



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/22/3305256

Land Adjacent to Romney, Squab Lane, Magham Down, Hailsham, BN27 1PP

- 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 UK Land Investors Limited against the decision of Wealden District Council.
 - The application Ref WD/2022/0234/F, dated 1 February 2022, was refused by notice dated 27 June 2022.
 - The development proposed is the erection of 4 no. 2-bedroom detached bungalows and 1 no. 3-bedroom detached chalet bungalow, with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would represent development which would be acceptable in terms of principle and sustainability;
 - the effects on character and appearance of the locality; and
 - living conditions for future residents.

Reasons

3. The appeal site is about 0.31 hectares and comprises two gently sloping paddocks which are used for the grazing of livestock. An unsurfaced public footpath (Hailsham 62) runs on the grazing land from east to west across the site between Squab Lane to the west and Old Road to the east. The site fronts the very narrow Squab Lane with substantial hedging and two farm gates. A mix of housing lies around the site which reflects the variety found in the small village or hamlet of Magham Down located about 3 miles from Hailsham. The appeal proposal is as described above.

Principle and sustainability

4. Magham Down has no development boundary in the development plan. Amongst a number of policies referred to, the Council cites Saved Policies GD2, and DC17 of the Wealden Local Plan 1998 (LP) and Policies WCS6 and WCS14 of the Wealden Core Strategy Local Plan 2013 (CS). Taken together
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and amongst other matters the LP policies restrict development within the countryside to protect character, amenity and prevent undue demands on services. CS Policy SP07 in effect seeks to reduce the need for car journeys. CS Policy WCS6 offers some flexibility for development at specific rural locations, not including Magham Down in the named list, and is based on an aim to achieve necessary development levels; at smaller settlements and rural areas with the protection of countryside is to take precedence. CS Policy SP08 also, in summary, supports some rural growth where it would help meet the needs of rural communities and be sustainable.

5. The principal parties agree that this District does not have a five-year housing supply. The policies most important for determining the proposal are thus out-of-date in accordance with the National Planning Policy Framework (the Framework). There is a presumption in favour of sustainable development within the Framework. Using that document's content, I must assess whether the appeal scheme falls within the sustainable development category, which embodies economic, social and environmental objectives. As the Framework (paragraph 11) makes clear the development should be approved unless adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the document taken as a whole.
6. By way of context, I found Magham Down to be a small, dispersed and disjointed hamlet with numerous gaps and farmsteads lying between or alongside built development and extremely limited services. Dwellings on the appeal site would not reasonably be described as isolated. I would however assess the site as lying within a rural area, it is part of the countryside.
7. With out-of-date development plan policies, the Appellant underlines and points to the engagement of what has become known as the tilted balance as explained in the Framework's paragraph 11 and Footnote 7. The Council also lists this paragraph as pertinent. Both the Appellant and the Council refer to Framework Paras 8, 79, 105, 110, 120, 124, 126, 130 and 174. These are concerned with the basis for using local and national planning policies in decisions, the achievement and definition of sustainable development, managing patterns of growth having regard to transport implications as well as environmental and aesthetic considerations, enhancing or maintaining the vitality of rural communities, and promoting sustainable transport modes in addition to well-designed places.
8. I have carefully considered all references and the interpretation placed upon them by both principal parties.
9. From my perspective I see some short-term economic gain from construction and there would be little economic benefit locally beyond that or assistance with vitality at this hamlet. The properties would provide the social benefit of further households in the hamlet and of additional dwellings to meet the shortfall in the District, albeit numerically any gain would be minimal and there is no evidence that these particular properties would

meet local needs. On the environmental front I am in no doubt that the erosion of the character of the countryside would ensue. This is an attractive open pocket within Magham Down. Additionally, the dwelling would not accord with the Framework's aim to achieve sustainable patterns of growth. Finally, notwithstanding the case made by the Appellant and this area being better served than many rural locations, the reality is of restricted access to limited public transport. I surmise that residents here would rely heavily on travel by private car with the environmental implications that entails.

10. Having carefully considered all matters I conclude that the scheme would not represent sustainable development in accord with the purpose of the planning system and the central thrust of the Framework. The adverse impacts on the environmental front would significantly and demonstrably outweigh the economic, social and other benefits including the contribution which would be made to housing land supply.

Character and appearance

11. I take the Appellant's point that the locality is, unlike much of the District, not an AONB. Nevertheless I would deem the wider surrounds to be attractive and, as I touch on above, the nature of the appeal site as an undulating, hedged, open-grazing pocket in Magham Down results in a very pleasing proposition visually. Dwellings over this site, which would be visible from close-hand and further afield, would lose a tangible attribute of real character for the area. The urbanisation would be a regrettable step. The scheme would embody excessive hard-surfacing and built form, at least one property would be noticeably overly close to Squab Lane, and with formal accesses and splays to that narrow highway there would be a marked change to a lane which presently has pleasing rural ambience. Notwithstanding the density calculations of the Appellant given the characteristics of this site the scheme would look contrived, cramped and out of place.
12. LP Saved Policy EN27, CS Policy SPO13 and Policy D1 of the Hailsham Neighbourhood Plan are relevant. Together they seek to secure attractive good design for new development with local distinctiveness respected, integration with surrounds, and the character of an area safeguarded. I conclude that the proposal would not accord with these policies.

Living conditions

13. The Council is concerned that there would be unacceptable overlooking on the private amenity space of future occupiers of planned plot 3 (plot 4 is also mentioned clearly in error) due to the layout and proximity of existing neighbouring properties. However, from my assessment, this is an overstated issue. I am satisfied that distances, angles, specifics of use and positioning of neighbouring windows, existing and planned landscape, and levels would all come together to ensure that Plot 3 would have a rear garden with sufficient privacy to provide more than adequate outside amenity space.

14. Saved Policy EN27 of the LP seeks, amongst other matters, to ensure that a proposal would provide suitable amenity for future occupiers. I would conclude that the scheme would not run contrary to this policy. It would also not conflict with the parallel relevant amenity *aims* of the Adopted Wealden Design Guide 2008 which in any event cannot be expected to cover every eventuality.

Other matters

15. I do recognise that the Appellant has sought to work with the Council with the aim of overcoming past decisions and adverse consultation responses. I would agree with the Appellant, and the Council, that there would be a clean bill of health on a number of technical and environmental detailed matters including some specific concerns raised by third parties.

16. I have carefully considered the range of planning decisions which have been cited by the Appellant. For reasons of variations in locations, proposed development form, policy context, or other planning considerations I do not find any to be directly comparable or grounds for a precedent-type argument. In any event I must assess the case before me on its own merits.

17. I am cognisant of the case made by the Appellant through the citing the Wealden Local Plan 2019 (now withdrawn) which had Core Areas identified and some flexibility on the siting of new dwellings at rural settlements. I can appreciate the implications drawn from this which are well set out by the Appellant but the fact remains that this Plan was withdrawn and not independently tested through an examination process. I consider it would be very unwise for me to draw conclusions from the withdrawn Plan. This is regardless of the scheme being relatively small scale – I say this as a fresh development plan will have to provide policy on, for example, settlement hierarchy strategy, numerical distribution and site selection within that, and types of dwelling required.

18. I have carefully considered all points raised by the Appellant and these matters do not outweigh the concerns which I have in relation to two of the main issues identified above.

Overall conclusion

19. For the reasons given above I conclude that whilst living conditions for future residents would be acceptable the appeal proposal would represent unacceptable development in terms of its principle and sustainability and it would have an unacceptable adverse impact upon the character and appearance of the locality. Accordingly, the appeal is dismissed.

D Cramond
INSPECTOR