



Appeal Decision

Site visit made on 27 June 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Appeal Ref: APP/C1435/W/22/3313150

Hedley House, High Barn Road, Upper Dicker, East Sussex BN27 3QJ

- 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 Wellsbridge Estates Ltd against the decision of Wealden District Council.
 - The application Ref WD/2022/2604/O, dated 5 October 2022, was refused by notice dated 1 December 2022.
 - The development proposed is erection of two detached dwellings and creation of new access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline planning permission with approval sought at this stage for access only, with appearance, landscaping, layout and scale reserved for future approval. Whilst the proposed block plan shows how the site might be developed, I have treated details other than access as indicative and not formally as part of the scheme.

Main Issues

3. The main issues are (i) whether the appeal site represents a suitable location for the proposed development and (ii) the effect of the proposed development on highway safety.

Reasons

Location

4. Upper Dicker is defined as a Neighbourhood Centre within the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan February 2013 (CSLP). Policy WCS6 of the CSLP proposes 10 net additional dwellings within Upper Dicker during the Plan period up until 2027. This policy also removes the village's development boundary. As the appeal site lies outside of a defined settlement boundary, for planning purposes it is located within the countryside.
 5. Saved Policies GD2 and DC17 of the Wealden Local Plan December 1998 (LP) seek to resist new housing within the countryside, unless it conforms with other policies in the Plan. Policy EN1 of the LP requires that the Council pursues sustainable development, taking into consideration factors, including the location of the development.
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6. The appeal site is a greenfield site, which lies between 2 residential properties. There is ribbon development along the north-western side of High Barn Road. The opposite side of the road consists predominantly of agricultural land. Development along High Barn Road becomes more irregular in nature and dissipates as one heads out of the village. Consequently, the appeal site appears rural in character.
7. Given the proximity of other development in the locality, the appeal site would not be isolated in the context of paragraph 80 of the National Planning Policy Framework (the Framework). Future residents would have access to local facilities and services, including schools, a dental surgery, public house, shop, café, church, playground and leisure facilities, which would meet some of their day-to-day needs. There is also a bus stop within the village, albeit services are infrequent and to limited destinations. However, there is no footway connecting the appeal site to these facilities and only a narrow grass verge, which is uneven and not suitable for all users. Given the narrowness of the grass verge, future residents would have no option but to walk along the highway for at least part of the journey.
8. This stretch of the highway has a 30mph speed limit. The national speed limit applies a short distance to the south-west of the site. The speed survey data submitted with the application shows that vehicles regularly exceed the 30mph speed limit in this location. The nearest pavement is on the outskirts of village, which the appellant states is approximately 173 metres away. Even though this is not a significant distance, the lack of footway and street lighting, and the speed of the traffic is likely to deter future residents from walking or cycling to the village services and facilities. Consequently, future residents are likely to be heavily reliant on private motor vehicles to meet their day-to-day needs and this weighs heavily against the development.
9. Outline planning permission was granted for a new dwelling at 'The Cottage' (ref: WD/2020/1926/O) in April 2021. The Cottage is sited directly to the north of the appeal site. The consented scheme at The Cottage related to previously developed land, which is materially different than the scheme before me. There would have been some traffic and pedestrian movements associated with the existing buildings. It appears from the overgrown nature of the existing access and third party comments that the existing access has not been in use for some time.
10. The consented scheme at The Cottage is slightly closer to the village than the appeal scheme. Whilst the overall walkable distance is similar, future residents of the appeal scheme would have a greater distance to walk along the highway. The Council's 5 year housing land supply (5YHLS) position has improved slightly since permission was granted at The Cottage. Furthermore, The Cottage application was determined before the 2021 Framework was published and would have been assessed under a different policy context. For the above reasons, the 2 schemes are not directly comparable. Whilst I note that other housing schemes have been approved in the locality, full details of these other schemes are not before me.
11. Whilst the extent of journeys by future residents is likely to be similar to those undertaken by neighbouring residents, this does not justify providing new dwellings within a location where accessibility to services/facilities and public transport links using sustainable modes of transport would be poor.

12. I conclude that the appeal site would not be a suitable location for the proposed development. The proposal would fail to comply with Saved Policy EN1 of the LP and Policies SPO7 and WCS14 of the CSLP. These policies amongst other matters seek that the Council pursue sustainable development, having regard to the location of the development and seek to reduce the need to travel by car by concentrating development where it can most closely relate to public transport opportunities.
13. Saved Policy EN27 is not relevant to this appeal as it refers to the layout and design of a scheme, which are not matters before me for consideration. Whilst EN27(3) requires a satisfactory environment for future occupants, this relates to living conditions as opposed to the location of the development in respect to services/facilities.

Highway safety

14. The appellant has submitted a revised drawing as part of their appeal statement, showing extended visibility splays. The Council and local highway authority confirm that the plan is acceptable and that they have withdrawn their reason for refusal relating to highway safety. I have considered the appeal on the basis of the revised plan and am satisfied that no parties would be prejudiced by this approach.
15. Whilst the access is located a short distance from the brow of a hill, the revised plan shows that a good level of visibility can be achieved in both directions. Although there is a telegraph pole within the south-western visibility splay, this is a fairly slim structure and would have limited impact on visibility in this direction. Based on the evidence before me and my site visit, I find no reason to reach a contrary conclusion to the Council and local highway authority in respect to highway safety.
16. The development of 2 new dwellings would result in only a modest increase in traffic movements on the local highway network and consequently the impact on the road network would not be severe.
17. For the above reasons, I conclude that the proposed development would not be harmful to highway safety and would comply with Policy TR3 of the LP, which requires that developments demonstrate a satisfactory means of access and would not create or perpetuate unacceptable traffic conditions. The proposal would also comply with paragraph 111 of the Framework, which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Planning Balance

18. The Council is unable to demonstrate a 5YHLS. The latest published data indicates a 3.92 year supply, which is a significant shortfall. Where a 5YHLS cannot be demonstrated paragraph 11 d) of the Framework advises that the most important policies for determining the appeal are deemed to be out-of-date and planning permission should be granted, unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a

whole. The appeal site does not fall within a protected area, neither does it relate to an asset of particular importance and therefore paragraph 11 d) (ii) of the Framework is engaged.

19. The Council accepts that sites within the countryside will be required to meet the housing allocation for this village. Given this admission and the absence of a 5YHLS, I find Policies GD2 and DC17 of the LP to be out-of-date and attach limited weight to these policies.
20. The proposal would align with the aims of the Framework, which seek to significantly boost housing supply. The provision of 2 new dwellings would make a small contribution towards the Council's housing land supply, which would have a social benefit. Whilst the proposal has the potential to provide high quality accommodation for future occupants, details of the design of the development are not before me and I therefore give this alleged benefit limited weight. There would be economic investment from the construction of the development and future residents would help to support local services and facilities. Future residents may also find local employment, which would boost the local economy. Although limited details have been provided, the provision of new planting, would have environmental benefits. Overall, these benefits carry moderate weight in favour of the development.
21. Even though I have found no harm in relation to highway matters, against these benefits, there would be harm by reason of the poor accessibility of the site to local services and facilities, which I give significant weight. As a result, future residents would be reliant on private motor vehicles to meet their day-to-day needs. Overall, the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply in this case.

Conclusion

22. For the reasons given above, having regard to the development plan as a whole, the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

A James BSc (Hons), MA, MSc, MRTPI

INSPECTOR