



Appeal Decision

Site visit made on 26 April 2023

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2023

Appeal Ref: APP/C1435/W/22/3304494

Land between Meteorological Station and Chestnut Close, Chestnut Close, West End, Herstmonceux BN27 4NX

- 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 Miss Rachel Exworth against the decision of Wealden District Council.
 - The application Ref WD/2021/2197/F, dated 22 February 2021, was refused by notice dated 15 July 2022.
 - The development proposed is Demolition of two agricultural buildings and formation of proposed 2x semi-detached two bedroom dwellings, 1 x four bedroom chalet bungalow. New access road to serve dwellings and provide access to fields at the rear.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of two agricultural buildings and formation of proposed 2x semi-detached two bedroom dwellings, 1 x four bedroom chalet bungalow. New access road to serve dwellings and provide access to fields at the rear at Land between Meteorological Station and Chestnut Close, Herstmonceux BN27 4NX in accordance with the terms of the application, Ref WD/2021/2197/F, dated 22 February 2021, subject to the conditions set out in the schedule at the end of this decision.

Main Issue

2. The main issue is whether the site is a suitable location for housing with particular regard to the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site is outside, but adjacent to the settlement boundary of Herstmonceux. It is therefore in the countryside for the purposes of the development plan.
4. The appeal site is on West End, located between a detached dwelling and the row of houses fronting Chestnut Close and the Meteorological station, an enclosed site with hardstanding access and a small building, and a pair of houses beyond. Opposite are houses fronting West End. The site itself is a mainly undeveloped grassed field, with open land to the rear. Within the streetscene, the site appears surrounded by development, separate from the wider countryside beyond.

5. Along West End, development is characterised by a range of different styles and ages of properties including semi-detached dwellings, and this mix provides variety and interest to the character of this road. Close to the appeal site roads such as Chestnut Close and The Ridgeway run perpendicular to West End and introduce housing beyond the main thoroughfare. Plot sizes vary but in the vicinity of the appeal site they commonly include a small front garden and modest, narrow rear garden.
6. The development proposes two semi detached dwellings fronting West End with modest front gardens and longer gardens to the rear. This layout and setting would therefore complement the development nearby and the properties do not appear overly narrow. As such they would not undermine the character and appearance of the surroundings in this regard. A single storey bungalow is proposed to the rear. This is in keeping with the pattern of development in the area with properties set back from West End. It has a larger plot size and does not jar with the character of the area in this regard. Therefore, taken together, the three dwellings proposed within this site, along with their associated gardens, parking and access are appropriate to the pattern of development in the locality.
7. The character and appearance of the dwellings would be appropriate to the area. However, they would be outside the development boundaries. Therefore, the proposed development would be contrary to Policies GD2 and DC17 of the Wealden Local Plan 1998 (WLP). Together these seek to resist development including housing in the countryside.

Other Matters

8. The site is adjacent to the Metrological Station which undertakes metrological observing activities, including the Autosonde. These are nationally important for public warning systems, forecasting, water management and climate change monitoring and used internationally. The Met Office does not object to the proposed development subject to the imposition of conditions to prevent development or landscaping which would extend beyond the line of sight between the Met Office Autosonde and the ridge of the proposed chalet bungalow. I give great weight to the evidence from these specialists and as such I do not find that the appeal scheme would be harmful in this regard.
9. There are trees and hedges on and close to the site including some which are protected by a Tree Preservation Order. There are inaccuracies in the position of trees (notably T3) on the site plan, and the proposed layout is inaccurate in the arboricultural report. However, taking these documents together, the development that is the subject of this appeal would not significantly encroach within the root protection area of the trees identified, which have been plotted by a chartered professional. As such these trees would be retained. The tree protection barrier fencing and an Arboricultural Method Statement could be required by condition to ensure that retained trees would be protected during the works. As such the development would not result in harm to these important trees.
10. An appropriate number of suitably located car parking spaces are provided with acceptable visibility splays and width of access shown and the proposed development would result in a limited increase in vehicle movements. As such the development would be unlikely to result in cars parked in unsafe positions on the street and access to and from the site would be safe.

11. The preliminary ecological appraisal identifies that, subject to mitigation measures, the proposed development would not result in harm to protected species. The report is somewhat dated, however I am not provided with detailed evidence that the situation at the site has significantly changed. Furthermore, conditions securing mitigation and details of biodiversity enhancement could be included to secure appropriate updated mitigation and enhancement. As such the development would have an acceptable effect on biodiversity.
12. My attention is drawn to appeal decisions relating to sites outside the Herstmonceux development boundary¹. However, these are in open countryside or the AONB and therefore the site specific considerations are notably different to those before me now.

Planning Balance

13. The Council cannot demonstrate a 5 year supply of deliverable housing sites. In the most recent submission by the Council it states that it has a 3.92 year supply. Therefore paragraph 11(d) of the National Planning Policy Framework (2021) (the Framework) is engaged. Paragraph 11 (d) applies where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. It does not refer to planning permissions granted, and is applied across the whole Local Planning Authority area, not just within a particular settlement.
14. Given the lack of a housing land supply, restrictive policies preventing the development of housing are out of date. As such I afford only limited weight to the conflict with these policies.
15. On the other hand, the three houses would be appropriate to the character and appearance of the area, and would result in a well-designed place. Furthermore, they would provide the important social and economic benefits associated with the provision of three new dwellings. Along with the temporary economic benefits during construction. This would contribute to the government's target to significantly boost the supply of homes.
16. Consequently, the limited adverse impacts of the proposal would not significantly and demonstrably outweigh the important benefits, when assessed against the policies in the Framework as a whole.

Conditions

17. I am attaching the standard implementation condition. However, to ensure housing is implemented in a timely manner and due to the pressing need for housing in the Borough the timescales are shorter than the default and the suggested 1 year period would be reasonable. In the interests of certainty a condition to define the plans with which the scheme should accord is also attached. Plan BA1947.07 Rev H is included in this list to correspond with the approved drawing BA1947.10 Rev A and ensure the approved drawings are consistent.
18. The site is adjacent to the Metrological Station which is important for the reasons set out above. A condition is recommended that would remove permitted development rights for development within the curtilage of the

¹ APP/C1435/W/18/3213892, APP/C1435/W/19/3224337

dwellinghouses as well as some minor operations in order to protect the line of sight of the Met Office Autosonde facility. Given the site specific requirements this would be reasonable and necessary in this case.

19. Details of materials and a lighting scheme are required in the interests of character and appearance, and in the case of the latter in the interests of biodiversity as well. Details of hard and soft landscaping are needed for the same reasons. For brevity, the requirement for specific heights of landscaping is incorporated into this condition. This is to protect the Met Office Autosonde facility. However, I have removed the requirements relating to trees and tree protection to avoid duplication with the specific arboricultural conditions.
20. Further detail is required in addition to the submitted arboricultural report with details of, for example, no dig surfacing and service trenches. Protective fencing for trees during construction must be erected, and detail of activities that must not be carried out within the protection zone are also specified. This is in order to protect the character and appearance of the area. Other than the restrictive condition, these works are required for the full duration of the development and therefore the conditions must be pre commencement.
21. Due to the proximity of nearby dwellings, a condition requiring no new windows to be inserted into the side elevations or roofslopes is required in the interests of neighbouring living conditions. The condition removing permitted development rights would prevent roof extensions without planning permission. Therefore I have removed reference to this in condition 19 to avoid duplication. Furthermore, given the position of the other roofslopes, restrictions on rooflights in these locations are not necessary as they would not create direct views to neighbouring properties.
22. Given there is a likelihood that asbestos may be present, a condition requiring an investigation into contamination along with recommended remedial measures and a verification report is required. For brevity I have combined the submission and implementation of the remediation scheme into a single condition. There is also a requirement that these would need to be undertaken in the event of unexpected contamination being found on the site. This is to avoid unacceptable risk to water, property, ecology and human health. The investigation into contamination and recommended remedial measures are required to be pre commencement as this relates to work that must occur prior to any building works.
23. The site access would be used by residential vehicles, pedestrians and larger vehicles serving the land to the rear, and the existing access would need to be closed. Therefore, it is necessary that this access is implemented prior to development above slab level, and details of the reinstatement of the existing access are required. Visibility splays must also be provided and retained. These are all in the interests of highway safety. Implementation of car parking and turning areas are needed for the same reason as well as for the quality of the living conditions of future occupiers. The parking space locations and sizes are shown on the approved plans, therefore whilst a condition requiring their implementation is required, no further specifications or details are needed.
24. The application indicates that foul drainage would connect to the mains sewer. I have no evidence before me that this would not be the case and as such there is no need to provide further details. However, details of surface water drainage are required in order to ensure that the development does not

increase the risk of flooding on site or elsewhere. This condition is required to be pre commencement as it relates to work that must occur prior to any building works.

25. Bat and bird boxes must be approved and installed, and a biodiversity enhancement scheme is required in the interests of the ecology of the area. The biodiversity enhancement scheme is required to be precommencement as measures will be required for the lifetime of the development.

Conclusion

26. The proposal would not wholly accord with the development plan. However, in this case the other considerations set out above outweigh the limited conflict with the development plan. Therefore, for the reasons set out above, and subject to the conditions listed, this appeal should be allowed.

H Miles

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun not later than the expiration of one year beginning with the date on which this permission is granted.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: BA1947.01 Rev B, BA1947.02 Rev C, BA1947.06 Rev C, BA1947.05 Rev A, BA1947.07 Rev H, BA1947.10 Rev A, BA1947.08 Rev F
- 3) Prior to the commencement of works below ground level a scheme detailing an investigation and risk assessment to assess the nature and extent of any contamination on the site, whether or not it originates on the site, shall be submitted to and approved in writing by the LPA. This scheme must be undertaken by competent persons and a written report of the findings must be produced.

