
Appeal Decision

Hearing and site visit held on 14 February 2023

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Appeal Ref: APP/C1435/W/22/3307950

Land Adjacent to the Recreation Ground, Blackboys, East Sussex TN22 5LR

- 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 Joshua Feldman against the decision of Wealden District Council.
 - The application Ref WD/2022/0560/F, dated 28 April 2022, was refused by notice dated 22 August 2022.
 - The development proposed is erection of 9 no. dwellings with associated access, landscaping and associated infrastructure.
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Preliminary matter

1. Prior to the Hearing, the Council withdrew the first reason for refusal relating to the capacity of the sewerage system, availability of connections or space for on-site provision. I have taken this into account.

Application for costs

2. An application for costs was made by Mr Joshua Feldman against Wealden District Council. This application is the subject of a separate Decision.

Decision

3. The appeal is allowed and planning permission is granted for erection of 9 No. dwellings with associated access, landscaping and associated infrastructure on Land Adjacent to the Recreation Ground, Blackboys, East Sussex TN22 5LR in accordance with the terms of the application, Ref WD/2022/0560/F, dated 28 April 2022 and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. Blackboys is a rural village at the junction of the B2102 connecting Uckfield and Heathfield and the B2192 to Lewes. It is characterised by a mixture of mainly 20th century housing scattered along and between these roads. There are some older properties including Grade II listed buildings within and around the village including the 15th century Old Mill House opposite the appeal site, associated with a former windmill which was situated to the south. The site lies west of

the main village group along the B2102 and north of the village recreation ground and cricket pitch.

6. The proposal is to erect mainly semi-detached houses utilising locally inspired materials such as clay roofs and tile-hanging, stock bricks and hipped gable ends. Whilst I appreciate that the appeal site is currently a paddock in open countryside, the Council has accepted during the course of various previous applications on the same site that it is suitable in principle for redevelopment for housing, as confirmed at the Hearing. The points remaining in dispute relate to the layout, scale, use of materials, landscaping and alleged lack of distinctive character.
7. The external finishes would be sympathetic with other houses nearby and in the village generally. The proposed single storey garages between the houses would provide a degree of permeability, allowing views through. Dwellings of this type would not appear out of keeping compared with similar houses in other parts of Blackboys. They would not be greatly dissimilar in appearance to the group at Maple Leaf Cottages a short distance away along the B2102, or other groups of semi-detached houses elsewhere in the village and in East Sussex generally. Whilst the development itself would not be particularly distinctive in itself, it would not appear out of keeping or unacceptably visually intrusive. It would not be very different from other parts of the village in terms of scale. It would be in an area of open fields that surround the village where any new housing would encroach on rural countryside. However, I note the approval of 50 new dwellings on a larger site a short distance away¹ which indicates that the western approach to Blackboys is changing.
8. The layout has been revised following refusal of a similar scheme for 9 dwellings at appeal² and this proposal addresses the Inspector's sole objection at the time that (in summary) the dwelling on plot 1 'turned its back' on the road and as a result the development would have a cramped and contrived appearance. I do not accept the Council's view that the resulting rear and side garden area of the revised plot 1 (now proposed as a semi-detached, rather than a detached dwelling) could be said to be constrained or unacceptably narrow: it would be larger in area than the rear gardens of dwellings on plots 3-8 and comparable with its neighbour at plot 2. The layout of the remaining dwellings would be slightly different to the previous appeal scheme with similar spacing.
9. The area between the front of the dwellings and the road would be relatively generous with lawned front gardens and parking for visitors. The existing high boundary hedge would be retained, and new trees would be planted to assist in blending the scheme into its countryside surroundings. The visibility of new houses seen from the road and footway would be limited and overall, in my opinion, the effect on the broadly rural but developing edge of settlement character of this part of the village would be acceptable. The scheme would not conflict with the Council's character and appearance aims as set out in the relevant parts of saved policies EN1, EN14 and EN27 of the Wealden Local Plan 1998, guidance in the NPPF or advice in the 2008 Wealden Design Guide.
10. The Council acknowledges that it cannot demonstrate a 5-year supply of housing land, and that there is a persistent and significant shortfall. The

¹ Council ref WD/2020/0700/MAO

² Appeal ref APP/C1435/W/21/3277221 dated 11 February 2022

proposed scheme would provide a useful contribution to meeting this need. The statement of common ground notes that certain policies for the supply of housing in the development plan are out-of-date. In these circumstances, having regard to paragraph 11(d) of the National Planning Policy Framework (NPPF) any adverse impacts in terms of the effect on the character and appearance of the area would fall well short of significantly and demonstrably outweighing the benefits, when assessed against the policies in the NPPF taken as a whole.

Other matters

11. Persuasive arguments from the Blackboys Cricket Club indicate that measures need to be taken to prevent cricket balls from the adjacent cricket pitch falling within the proposed private rear gardens and compromising the safety of future occupants. The appellant agreed and a suitable condition has been imposed to address this matter.
12. No evidence was presented to conflict with the previous Inspector's opinion³ that the architectural or historic interest of the Grade II listed Old Mill House would be compromised by the scheme, and I agree.
13. I have taken account of other objections by local residents and the Parish Council. The proposed development would not compromise the landscape quality of the High Weald Area of Outstanding Natural Beauty to the north. Neither this nor any other matter raised outweighs my conclusion that planning permission should be granted.

Conditions

14. The usual time limitation on commencement is altered to one year, with the agreement of the appellant, in recognition of the urgent need for additional housing. Conditions are imposed to control external materials, landscaping and boundary treatment in the interests of character and appearance. The provision of a suitable fence/barrier to prevent incursion by cricket balls is the subject of a separate condition. An archaeological investigation is necessary given the heritage interest of nearby properties and the site of the old mill. Conditions requiring prior approval of drainage, the access, a Construction Management Plan, renewable energy, water and efficiency measures are required in accordance with development plan policies. Other conditions require the provision of visibility splays, car parking spaces, cycle storage, ecological measures, details of external lighting and waste disposal arrangements. A restriction on permitted development is imposed in view of the need to control a sense of urbanisation of the rural surroundings and the limited garden areas. Finally, the development needs to be constructed in accordance with the approved plans for the avoidance of doubt.

Conclusion

15. For all the above reasons, the appeal should be allowed.

Paul Jackson

INSPECTOR

³ APP/C1435/W/21/3277221

APPEARANCES

FOR THE APPELLANT:

Lauren Parsons
Mark Best
Joshua Feldman

Parker Dann
Parker Dann

FOR THE LOCAL PLANNING AUTHORITY:

Stephanie Wood
Scott Covey

Team Leader, Wealden District Council
Senior Planner, Wealden District Council

INTERESTED PERSONS:

Tony Hall
Colin Albright

Local resident
Blackboys Cricket Club

Schedule of 18 conditions

- 1) The development hereby permitted shall begin not later than 1 year from the date of this decision.
- 2) No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in writing with the Local Planning Authority.
- 3) Before the construction of any above ground works, details/specifications 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.
- 4) No development shall take place until full details of the surface water drainage scheme, have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme should be confirmed as deliverable by an assessment of the site's potential for disposing of surface water by means of a sustainable drainage system. The submitted details shall include the following:
 - i. Undertake soakage tests to BRE Digest 365 to prove the infiltration potential of the site.
 - ii. Undertake groundwater monitoring for a six month winter period to show that a vertical separation of 1.0m can be achieved between the

highest recorded groundwater level and the base of the infiltration features.

iii. Supply detailed plans, layouts and sections of the proposed drainage system and pollution/silt control devices and construction details of any non-standard features.

iv. Provide a full management and maintenance plan for the development which shall include the setting up of any necessary company to secure the operation of the scheme throughout its lifetime.

v. Supply full hydraulic calculations to the correct level of climate change (40%), using the real infiltration rate(s) obtained from the testing.

There shall be no occupation of any of the approved dwellings until the approved drainage scheme has been installed.

- 5) No development shall take place until details of the layout of the new access and the specification for the construction of the access including a footway link to the existing footway network have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The access shall be constructed in accordance with the approved details before any dwelling is occupied.
- 6) No part of the development shall be first occupied until visibility splays of 2.4m x 120m have been provided at the proposed site vehicular access onto the B2102 in accordance with the approved plans. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 600mm.
- 7) Before occupation of the development hereby approved, the car parking spaces and turning area shown on drawing no 100 Rev D, date stamped 18 July 2022, shall be provided. The car parking spaces and turning area shall thereafter be retained for these purposes only.
- 8) The development shall not be occupied until cycle parking areas have been provided in accordance with plans which shall be submitted to and approved in writing by the Planning Authority in consultation with the Highway Authority. The areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.
- 9) No dwelling shall be occupied until a scheme for a fence/barrier to prevent cricket balls from the recreation area falling within the private garden areas shown on the approved drawings has been approved by the Local Planning Authority and erected on site. The approved barrier shall be retained and maintained in perpetuity.
- 10) No development shall take place, including any ground works or works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate but not be restricted to the following matters:
 - The anticipated number, frequency and types of vehicles used during construction.
 - The method of access and egress and routeing of vehicles during construction.

- The parking of vehicles by site operatives and visitors.
 - The loading and unloading of plant, materials and waste.
 - The storage of plant and materials used in construction of the development.
 - The erection and maintenance of security hoarding.
 - The provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders).
 - Details of public engagement both prior to and during construction works.
- 11) Upon completion of and prior to the first use of the new access hereby permitted, the existing access shall be stopped up and the kerb and footway and verge reinstated in accordance with details which should be submitted to and approved in writing by the Local Planning Authority.
- 12) The development shall take place in accordance with the recommendations set out within the Hone Ecology Extended Phase 1 Ecological Habitat Survey Report date stamped 22 June 2022. The development shall be carried out in accordance with the approved details and thereafter retained.
- 13) Before preparation of any groundworks and foundations on site for the development hereby approved, a scheme of hard and soft landscaping and a programme for the works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out in accordance with the approved details. These details shall include proposed boundary treatments, hard surface finishes, details of any retaining walls, steps, railings, walls, gates or other supporting structures, car parking area materials. The information shall also include indications of any existing trees and hedgerows on the land, including those to be retained, together with measures for their protection, which shall comply in full with BS5837:2012 Trees in relation to design, demolition & construction – Recommendations, in the course of the development, together with a scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted as part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density.
- No occupation of the dwellings hereby approved shall take place until the approved scheme of hard and soft landscaping has been implemented.
- 14) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no buildings, structures or works as defined within Part 1 of Schedule 2, classes A-D inclusive of that Order, shall be erected or undertaken on the site.
- 15) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for

lighting that is low level, hooded and directional, and has been 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.

- 16) The refuse and recycling storage to serve the development shall be laid out as per the approved drawing ref 17/341 100 Rev D date stamped 18 July 2022 (to include the turning area to the west of the site). The refuse storage facilities shall be provided in accordance with the approved details prior to occupation and shall thereafter be retained as such for the duration of the permitted use.
- 17) Before preparation of any groundworks or foundations for the development hereby approved, full details for the incorporation of water and energy efficiency measures, the promotion of renewable energy and sustainable construction within the development shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details and thereafter so retained.
- 18) Except where otherwise varied by other conditions above, the development shall be constructed in accordance with the following plans (pre-fixed 17/341) and documents:

Site Location Plan (Drg 50) 19 April 2022

20 Rev C 18 July 2022

12 Rev B 18 July 2022

13 Rev B 18 July 2022

15 Rev B 18 July 2022

2 Rev A 18 July 2022

100 Rev D 18 July 2022

11 Rev C 18 July 2022

Hone Ecology Extended Phase 1 Ecological Habitat Survey Report, 22 June 2022