



Appeal Decision

Site visit made on 19 January 2023

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/C1435/W/22/3306073

Mardon, 38 Hawks Road, Hailsham, BN27 1NN

- 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 Warren Medlock against the decision of Wealden District Council.
 - The application Ref WD/2021/2277/F, dated 27 August 2021, was refused by notice dated 25 March 2022.
 - The development proposed is two detached dwellings, new access and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for two detached dwellings, new access and associated works at Mardon, 38 Hawks Road, Hailsham, BN27 1NN in accordance with the terms of the application, Ref WD/2021/2277/F, dated 27 August 2021, subject to the conditions on the attached schedule.

Preliminary Matter

2. The Appellant explains that, in effect, and with minor variation, one of the two dwellings sought by this appeal has received planning permission via Council reference WD/2022/0947/F. In the light of this planning history and to reflect the discovery of some modest anomalies on previously submitted plans the Appellant makes a request that I accept revised drawings and sets out a list for this matter. I have carefully considered this proposition and bearing in mind that a) difference and discrepancy are minor, b) the Council is content and c) there would be no prejudice to any third parties, I shall accept what I might describe as this 'housekeeping' request. My consideration is hence based on the most recently submitted drawings.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the locality; and
 - living conditions for neighbours.

Reasons

Character and appearance

4. The site is part of the former garden to 38 Hawks Road, a dwelling now converted into two flats; it has an adjoining road frontage and then wraps around the rear of this property. As touched on above, a bungalow is nearing completion on the site and this is on road frontage portion. The area is of residential nature with a mixed character given a variety of sizes and appearance of dwellings. There are a number of bungalows around including directly adjoining the site. The appeal proposal is as described above and the dwellings applied for are single storey.
5. In essence the Council considers that the scheme would represent overdevelopment of the site. This is based on the view that the development would leave insufficient amenity space for the frontage flats, provide poor amenity space for the future residents of the new dwellings, and offer unduly limited scope for new soft landscaping. There are also concerns about impacts upon neighbours; I consider this is a subsequent section below.
6. I mention above that the area is a varied one and it is clear that there are a number of instances where garden spaces are relatively modest and to my mind this is not a locality where outside amenity space such as that proposed would appear out of character. In functional terms given orientation, site area and levels I would deem that the occupiers of the two new dwellings would have more than adequate gardens. Similarly, whilst reduced from the original proposition, the space associated with the frontage flats would offer suitable scope for outside amenity. The development would, inevitably, encompass more hardstanding than presently prevails but nevertheless there would remain significant scope for soft landscape to be retained and planted such that the appearance of the area and visual and residential amenity would suitably benefit. There would also be no adverse impact on the streetscene.
7. In summary, in the context of the site, its surrounds and the wider area I would not deem the scheme to represent overdevelopment harmful to character and appearance or the availability of reasonable outside amenity space.
8. Saved Policies EN1, EN14 and EN27 of the adopted Wealden Local Plan 1998 (LP); Policy WCS14 of the adopted Wealden Core Strategy Local Plan 2013 (CS); and Policy HAIL D1 of the Hailsham Neighbourhood Plan (HNP) are relevant. Amongst other matters and taken together they seek to secure well designed sustainable development which is of suitable scale and form for its context and integration thereto, carefully planned if in a backland setting, providing good quality internal and external space, and having due regard to pertinent landscape considerations. The aims of the Wealden Design Guide 2008 (adopted Supplementary Planning Document) (SPD) follow a similar course albeit that document cannot be expected to cover every eventuality. I conclude that the proposal would accord with these policies and the aims of the SPD.

Living conditions

9. I have carefully considered the issues of impact upon adjoining households' amenity which is set out by the Council and indeed a number of the neighbours. There is no doubt that the outward rear or side scene will, to a degree, change and some increased activity will ensue. However, I am satisfied that because of ground levels, building heights and roof forms, existing and planned window positions, current and proposed screening and planting, the disposition and spacing of dwellings, orientation generally, and the fact that there are only two properties planned that there would not be undue adverse impact upon surrounding residential amenity.
10. LP Saved Policy EN27 and HNP Policy HAIL D1 seek, amongst other matters, to ensure that a proposal would not adversely impact upon amenity enjoyed by those in adjoining developments. I would conclude that the scheme would not run contrary to these policies in this regard nor with the parallel protection-of-amenity aims within the SPD.

