



Appeal Decision

Site visit made on 8 August 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023.

Appeal Ref: APP/C1435/W/22/3303432

Land adjoining No.5 Belle Vue Cottages, Hailsham Road, Stone Cross, Pevensey BN24 5AS

- 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 B Slaughter against the decision of Wealden District Council.
 - The application Ref WD/2021/0512/F, dated 25 March 2021, was refused by notice dated 13 May 2022.
 - The development proposed is demolition of existing garage/store buildings and removal of mobile home, proposed 9 no. detached houses and associated footpath and accesses.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage/store buildings and removal of mobile home, proposed 9 no. detached houses and associated footpath and accesses at land adjoining No.5 Belle Vue Cottages, Hailsham Road, Stone Cross, Pevensey BN24 5AS in accordance with the terms of the application, Ref WD/2021/0512/F, dated 25 March 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. With the appeal the appellant submitted an amended plan¹ to correct a minor error with the first floor layout of the house on plot 7. Additionally, a landscape masterplan². The Council and interested parties had an opportunity to consider both plans so I have taken them into account in determining the appeal.
3. The Government published a new National Planning Policy Framework on 5 September 2023 (the Framework). The changes to national policy are not relevant to this appeal.

Main Issue

4. The main issue in this appeal is the effect of the development on the character and appearance of the area.

Reasons

5. The appeal site is mainly a long, narrow rectangular field with a continuous mature hedgerow along most of the north side of Hailsham Road. This part of the site slopes gently upwards and away from this road to a post and wire fence at the rear and fields beyond. The east end of the site contains a mobile home, storage outbuildings and hardstanding. Overall, the site reflects the generally more open countryside with limited residential or other development

¹ Drawing number 3125 06 Rev D

² Drawing number RC0443/Fig01 Rev 01

in this wider rural area north of the A27. Though not in the High Weald Area of Outstanding Natural Beauty (the AONB), most of the site is as a result distinctive in the Low Weald landscape so makes a positive contribution to the character and appearance of the area. The proposal would redevelop the site with 9 detached houses in a row along the north side of Hailsham Road.

6. The site is bookended on one side by houses near the junction with Hankham Road and, on the other side, by houses at the junction with Milton Street. It faces a long row of detached houses, chalet bungalows and bungalows that stretch along the south side of this section of Hailsham Road. This residential development along these roads gives a localised semi-rural feel.
7. While the row of dwellings south of Hailsham Road skew back from this road further to the northwest, so increase spaciousness, opposite the site the straighter, more uniform building line is tighter to the road, as would be the proposed houses. Many, though not all, of these existing dwellings have exceptionally long rear gardens whereas most rear gardens of existing dwellings on the north side of Hailsham Road are shorter. While the length of the proposed rear gardens would be restricted by the site dimensions, they would nonetheless be a more relevant fit with these dwellings. The plot widths and building spacing would be wider than some and narrower than others along the south side of Hailsham Road, so not inordinately out of kilter.
8. A slightly elevated siting of the proposed houses would give a taller impression compared to the dwellings opposite and those on the west side of Milton Street. However, they would be broadly similar in absolute eave and ridge heights and aside from some small parts of the ridges reflect the heights of Nos.5 and 6 Belle Vue Cottages that already front Hailsham Road. A condition could ensure appropriate ground levels on the site to ensure a satisfactory relationship in this regard. A sequence of undulating, mostly different hipped roof designs with intervening step-down in height to lower garages would result in appreciable gaps between the new houses, so avoid an overly tight or built-up frontage. This would also allow some views of the open countryside or skyline behind.
9. The modern design and materials of the houses would contrast with the varied appearance of the existing dwellings opposite and near the site established incrementally over time. However, a condition could ensure that they were not fundamentally incompatible with some features of these older properties and would have a distinct visual cohesiveness. Similar in these respects to the new houses on elevated ground in Forge Place near the site and though set further back are part of the Hailsham Road streetscene.
10. The longstanding roadside hedgerow would be lost. There is, though, no objective evidence that it is a designated 'important' hedgerow³ and even if it was, that it could not be removed or reduced with necessary consent or safeguards. A condition could ensure that a new hedgerow was established along front garden boundaries at a suitable height behind a proposed pavement next to Hailsham Road. It would have some gaps for driveways but could be augmented by front garden tree planting. This would give a similar verdant feel along this side of the road as at some of the front gardens opposite. New hedgerow or tree planting could also enclose the site at the rear. This would give a biodiversity net gain overall and establish a clear boundary to

³ The Hedgerow Regulations 1997 (as amended).

prevent development encroaching appreciably in-depth behind or further into the countryside.

