



Appeal Decision

Site visit made on 20 July 2023

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/C1435/W/22/3299510

Station Bridge Yard, Bayham Road, Bells Yew Green, Frant, TN3 9BN

- 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 Mr James Moore, Station Bridge Ltd., against the decision of Wealden District Council.
 - The application Ref WD/2021/1564/O, dated 28 May 2021, was refused by notice dated 25 February 2022.
 - The development proposed is minor residential development consisting of 6 No dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is outline only with all matters reserved for future consideration. I have therefore considered the layout shown on the submitted plan as indicative of only one way in which the site could be developed.

Main Issues

3. The main issues are:
 - whether the site is an appropriate location for six dwellings taking into account local and national spatial planning policy;
 - the effect of the proposal on the character and appearance of the area;
 - whether satisfactory living conditions would be provided for future occupiers of the proposed dwellings;
 - whether safe and suitable access has been demonstrated; and
 - whether appropriate provision would be made for affordable housing.

Reasons

Spatial Strategy

4. The appeal site is a long triangular area separated from the village of Bells Yew Green by woodland and fields. The London and Hastings railway line and the B2169 Bayham Road adjoin it. To the north are fully equipped industrial workshops at Buckhurst Works with a small number of houses beyond that. A bund of earth around part of the site supports trees, bushes and other vegetation.

5. The spatial strategy for the District is set out in the Saved Policies of the Wealden Local Plan 1998 (the LP) and the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 (the CS). It directs development to within the defined boundaries of those settlements that have the greatest amount and range of employment and facilities and are best served by public transport. Development outside defined boundaries is generally resisted under Saved Policy GD2 of the LP and Policy WCS6 of the CS unless it meets criteria set out by other Policies. Saved Policy EN1 and Policies SP07 and WCS14 of the CS seek to ensure development is sustainable in terms of the effect on the environment and encourages development to be concentrated where the need to travel by private car is reduced. These policies, whilst of some age, broadly reflect Government guidance as set out in the National Planning Policy Framework 2021 (the Framework).
6. The appeal site is outside any defined development boundary and in the countryside for planning policy purposes. Residential development would therefore be contrary to Policy SPO1 of the CS and Saved Policies GD2 and DC17 of the LP which resist new housing development in the countryside unless it has some justification for a rural location, none of which have been demonstrated in this case.
7. Bells Yew Green is a settlement with limited facilities. These include a shop, public house, leisure facilities and warehouse and workshop units. There are bus stops and Frant railway station is some 400-500m from the appeal site. Frant itself, a larger settlement with a development boundary is some 2.7km away: a wider range of day-to-day services is available in Royal Tunbridge Wells some 3-4km away.
8. During my site visit, which I appreciate is only one point in time, vehicles were travelling at significant speeds past the appeal site, particularly those travelling towards Bells Yew Green where there are fewer warning signs in this compared to the other direction. The speed of traffic along the B2169 outside the site; the narrowness of the carriageway, especially beneath the nearby railway bridge which is on a bend; and the lack of footpaths and lighting means it is not an attractive route for walking or cycling to Bells Yew Green particularly during hours of darkness or in inclement weather. It is likely that most journeys by residential occupiers would rely on the private vehicle. I note that the Framework recognises that opportunities to maximise sustainable transport solutions varies between urban and rural areas but this site is less accessible by walking and cycling than many.
9. There are no buildings on the site and little sign of any use albeit there are piles of dumped materials in places together with a skip and some plant. I cannot conclude it is previously developed land as defined in the Glossary to the Framework and also note a previous colleague's conclusions on the matter in dismissing APP/C1435/A/09/2109117. The proposal would to a small extent reduce the need to take greenfield land to help boost the supply of housing, but it should not be assumed that the whole curtilage should be developed so the proposal gains relatively little support from Policy SPO14 of the CS.
10. Taken as a whole I conclude that the site would not be an appropriate location for six new dwellings in terms of local and national spatial planning policy as it conflicts with those parts of Saved Policies GD2, EN1 and DC17 of the LP; those parts of Policies SPO7, SPO13, SPO14, and WCS6 of the CS and those

principles of the Framework that seek to direct development to the most accessible locations and to reduce reliance on the private vehicle.

Character and appearance

11. The appeal site and surroundings are in the High Weald Area of Outstanding Natural Beauty (AONB) which is afforded the highest level of protection to safeguard the natural beauty of its landscape. Its special character derives amongst other things from the extensive survival of woodland and traditional mixed farming including scattered buildings such as farms, houses and commercial premises with villages and towns of Medieval origin located at historic focal points or along ridge top roads.
12. As there are no buildings the earth bund and trees and shrubs on it obscure much of the site from view although it is likely to be visible from passing trains. Any new buildings and associated vehicles and activity would be visible above and through surrounding vegetation and would have an urbanising effect by consolidating sporadic development thus undermining its overall rural character.
13. This would be exacerbated by the removal of trees and re-profiling of the bund that would be necessary to facilitate the construction of the new building as indicated in the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan 2021. The latter does not specify the extent of re-profiling that would be required; additional planting and habitat creation could help screening in the fullness of time and the submitted layout is indicative only. Nevertheless, it is difficult to envisage a layout for six three-bedroom dwellings that would provide a satisfactory outlook from windows and amenity spaces taking account of the constraints of the shape of the site; the landscape/screening requirements and the noise environment.
14. Concern has been raised about the proposed design. However, as all matters are reserved this could be considered at a later date.
15. For the reasons set out above I conclude that the proposal would have a harmful effect on the rural character of the area and would not conserve or enhance the landscape and scenic beauty of the AONB. The proposal would therefore conflict with Saved Policies EN1, EN6, EN14, EN15 and EN27; Policies SPO1, SPO13, WCS12 and WCS14 of the CS; and those principles of the Framework which require great weight to be given to harm to the AONB and which seek to ensure development respects the character of adjoining development; retains trees; and minimises damage to habitats.

Living conditions

16. The proximity of the railway line, Bayham Road and Buckhurst Works to the site give rise to potential noise and vibration disturbance. The RF/Environmental Report ¹ shows ambient day time LAeq,16hr sound levels produce an arithmetic average of 54 dB LAeq,16hr. The ambient night-time LAeq,8hr sound levels produce an arithmetic average of 46 dB LAeq, 8hr. These are well above the desirable upper noise levels inside residential

¹ Noise and Vibration Impact Assessment Technical Report: RFE-0384-21-02 October 2021 (the RF/Environmental Report)

habitable rooms which are specified in BS8233:2014² are and are at the higher end of the moderate to serious annoyance range established in BS 8233:2014 for outdoor space. With open windows the RF/Environmental Report identifies an average of 22 single noise events during the night which exceed the WHO guidelines³ including some over 80 LA_{max,F} during the very early morning. It seems likely these are passing trains.

17. During my visit I heard a continuous, intrusive low frequency hum from the Buckhurst Works. A metal extractor hood and metal enclosure close to the boundary, at a higher level, is clearly visible from the appeal site above the bund/hedges. My visit is only a single point in time but the hum, (probably that recorded as 31.5Hz on 20 September 2021 in the RF/Environmental Report), was clearly audible whilst I was there. Accordingly, I cannot concur with Paragraph 2.3 of the RF/Environmental Report which states that there are no notable noise sources present in Buckhurst Works. Indeed Section 5 goes on to identify that there could be a significant adverse impact on residents from the workshops.
18. It appears the workshops operate between 07:00 to 19:00 Monday to Saturday and there are no conditions restricting hours or the types of activities that could take place. The hum generating equipment could be in continuous use or other noisy activities could commence. I judge that the degree of existing and potential noise intrusion across the site would provide less than satisfactory living conditions for future residential occupiers.
19. Mitigation would need to be a more acoustically enhanced glazing product that could attenuate the low frequency noise but trickle vents could compromise its effectiveness. Continuous mechanical supply and extraction with heat recovery using ducts would avoid the need for trickle ventilation but could generate noise and/or vibration and inlet/outlet attenuators would be required. The RF/Environmental Report recommends that detailed internal calculations should be undertaken for the worst affected façades once the final design has been determined to ensure the glazing and ventilation selection is suitable. On this basis I cannot confidently conclude that appropriate mitigation has been demonstrated. Moreover, the introduction of noise sensitive receptors so close to an existing workshop could potentially lead to a conflict of interest and the potential for the need to restrict commercial activities there.
20. I do not consider that such mitigation coupled with the need to keep all windows closed would amount to a good design solution for new build properties. Moreover, this would not address the issue of noise in outdoor amenity space. The existing bund would not provide sufficient mitigation and any additional acoustic screening would be likely to be of a height and position that would compromise light and outlook from windows and amenity space. I also note that the Planning Noise Advice Document: Sussex 2021 (the Noise Advice) prefers natural ventilation.
21. The RF/Environmental Report indicates that vibration levels are likely to be below the guidelines at which adverse comment might be expected BS6472-1⁴.

² 50 – 55 dB LA_{eq,T} the British Standard BS 8233:2014. Guidance on Sound Insulation and Noise Reduction in buildings

³ World Health Organisation. 2018. Environmental Noise Guidelines for the European Region

⁴ BS6472-1 Guide to Evaluation of Human Exposure to Vibration in Buildings Part One vibration sources other than blasting

22. Outdoor amenity space is required to ensure good quality living conditions and none is clearly identified on the submitted layout. Whilst this is indicative only it is difficult to envisage a layout that would provide good quality out-door space for six three-bedroom dwellings given the constraints imposed by the shape of the site, the surrounding bunds/tall vegetation, the wall of the building at Buckhurst Works and the noise environment.
23. I conclude the satisfactory living conditions would not be provided for future occupiers of the proposed dwellings and the proposal would therefore not amount to a good sustainable design. Accordingly, there would be conflict with Saved Policy ENV27; Policy SPO13 of the CS; the Wealden Design Guide; the Noise Advice and those principles of the Framework that require good design and a high standard of amenity for future users.

