



Appeal Decision

Site visit made on 12 October 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2023

Appeal Ref: APP/C1435/W/22/3312222

Gill Wing Farm House, Groombridge Lane, Eridge, East Sussex TN3 9LA

- 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 and Mrs Marlowe against the decision of Wealden District Council.
 - The application Ref WD/2022/2226/FR, dated 24 August 2022, was refused by notice dated 23 November 2022.
 - The development proposed is described as 'retrospective application to change the use of existing annexe/extension and part of Gill Wing Farm House to a separate dwelling, access and parking.'
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Wealden District Council against the appellants. This application is the subject of a separate decision.

Main Issues

3. The main issues are: (i) whether the site is suitably located for new housing, having regard to accessibility to services and facilities and to local planning policy, and (ii) the effects on the Ashdown Forest Special Protection Area (SPA).

Reasons

4. Saved policies GD2 and DC17 of the Wealden Local Plan 1998 (the LP) seek to restrict development to within defined development boundaries, unless it conforms with other policies in the plan. The appeal site is outside any development boundary, and there is not evidence that the proposal conforms to other related policies in the plan. As such, the proposal conflicts with policies GD2 and DC17. However, the development boundaries were drawn to accommodate a level of housing at that time, which is below that now required, and if strictly applied, those boundaries could restrict the delivery of housing. As such, the conflict with them is afforded limited weight.
5. Policy EN1 of the LP states, among other things, that the Council will pursue sustainable development in considering the location of development, and SPO7 of the Core Strategy Local Plan 2013 (the CS), sets out that the Council will encourage the need to travel by car by concentrating development where it can most closely relate to public transport opportunities. The Framework sets out that existing policies should not be considered out-of-date simply because they

were adopted or made prior to the publication of the Framework. I find these policies to have a degree of consistency with the Framework where it seeks to identify and pursue opportunities to promote walking, cycling and public transport, and manage patterns of growth in support of that objective, among others.

6. The settlement of Groombridge is located approximately 1.5 miles to the north west of the appeal site and contains some services and facilities as well as offering onward public transport links. Eridge Station is approximately half a mile to the south of the appeal site and sits among a small cluster of commercial and residential buildings as well as a public house. While together these areas provide services which would meet some of the day to day needs of future occupants, they would still need to travel further afield to access a greater range of employment, leisure and secondary education opportunities in towns further afield.
7. In addition, despite the relative proximity of Eridge Station and Groombridge, their services are accessible only by using country lanes. These routes are predominantly narrow, lacking designated footpaths and lighting. As a consequence, they are unlikely to be attractive routes for pedestrians on a daily basis. The routes may be attractive to some cyclists at certain times of day. As a result of these circumstances, occupants of the site would be very likely to be reliant on private cars to fulfil their day to day needs.
8. Given the absence of alternative means of sustainable transport from the appeal site and the heavy reliance of occupants on private cars, the proposal would be at odds with local policies EN1 and SPO7 and the Framework summarised above. In reaching this view I have had regard to paragraph 105 of the Framework, which highlights that opportunities to maximise sustainable transport will vary between urban and rural areas. However this alone does not convince me that the location is suitable for new housing. Overall, for the reasons given, the proposal would not be suitably located for new housing.

Ashdown Forest SPA

9. The appeal site is within 7km of the Ashdown Forest SPA. This is afforded protection under The Conservation of Habitats and Species Regulations 2017 (the Regulations) and is designated for being home to populations of breeding Dartford Warbler and Nightjar, which are rare and vulnerable birds. One of the principal threats to those birds is disturbance from visitors during the breeding period and, as the proposed development would increase the local population, there is a pathway for effects on the SPA. Adopting the necessary precautionary approach, the proposal would be likely to have a significant effect on the internationally important features of the SPA through recreational disturbance, either alone or in combination with other projects.
10. Policy WCS12 of the CS sets out how adverse effects on the integrity of the SPA will be avoided to reduce recreational impacts of visitors resulting from new housing development within 7km of the Ashdown Forest. This refers to the provision of Suitable Alternative Natural Green Space (SANGS) and visitor management measures through the implementation of Strategic Access Management and Monitoring (SAMMs). Based on the evidence, and as Natural England are reported to support the delivery of the SANGS and SAMMs, I have no reason to doubt that contributions to those measures would ensure that the proposal would not adversely affect the integrity of the SPA.