11. I have been referred to a dismissed appeal decision for proposed residential development of a nearby site south of the current appeal site⁴. As the Inspector in that case, I am familiar with that decision, including my findings on local context and character in relation to that site and proposal. I have also been referred to an allowed appeal decision for residential development northwest of the site beyond the last dwelling on the south side of Hailsham Road⁵. I have had due regard to both decisions, though I have determined the current appeal on its individual planning merits.
12. Taking all the above into account, I find that the proposed ribbon of houses would be in-keeping with the pattern of semi-rural residential development opposite the site. It would also integrate with the residential development either side of it, including in appearance, layout, scale and massing, with scope for appropriate landscaping to reflect the wider rural context. It would not, therefore, appear unduly cramped or overdevelop the site in an overly intrusive way but be assimilated into the Hailsham Road streetscene, including from public views in both directions.
13. Nonetheless, a more built-up appearance to this side and stretch of Hailsham Road by the infilling of this mostly undeveloped gap would cause some localised innate harm to the character and appearance of the area, including this part of the Low Weald landscape. Accordingly, the development would, overall, conflict with saved Policies GD2, DC17 and EN27 of the Wealden Local Plan 1998 and with Policy WCS14 of the Wealden Core Strategy 2013. These policies include that housing development should promote local distinctiveness and improve environmental conditions in the area.

Other Matters

European sites

14. The site is within a zone of influence of the Pevensey Levels Special Area of Conservation and Ramsar site (the European sites). These are important protected sites, designated predominantly for their wetlands, birds, invertebrates and vegetation. These interest features rely, amongst other things, on high quality water. A significant effect on the integrity of the European sites would be likely to occur from the proposed residential development alone, or in combination with other plans and projects, due to risk of increased potentially contaminated surface water run-off eventually entering the European sites. As the competent authority in this appeal, it is necessary for me to undertake Appropriate Assessment⁶.
15. Surface water run-off would be managed on site by a sustainable drainage system⁷. Potential infiltration of hydrocarbons in surface water would be filtered by the aggregate and geotextile layers of permeable paving and/or underground soakaways (with further filtration) across the site. Containment storage capacity would reflect a 40% climate change uplift with run-off rates controlled to existing greenfield levels. An environmental

⁴ APP/C1435/W/22/3297976 (Allsworthy)

⁵ APP/C1435/W/22/3296480 (Sharnford Farm)

⁶ Conservation of Habitats and Species Regulations 2017 (as amended)

⁷ Drainage Strategy prepared by Bright Plan Civils, October 2020

construction management plan (code of construction practice) could control surface water during construction, including initial works to create vehicular access(es) into the site to facilitate construction works. The appellant suggests that these measures would mitigate any individual or in-combination adverse impacts on the European sites.

16. The Council carried out a Habitats Regulation Assessment (HRA) at application stage. The HRA concluded that subject to conditions to secure these mitigation measures, as well as their long term management, water quality would be maintained such that there would be no harm to the integrity of the European sites. I have received written confirmation from Natural England that it agrees with the HRA. I therefore have no reason to find otherwise.

Other interested party comments

17. Westham Parish Council, as well as many local residents at application and appeal stages, have raised other concerns including relating to no inclusion of affordable housing, foul drainage, infrastructure, services and facilities, air quality and effects on the residential amenity of existing and future residents, means of vehicular and pedestrian access and traffic generation.
18. I have given due regard to these matters. Affordable housing is not required by local or national planning policy in this case. There is no compelling objective evidence before me to substantiate what is otherwise largely anecdote or speculation, no matter how well informed, or relates to matters to be reconciled by the Council's plan-making process. Subject to conditions to secure the approval of suitable details the Council and the Highway Authority (HA) did not object to the development for any of these reasons.
19. Damage to private property due to development is a civil matter between the respective parties and no-one has the right to a private view. It is for the appellant (or developer) to ensure that the development could be carried out within the site or land in their ownership or control or using public land with any necessary consent. The Council has planning enforcement and statutory nuisance powers and the HA has powers over the public highway.

Conditions

20. The appellant has not objected to any of the conditions suggested by the Council if the appeal was allowed. I have received his written agreement to pre-commencement of development conditions. These relate to surface water drainage (including a code of construction practice), landscaping and biodiversity, ground levels and pedestrian access (including a new pavement) and external materials of the buildings. These conditions would be necessary for the reasons explained earlier above. Additionally, to ensure suitable foul drainage was incorporated at a relevant stage of construction and provide satisfactory living conditions for future occupiers of the houses. These would be important aspects of the development so there would be a clear justification to secure these details before any development commenced.
21. Where required, I have considered modified wording of the suggested conditions in the interests of clarity and have had regard to the relevant tests in the Framework and advice in Planning Practice Guidance, including to keep conditions to a minimum. I have also considered the need for any other conditions.