Access

24. The site access is outside the thirty mile per hour speed limit. The access gates are setback behind an area of parking spaces. The submitted plan shows visibility splays to either side of 130m and 90m⁵ which are well below the 2.4m by 215m sought by the Design Manual for Roads and Bridges for roads with permitted speeds of 60mph. The Highway Authority has no objection in principle to the position of the access subject to confirmation by way of a more up to date speed survey to establish whether reduced sightlines could be acceptable for residential development.
25. The appellant advises that some years ago at the request of the Council the access was re-located to the current position to provide sightlines to meet highway requirements and to enable vehicles too high to go under the railway bridge to turn safely. At the same time the yard was levelled and the bunds constructed. This was clearly many years ago and to my mind would not in itself justify use of an access with lower standards of visibility for residential purposes today unless this had been demonstrated to be safe in terms of vehicle speeds. Nor would the fact that any accidents that have occurred were under the bridge or from turning into Buckhurst Works.
26. The Highway Authority proffers detailed comments about the site layout, footpath widths and collection point for refuse vehicles. However, as all matters including access are reserved this could be addressed at a later stage.
27. I conclude that safe and suitable access has not been demonstrated. Accordingly, there is conflict with Saved Policy TR3 and those principles of the Framework that seek safe and suitable access for all.

Affordable housing

28. Policy AFH1 of the Affordable Housing Delivery Local Plan May 2016 (the AHDLP) seeks 35% affordable housing on sites of five or more dwellings. Whilst the Framework indicates affordable housing should normally not be sought on small sites this is relaxed in the AONB where policies may set a lower threshold. Accordingly, Council policy requires two affordable units on site or a commuted sum of £380,204 for off-site provision.

⁵ 120m of forward visibility is part of planning permission WD/2018/1007 which will remove vegetation in order to secure a separate sightline

29. The appellant queries the Council's calculations as well as expressing surprise that the Council itself did not get up-to-date Land Registry information. I acknowledge the view of the appellant but, in my experience, it is usual for a Council to have a standardised method to calculate contributions and this may result in very precise figures. Nevertheless, it is for the applicant/appellant to provide detailed evidence to demonstrate whether such a payment would be viable in relation to site development costs and market conditions and also to provide up-to-date evidence of land ownership of the whole site.
30. I have seen no indication from the Council that the alternative of private rented accommodation, or sales to local people, would meet the affordable housing policy requirements. In any case it would be for the appellant to provide a very detailed deed ensuring private rented accommodation or sales to local people would be secured initially and then retained in the longer term.
31. In the absence of the above I cannot conclude that appropriate provision would be made for affordable housing. Accordingly, the proposal conflicts with Policy AFH1 of the AHDLP. I note that the appellant indicates a willingness to enter into an appropriate deed if permission were to be forthcoming. However, given my other conclusions, and as appropriately completed documentation has not been provided as part of this appeal, it would not be appropriate for me to pursue this further.

Other Matters

32. The Council advises it cannot demonstrate a five-year supply of deliverable housing land and the evidence indicates the land supply is low at some 3.66 years. Accordingly in terms of Paragraph 11 of the Framework, which is a material consideration, those policies most important for the appeal are deemed to be out-of-date. However, Footnote 7 clarifies that impacts on designated sites such as an AONB or protected habitats may still limit the acceptance of housing.
33. The appellant has cited a number of cases where residential development has been accepted by the Council in and around Bells Yew Green. From the information available it seems to me that none of these has the same combination of planning issues as those present on the appeal site. Accordingly, they do not lead me to any different conclusions.
34. As competent authority it is necessary for me to consider the effects, if any, on the integrity of the Ashdown Forest Special Area of Conservation and Special Protection Area and Site of Special Scientific Interest. I do not have the necessary information to carry out an Appropriate Assessment but in view of my findings on the main issues it is not necessary or appropriate for me to consider the implications further because the proposal is unacceptable for other reasons.
35. Theft and fly tipping problems are matters of management and in themselves would not justify an otherwise unacceptable development.
36. The appellant was given pre-application advice that six dwellings would be preferred and it seems no mention was made of affordable housing. However, I have reached my own conclusions on the planning merits of the case based on the evidence before me.

Planning Balance and Conclusion

37. The proposal would add six much needed dwellings to the supply of housing on a site which is not greenfield. There would be short term economic benefits from construction employment and additional spend from residents in the local economy. These matters carry substantial weight in favour of the proposal in the context of the relatively poor supply of available housing land albeit somewhat tempered by its relatively small scale.
38. However, the site is not ideally located in terms of accessibility to day-to-day facilities and conflicts with the spatial strategy for the District. I have found the proposal would be harmful to the character and appearance of the area and to the AONB where great weight should be given to conserving and enhancing landscape and natural beauty. I have also found that satisfactory living conditions would not be provided for future residential occupiers; safe and suitable access has not been demonstrated; and appropriate provision has not been made for affordable housing. These matters attract significant weight and outweigh the benefits associated with the proposed development.
39. The proposal would therefore conflict with the development plan taken as a whole and there are no other considerations, including the Framework, which outweigh this conflict. I conclude the appeal should be dismissed.

S Harley

INSPECTOR