The report of the findings must be submitted to and approved in writing by the LPA prior to the commencement of works below ground level. The report of the findings must include:

- i) a survey of the extent, scale and nature of contamination;
- ii) an assessment of the potential risks to:
 - a. human health
 - b. property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes
 - c. adjoining land
 - d. groundwaters and surface waters
 - e. ecological systems
 - f. archaeological sites and ancient monuments;
- iii) an appraisal of remedial options and proposal of the preferred option(s).

This must be conducted in accordance with the Environment Agency's "Land Contamination Risk Management (LCRM)" web pages
<https://www.gov.uk/government/publications/land-contamination-riskmanagement-lcrm>.

- 4) Prior to the commencement of works below ground level a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures, and written notification to The Local Planning Authority of commencement of the remediation scheme two weeks' prior to its commencement. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development.

- 5) Following the completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works above the slab level of the dwellings hereby approved.
- 6) Prior to the commencement of the development hereby approved, the tree protection barrier fencing shall be erected in the form and position set out in the Arboricultural Report dated December 2019. The tree protection barrier fencing shall be retained as such until the first occupation of the development. Hereafter, the fencing shall be referred to as the 'approved protection zone'.
- 7) Prior to the commencement of the development hereby approved an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The arboricultural method statement shall include numbering and detailing of trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details.
- 8) Prior to the commencement of the development hereby approved, a scheme for the enhancement of the site for biodiversity purposes, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include timescales for implementation and future management. The development shall be implemented in accordance with the approved scheme of enhancements and thereafter so retained.
- 9) Prior to the commencement of the development hereby approved full details of the proposed means of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage works shall be completed prior to the completion or occupation of the dwellings on site whichever is the sooner.
- 10) Prior to the commencement of works above the slab level of the dwellings hereby approved the vehicular access serving the development shall be constructed in accordance with block plan reference BA1947.10.A.
- 11) Prior to the commencement of works above the slab level of the dwellings hereby approved, samples of materials to be used on the external surfaces of the development shall be made available for inspection on site and adequate notice given to the Local Planning Authority who will arrange inspection. The materials shall be approved in writing by the Local Planning Authority prior to the commencement of works above slab level. The development shall be implemented in accordance with the approved materials.
- 12) Prior to the commencement of works above the slab level of the dwellings hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. These details shall include proposed boundary treatments, proposed finished levels and contours, hard surface finishes, including samples,

details of any retaining walls, steps, railings, walls, gates or other supporting structures, car parking layouts, other vehicle and pedestrian access and circulation areas, minor artefacts and structures (e.g. street furniture, play equipment, refuse and other storage units). The information shall also include 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. The existing hedge and tree line (as more particularly shown on Drawing No. BA1947.08 Rev F) shall be maintained at a height of no more than 5m and any new soft landscaping shall not be permitted to extend beyond the line of sight between the Met Office Autosonde and ridge of the proposed Chalet Bungalow (as more particularly shown on Drawing No. BA1947.08 Rev F). Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density.

- 13) The access shall not be used and the dwellings shall not be occupied until visibility splays of 2.4m by 43m are provided in both directions. The visibility splays shall be retained as such thereafter.
- 14) The development shall not be occupied until the parking area has been provided in accordance with the approved plans. The area shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.
- 15) Within 3 months of completion of the development, details of the stopping up of the existing vehicular access and gate and reinstated verge shall be submitted to and approved in writing by the Local Planning Authority. The details as approved shall be implemented within 3 months of the completion of the development
- 16) The development shall not be occupied until a turning space for vehicles has been provided and constructed in accordance with the approved plans. The turning space shall thereafter be retained for that use.
- 17) Prior to the completion or first occupation of the dwellings hereby approved, whichever is the sooner, details for the provision and siting of bird and bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the completion or first occupation of the dwellings hereby approved, whichever is the sooner.
- 18) 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 to E and Part 2 of Schedule 2 Class A of that Order, shall be erected or undertaken on the site.
- 19) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order with or without modification) no windows or openings (other than those expressly authorised by this permission) shall be inserted into the east elevations or roof slopes of the dwelling houses to Plots Two and Three.

- 20) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development until a detailed lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include lighting that is low level, hooded and directional. Any floodlighting, security lighting or other external means of illumination shall be implemented only in accordance with the approved details and retained thereafter.
- 21) Unless otherwise indicated no trees and/or hedgerows on the site, unless dead or dangerous, shall be felled, reduced, pruned or destroyed.
- Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow,:-
- 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'.
- 22) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 3. where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 4. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared in accordance with Condition 5, The investigation and risk assessment, remediation scheme and verification report must be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the dwellings.