22. In addition to the conditions referred to above, the Council considers that due to the current housing land supply position it would be necessary to shorten the standard three year time limit condition for the start of development to eighteen months to assist with earlier housing delivery. This change would reflect Framework paragraph 77 and there is no evidence that it would compromise commencement or delivery of the development, including any necessary groundwater monitoring. Though not suggested by the Council, a condition should specify the approved plans to provide certainty.
23. Conditions would also be justified to ensure adequate provision for bin storage at each house for the benefit of future occupiers, including capacity and location. Also, to ensure satisfactory visibility for drivers exiting properties and sufficient parking and turning on-site to avoid on-street parking or vehicles reversing onto Hailsham Road for reasons of highway safety. One of the dwellings would be next to Nos.5 and 6 Belle Vue Cottages so a condition would be required to prevent overlooking from a bathroom window and loss of privacy to the existing occupiers of these dwellings. As the site is in the countryside, a condition is justified to ensure external lighting was not excessive in intensity or spill to avoid unduly eroding the dark night sky.

Planning Balance

24. The Council accepts that it cannot currently demonstrate a 5-year supply of deliverable housing sites, at 3.92-years supply which is not disputed by the appellant. Consequently, the development plan policies most important for determining the appeal are out-of-date and Framework paragraph 11(d) is therefore engaged. It is common ground between the main parties that in these circumstances reduced weight applies to the Council's development plan spatial strategy for new housing development. The Council accepts that new housing will, amongst other things, be provided by sustainable extensions 'within and around' Stone Cross and, as such, not be incompatible with its development plan spatial strategy taken as a whole. The starting point is that planning permission should be granted.
25. For the reasons explained earlier above, the application of policies in the Framework that protect areas or assets of particular importance (in this case the European sites) do not provide a clear reason for refusing the development.
26. Albeit north of the A27, the site is on the approach into Stone Cross, close to the defined boundary and edge of this growth area identified in the development plan. Residential development on this part previously-developed brownfield windfall site, in a sustainable location with opportunity for travel by modes other than the private car, outside of the AONB, would make a valuable contribution to meeting housing requirements and small sites can often be built out relatively quickly. This would be aligned with objectives of the Framework to significantly boost the supply of homes.
27. While the existing roadside hedgerow would be removed, there would be a biodiversity net gain overall. The development would support employment during the construction stage and generate a Community Infrastructure Levy payment to help deliver infrastructure improvements in line with the Council's Infrastructure Delivery Plan and Regulation 123 list. Future occupiers would likely support facilities, services and the local economy in Stone Cross.

28. In my view, the social, environmental and economic benefits associated with building and occupying 9 new homes (or a net gain of 8 – use of the existing mobile home is not clear) would be notable. Accordingly, I give substantial weight to each of these factors in support of the appeal.
29. On the other hand, the contribution of most of the site to the character and appearance of the area would be permanently diminished by the development and undermine development plan aims in these respects. These are broadly consistent with objectives of the Framework to conserve the natural environment, protect valued landscapes and recognise the intrinsic character and beauty of the countryside. However, in seeking to make effective and efficient use of appropriate land in rural areas to provide new homes, the Framework also aims to ensure that development achieves well-designed places. In this case the development would be sympathetic to the pattern, layout and appearance of existing local residential development and maintain a semi-rural sense of place. Consequently, I give moderate weight to this harm.
30. The adverse impacts of the development would not, therefore, significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development applies in this case.

Conclusion

31. The development does not accord with the development plan taken as a whole. However, there are other material considerations, including provisions of the Framework, which override this finding.
32. Consequently, for the reasons given above, subject to conditions, the development is acceptable and therefore the appeal succeeds.

Robin Buchanan

INSPECTOR

Schedule of Conditions (9)

- 1) The development hereby permitted shall begin not later than eighteen (18) calendar months from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved proposed plans:

3125 02	Rev C	Site location and block plan
3125 04	Rev D	Site layout
3125 05	Rev C	Ground floor
3125 06	Rev D	First floor
3125 07	Rev C	Street elevations
3125 11	Rev C	Plot 1 plans and elevations
3125 12	Rev C	Plot 2 plans and elevations
3125 13	Rev B	Plot 3 plans and elevations

3125 14	Rev C	Plot 4 plans and elevations
3125 15	Rev B	Plot 5 plans and elevations
3125 16	Rev B	Plot 6 plans and elevations
3125 17	Rev B	Plot 7 plans and elevations
3125 18	Rev C	Plot 8 plans and elevations
3125 19	Rev B	Plot 9 plans and elevations
RC0443/Fig01	Rev 01	Landscape masterplan
2020-6227-001	Rev C	Site overview
2020-6227-002	Rev C	Visibility splays

3) Prior to any above or below ground works for the development or dwellings hereby permitted (including site preparation, ground levels or foundations or the removal of any part of the hedgerow fronting Hailsham Road) the following details shall be submitted to and approved in writing by the Local Planning Authority:

- (a) A code of construction practice detailing good practice measures for site working to mitigate potential impacts from construction, including protection of retained features and surface water bodies on or adjacent to the site, the control of surface water run-off, application of design controls for construction equipment and construction vehicles, vehicle routing, construction vehicle parking provision, hours of working and deliveries, wheel washing facilities and waste disposal measures. The approved code of construction practice shall be implemented throughout the period of work on site.
- (b) A surface water drainage scheme, confirmed as deliverable by an assessment of the sites potential for disposing of surface water by means of a sustainable drainage system. The scheme shall include the following:
 - (i) Detailed plans, layouts and sections of the proposed drainage system and pollution/silt control devices and construction details of any non-standard features;
 - (ii) Details of soakage tests to BRE Digest 365 and winter groundwater monitoring to show that infiltration drainage will be possible across the whole site with a 1.0 metre vertical separation between the base of the soakaway and the highest groundwater level;
 - (iii) A full management and maintenance plan which shall include the arrangements for implementing this plan; and
 - (iv) Details to prevent the discharge of surface water from the site onto the public highway and to prevent the discharge of surface water from the highway onto the site.

The development shall be carried out in accordance with the approved details.

- (c) The proposed means of foul drainage disposal. The approved foul drainage works shall be carried out prior to the completion or first occupation of any dwelling on the site, whichever is the sooner.

- (d) Landscaping proposals, which shall include full plans and specifications for all hard and soft landscaping works and indications of all existing trees and hedgerows on the land, including those to be retained together with measures for their protection during the development. All planting, seeding and/or turfing comprised in the approved landscaping details shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling(s) or the completion of the development, whichever is the sooner. Any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping comprised in the approved landscaping details shall be carried out before the completion or first occupation of the dwelling(s), whichever is the sooner.
 - (e) Details of the layout of the pedestrian access or crossing facilities, including new pavement, incorporating recommendations given in a Stage 2 Road Safety Audit where necessary. The development shall be carried out in accordance with the approved details.
 - (f) Finished ground floor levels of the buildings in relation to existing and proposed site levels, the adjacent highway and adjacent properties, together with details of levels of all accesses to include pathways, driveway, steps and ramps. The development shall be carried out in accordance with the approved details.
 - (g) A schedule of external materials, indicating types, colours and finishes of all external materials to be used in the dwellings and garages. The development shall be carried out in accordance with the approved details.
 - (h) An ecological enhancement plan, including detailed proposals for the enhancement, protection and addition of ecological features on site. The development shall be carried out in accordance with the approved details and maintained thereafter.
- 4) No development, other than works associated with the new vehicular accesses, shall commence on the site until any vehicular access has been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority, and the details required by condition 3(a) have been approved. These works shall be carried out in accordance with the approved details, including that the vehicular accesses shall have maximum gradients of 4% (1 in 25) from the channel line, or for the whole width of the footway/verge, whichever is the greater, and 11% (1 in 9) thereafter. No dwelling hereby permitted shall be first occupied until its vehicular access has been carried out in accordance with the approved plans and details.
- 5) No dwelling hereby permitted shall be first occupied until visibility splays at vehicular accesses of 2.4m by 120m are provided in both directions on Hailsham Road, and 2.4m by 28.3m are provided to the northeast on

Milton Street and 2.4m by the available distance southwest on Milton Street to the furthest edge of the Hailsham Road carriageway. These splays shall be maintained thereafter and kept free of all obstructions over a height of 600mm.

- 6) No dwelling hereby permitted shall be first occupied until motor vehicle parking and turning areas have been provided in accordance with the approved plans. These areas shall thereafter be retained for these uses.
- 7) No dwelling hereby permitted shall be first occupied until details of bin storage have been submitted to and approved in writing by the local Planning Authority and provided in accordance with the approved details. The approved bin storage arrangements shall thereafter be retained.
- 8) Before the first occupation of the dwelling hereby permitted on plot 9, the en-suite bathroom window in the southeast side elevation of this dwelling shall be fitted with obscured glazing (minimum Level 3) and shall be retained thereafter.
- 9) No floodlighting, security lighting or other external means of illumination at the site shall be provided, installed or operated as part of the development hereby permitted, except in accordance with details that have been submitted to and approved in writing by the Local Planning Authority for low level, hooded or directional lighting. External means of illumination at the site shall be carried out in accordance with the approved details and retained thereafter.