Conditions

11. The Council puts forward a number of suggested conditions. The standard commencement period should apply. A condition that works are to be carried out in accordance with listed, approved, plans was not promoted but would be necessary to provide certainty. To assist with highway safety the access should be constructed prior to first occupation, retained in a suitable form and serve agreed parking and turning facilities. External materials need to be agreed and landscaping agreed and implemented in the interests of amenity.
12. Refuse and recycling arrangements for this modest development do not need the micro-management and review put forward by the Council and surface water drainage arrangements for this scheme need not be determined through the planning procedures when other legislation covers this. The suggested condition on sustainability measures would be too vague to be worthy of inclusion. The provision of an electric vehicle charging point is however a valid requirement in the interest of air quality and climate change. Tree protection, management and landscape generally are matters which call for conditions in the interests of amenity.
13. I would agree with the Council that 'permitted development' rights ought to be removed appropriately in the interests of visual and residential amenity. This is an unusual site arrangement with a restrictive nature and relationship to other properties such that exceptional controlling circumstances should apply.
14. On occasions I include some variation from the wording set out by the Council in order to aid precision, pay regard to submitted plans, and accord with national guidance and legislation.

Overall conclusion

15. For the reasons given above I conclude that the proposal would not have unacceptable effects on the character and appearance of the locality or on living conditions for neighbours. Accordingly, the appeal is allowed.

D Cramond
INSPECTOR

SCHEDULE OF CONDITIONS (10)

1. The development to which this permission relates shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 0620-04, 0620-09, 0620-01, 0620-08, Sunlight Report, Transport Report, 0620-11, 0620-21, 0620-02C, 0620-03F, 0620-16A, 0620-18A, Arboricultural Report
3. No extension, enlargement, alteration, windows, rooflights, dormers or provision within the curtilage of the of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.
4. Before any above ground works associated with dwelling 2 hereby approved, samples of materials to be used on the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the implementation of the development and thereafter so retained.
5. Before first occupation of the dwellings hereby approved, the car parking spaces and turning area shown on drawing no 0620-03F shall be provided, and thereafter shall be retained for such purposes.
6. The new vehicular access shall be constructed in strict accordance with plan 0620-03F prior to first occupation of the dwellings and retained as such thereafter.
7. Visibility splays shall be provided each side of the access, within which there shall be no obstruction to visibility above a height of 1m above each carriageway level in accordance with plan 0620-04. No gates, fences or walls shall be constructed within the sight lines / visibility splay.
8. The development shall not be occupied until the Local Planning Authority has approved, in writing, a scheme for the provision of electric vehicle charging point at the site. The approved charging point shall be completed in accordance with the approved details prior to first occupation or substantial completion of the dwellings whichever is the sooner and retained as such thereafter.

9. The works shall be implemented in accordance with the approved Arboricultural Impact Assessment & Tree Protection Plan. Before any works associated with the development hereby approved, tree protection fencing, which shall comply in full with BS5837:2012 Trees in relation to design, demolition & construction - Recommendations, shall be erected. Hereafter, the fencing shall be referred to as the 'approved protection zone'. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the Local Planning Authority:
- (i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.
 - (ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.
 - (iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.
 - (iv) No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.
 - (v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.
 - (vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction'.
10. Before preparation of any groundworks and foundations on site for dwelling 2 hereby approved, a scheme of landscape proposals shall be submitted to and approved in writing by the Local Planning Authority, which shall include full plans and specifications for all hard and soft landscape works and indications of all existing trees and hedgerows on the land to be retained. The scheme shall incorporate full details of the finished levels of the parking areas and retaining wall together with all boundary treatments. All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner, and any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping comprised in the approved details of landscaping shall be carried out before the completion or first occupation of the development, whichever is the sooner