11. The appellant considers that the proposal would not have effects on the SPA due to the presence of other recreational spaces closer to the appeal site including Eridge Rocks Nature Reserve and Broadwater Warren. While this could be the case, there is not sufficient certainty that future occupiers would not visit the Forest, and the Regulations require decisions to adopt the precautionary principle. The Council state that the use of a 7km buffer in the policy was based on evidence in the form of visitor surveys which showed that residents living within 7km of the Forest were likely to visit, and was supported by the examiner for the CS. On this basis I have no strong reason to doubt the use of the 7km zone.
12. The appellant also considers that the number of occupants on the site would be unchanged, given that the proposal entails the subdivision of existing built form which has been used as an Annex. This approach is not supported by the policy and the proposal would entail occupation of the appeal site by occupants entirely independent of the main dwelling, including in terms of their recreational activities. For this reason, and again adopting the necessary precautionary approach, this consideration does not provide reason to alter the above judgement.
13. The proposal is not accompanied by details of, nor commitment to, any proposed mitigation for its effects on the SPA. Overall on this issue, it has not been established with the necessary degree of certainty that the proposed development would not, in combination with other plans and projects, have a significant adverse effect on the integrity of the Ashdown Forest SPA. The proposal is in conflict with policies WCS12 and SPO1 of the CS and EN15 of the LP insofar as they require development to safeguard designated nature conservation sites. There would also be conflict with the objectives of the Framework relating to protection of habitat sites, which includes SPAs.

Other Matters

14. The Framework at paragraph 79 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. While the proposal would add an additional home to this small cluster of dwellings, there is not evidence of facilities or services within this cluster which the residents of the proposal would reasonably be expected to use and support, even if it were to be considered a hamlet. They are likely to travel further afield as described above and as such, the proposal would not align with the objective of paragraph 79.
15. The appellant considers the site to be isolated for the purposes of paragraph 80 of the Framework. Given the proximity of other homes, including those to which it would be attached, the proposal would not be isolated in spatial terms. Despite the lack of sustainable means of accessing services and facilities, the distances to Groombridge and Eridge Station make them easily accessible by car within a few minutes. For this reason I do not consider the site to be isolated in functional terms. Neither do I find that the lack of more sustainable travel options determines that the proposal would be isolated. The provisions of paragraph 80 do not therefore weigh in favour of the proposal.
16. Saved Policy DC20 of the LP permits the subdivision of a larger property outside the development boundaries into small dwelling units, subject to criteria set out. While 'larger' is not defined, the text supporting the policy refers to houses in countryside locations which are too large for single family

occupation. It refers to the conversion of typical, family-type accommodation normally being inappropriate. On this basis, despite its reference in the reason for refusal, the Council state that the property does not warrant consideration under this policy. This is not disputed by the appellant and I have no strong reason to reach a different view.

17. The main parties agree that the Council cannot demonstrate a five year land supply for housing. As such, the provisions of paragraph 11d) of the Framework apply to the appeal. However, the application of policies in the Framework that protect habitat sites provide a clear reason for refusing the development proposed. As such the proposal does not benefit from the presumption in favour of sustainable development. This finding also aligns with Policy WCS14 of the CS, which similarly sets out the presumption in favour of sustainable development.
18. The delivery of additional housing nonetheless weighs in favour of the appeal scheme, particularly in light of the lack of land identified for housing. However, even if the appellant's lower figure of a 3.67 year supply were to be used, the contribution of the appeal scheme to the housing stock would be very limited. The proposal would make use of previously developed land and would have some economic benefits, arising from expenditure by future occupants, and the proposal would be affordable to the household who intend to purchase it. However, together these benefits attract little weight in favour of the proposal, given its scale. The benefits would not therefore outweigh the harms identified, which together would be significant and long lasting, and would result in conflict with local and national policies.

Other Matters

19. The site lies within the Eridge Green and The Forstal Conservation Area (the CA), which encompasses the buildings to the west of Eridge Road including the appeal site. The effects of the proposal on the CA are not in dispute. Given the scale of the proposal, and as associated physical changes to the site would be limited, the proposal would preserve the character and appearance of the CA.

Conclusion

20. The proposal would conflict with the development plan when considered as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR