



Appeal Decision

Site visit made on 3 April 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2023

Appeal Ref: APP/C1435/W/22/3304251

Kinketchem and land to rear, Peelings Lane, Westham BN24 5AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by The Executors of N J Henty against the decision of Wealden District Council.
 - The application Ref WD/2021/1703/O, dated 23 July 2021, was refused by notice dated 17 June 2022.
 - The development proposed is the demolition of a three bedroom bungalow, garage and agricultural outbuildings and erection of up to 5 dwellings with associated highways improvements. All matters reserved other than site access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with the principle of the proposed development and details of access to be considered at this stage. In this case access excludes the layout of routes within the development but includes vehicular and pedestrian access to Peelings Lane with associated alterations to this public highway. Details of appearance, landscaping, layout and scale are reserved for future determination and in these respects the submitted plans represent only one possible way that the site could be developed.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the surrounding area, including the Low Weald landscape; and
 - whether the site would be a suitable location for housing in the context of local and national planning policy for the provision of housing.

Reasons

Character and appearance

4. Notwithstanding that the proposal is for 'up to' 5 dwellings, if outline permission were granted then development including for 5 dwellings and the proposed means of access would be fixed. I therefore need to be certain that the site could be developed for 5 dwellings with the proposed means of access in a manner appropriate to the surrounding area.

5. Replacing the existing dwelling at the front of the appeal site would maintain a ribbon of dwellings beside the north side of this part of Peelings Lane. These dwellings nestle innocuously into the lower part of a slope, along the contour of the land, behind hedgerow and trees lining both sides of the lane.
6. However, the rear of the site is part of a field with small, former agricultural buildings around some of its edge. This land rises more steeply to a crest of a hill. Its significantly more elevated position gives a commanding panoramic aspect over a wide arc, from southwest to southeast, across much lower ground. Residential and other development is set well down and largely absent from distant hillsides. This mostly undeveloped part of the site, with field boundary hedges and some trees, retains a strong rural impression. It is indicative of the attractive open, undulating agricultural topography of the Low Weald landscape so makes a positive contribution to this local designation.
7. Dwellings on this part of the site would breach the ribbon of dwellings in the lane and step further up the gradient of the slope in-depth behind. Although a low density of development, and even if bungalows, there would nonetheless be significant built form where there is little at present, especially into the more central and most open parts of the site. This would be out of keeping with the prevailing pattern of residential development in the lane and significantly erode the spaciousness of this pocket of countryside. The more built-up, suburban appearance of the site would be accentuated by subdivision and loss of the field to gardens with associated domestic use and activity.
8. Some dwellings to the east of the appeal site front onto Hankham Hall Road and some to the north are set further back from this road. But these are more sporadic in number and siting than along the lane and mainly glimpsed from the site beyond the crest of the hill or behind or over boundary hedgerow and trees so do not intrude significantly into this part of the Low Weald landscape. A residential estate on the south side of the lane is within the defined development boundary of Westham. It is also on lower land and separated from dwellings in the lane by the hedgerow and trees along it as well as close boarded fences. The rear of the site is, therefore, not sufficiently enclosed to be in a built-up area or an 'infill plot' and although close by, this existing residential development has a distinctly different visual and spatial setting so does not provide a suitable context for residential development on this part of the site.
9. Most dwellings in the rear of the site, particularly if single storey, would not be prominent in public views from the lane due to intervening dwellings or landscape features. However, as well as intrinsic adverse impact on the Low Weald landscape, this abrupt departure in the pattern of residential development in the lane would be conspicuous in upward views at the site entrance, along the internal access road past a replacement dwelling on one side. This view would not be entirely closed off by a new row of trees planted along the other side of the access road.
10. The lane is narrow and edged mostly by grass verge, including earth banks, with no pavements. It gently undulates and meanders past Kinketchem and the other dwellings in the lane. Despite the proximity of the estate to the south, the lane has a high degree of enclosure. It is largely unspoilt with an attractive, distinctly low-key rural feel and tranquil sense of place. It therefore contributes

to a lattice of narrow country lanes, away from main roads and intrusive or extensive development. These are characteristic of the Low Weald landscape.

11. Pedestrian use of the existing gated grass track need not change its nature significantly or therefore impact on the lane. Suitable details could be secured by a condition. A shallow, short indent to widen the lane as part of a passing bay at this point would not be incompatible with some other similar passing or parking bays along the north side of the lane. However, the highly engineered layout and geometry of the proposed vehicular access, including two-way carriageway, pavements, kerbs and road markings would be overtly urban in form. It would also extend a long way back from the lane into the heart of the site. This stark feature would be at odds with the mainly short, individual narrow private driveways that line the lane, and jar in this streetscene, appreciably undermining the rural integrity of the lane.
12. The grass verge along most of the south side of the lane is notably intact. The proposed hard surfaced passing bay opposite the pedestrian access would be 1m deep and more than 22m long, including edge and channel kerbs. The short stub of pavement on the south side of the lane, at the junction with Hankham Hall Road and Gallows Lane, would be extended towards the site by a similar length and at a greater depth (1.5m). Both of these features would, therefore, remove a substantial and significant length of the verge. This would interrupt its linear continuity and these large scars in this streetscene would unduly erode and detract from the verdant, rural nature of the lane.
13. An outline application can provide a means to establish certain parameters of proposed development, including in this case a maximum number of dwellings and means of access. However, there are fundamental difficulties with the proposed residential development of the site and the highway alterations to the lane as part of the vehicular and pedestrian access.
14. As a result, I find that the proposal before me does not provide sufficient assurance that if outline planning permission were granted, satisfactory details of the reserved matters could be resolved to allow for the site to be developed for 5 dwellings and means of access in a manner appropriate to the character and appearance of the surrounding area, including the Low Weald landscape, without causing significant harm.
15. Consequently, it conflicts with Saved Policies EN8 and EN27 of the Wealden Local Plan 1998 (the LP) and Policy SPO1 of the Wealden Core Strategy Local Plan February 2013. These policies include that development should protect and conserve the distinct character of the Low Weald landscape, respect the character of adjoining development, promote local distinctiveness and avoid unacceptable backland development.

Suitable location

16. The site is on the edge of Westham. This village has day-to-day services and facilities within walking or cycling distance of the site, including a railway station and bus stops giving access to towns elsewhere. The proposed pedestrian access and extension of the pavement would reduce walking distance eastward in the lane to about 50m. The lane is unlit and would need to be crossed but there is opportunity for refuge from vehicles in passing or parking bays and in the verge along this stretch of the north side of the lane, including land within the highway boundary. The proposed alterations to the

lane would provide highway safety benefits for all road users, including horse riders and future occupiers of the proposed dwellings. In these terms the site would be in an accessible location for the proposed residential development.

17. However, Saved LP Policies EN1 and DC17 direct most new housing development to a hierarchy of locations within defined settlements. While the site is very close to the development boundary of Westham, this does not include the site which is in the countryside. Under Saved LP Policy GD2 housing on the site is resisted and the proposal would not meet an exception recognised by the LP for housing in the countryside. Consequently, I find that the site would not be a suitable location for the provision of housing and would conflict with LP Saved Policies EN1, DC17 and GD2.

Other Matters

Pevensey Levels

18. The site is within a zone of influence of the Pevensey Levels Special Area of Conservation (the SAC) and Ramsar site. These are nationally and internationally important sites, designated predominantly for their wetland features such as aquatic plants and invertebrates, beetles, dragonflies and wintering wildfowl. This habitat and species rely on high quality, stable water levels. A significant effect on the integrity of these sites would be likely to occur from the proposed residential development alone, or in combination with other plans and projects, in an area where increased foul or surface water drainage and eutrophication pose an inherent risk to water quality. The main parties consider that through the Council's relevant suggested conditions the Council would be able to approve satisfactory foul and surface water drainage details and ensure these were implemented and maintained.

Other development

19. I have been referred to three schemes for residential development granted by the Council¹. However, those sites are located at or in close proximity to Stone Cross which is one of the Council's strategic housing allocations. I have also been referred to three allowed appeal decisions for residential development elsewhere in the Council's district². In these the weight given by Inspectors to under supply of housing was balanced against, amongst other things, harm due to site and development specific circumstances in each case. None of these decisions are therefore directly comparable to the current appeal which I have considered on its individual planning merits.

Planning Balance

20. The Council accepts that it cannot currently demonstrate a 5-year supply of deliverable housing sites and suggests it was a 3.92-year supply. The appellant has referred to a 3.66-year supply. I have not been informed of any changes to these figures, which are not materially different. Either way Framework paragraph 11(d) is therefore engaged.
21. A net gain of up to 4 dwellings by effective and efficient use of this small windfall site would be aligned with objectives of the Framework to significantly boost the supply of homes. It would make a modest contribution to housing

¹ WD/2019/2027/MAO, WD/2018/1757/MRM and WD/2017/1063/MAO

² APP/C1435/W/17/3179061, APP/C1435/W/17/3178137 and APP/C1435/W/21/3285618

supply and help to maintain the vitality of Westham given the accessible location of the site and proposed improvements in this regard. These would be moderate social and economic benefits from the construction and occupation of the dwellings.

22. On the other hand, the site is not in a defined development boundary and in principle is not a suitable location for residential development. But given the housing land supply position, reduced weight applies to this conflict with the Council's housing spatial strategy. Nonetheless, by virtue of the site's location in the countryside and its intended development, including alterations to the lane, the adverse impacts of the proposal would cause unacceptable harm to the character and appearance of the surrounding area, including the Low Weald landscape. Notwithstanding the significant under delivery of housing, and even using the appellant's supply figure, the relevant policies of the development plan in these regards are consistent with the Framework. As such, these environmental considerations have substantial weight.
23. As the competent authority in this appeal, it would ordinarily be necessary for me to undertake appropriate assessment with regard to the Pevensey Levels SAC and Ramsar site. However, since the benefits of the proposal do not outweigh the harm and I intend to dismiss the appeal, there is no need for me to consider the SAC or Ramsar site any further. Even if the proposal did not adversely affect the integrity of the SAC and Ramsar site and not provide a clear reason for refusing the development, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. As such, the presumption in favour of sustainable development would not apply. Accordingly, the SAC and Ramsar site would not affect my decision or alter the outcome of the appeal.

Conclusion

24. The proposal does not accord with the development plan taken as whole. There are no other material considerations which outweigh these findings.
25. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR