcony balustrades and by preventing the use of the flat roof as a balcony or roof terrace, or by installing a tall screen on that side of each balcony, either of which could reasonably be controlled by condition.
19. Thus, I consider that, subject to the imposition of suitable conditions if the proposal were to be otherwise acceptable, the proposal would not harm the living conditions of the occupiers of the dwellings on Plots 4 and 7 regarding privacy. It would satisfy LP Policy DP26 which aims for development to not cause significant harm to the privacy of the future occupants of new dwellings. This issue attracts neutral weight in the planning balance.

Other matters

20. The proposal would provide 7 more welcome new homes in a reasonably accessible location. The proposal also aims to make efficient use of the site, and its other benefits would include jobs during construction and the future occupiers' likely support for local shops and services. However, the benefits would not outweigh the harm that the proposal would cause to the rural character of the countryside.

Conclusion

21. I have found that the proposed development would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
22. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR