



Appeal Decision

Site visit made on 13 September 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 13th November 2023

Appeal Ref: APP/C1435/W/22/3312796

Land know as Sunnyside, Hackhurst Lane, Lower Dicker, Hailsham, East Sussex BN27 4BP

- 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 Stefan Frances against the decision of Wealden District Council.
- The application Ref WD/2022/2270/F, dated 27 August 2022, was refused by notice dated 15 November 2022.
- The development proposed is four bedroom detached house with separate guest annexe, detached garage with playroom at first floor level and tractor store.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the site is a suitable location for a residential development having regards to local and national planning policy for the provision of housing, and
 - the effect of the proposed development on the character and appearance of the area, including the effect on trees subject to a tree protection order (TPO).

Reasons

Appropriate location

3. The appeal site is located outside of Hailsham's defined settlement boundary. It is therefore in the countryside for the purposes of planning policy. There is no evidence to suggest that the proposal would conform with any of the exceptions for residential development outside of the boundary, identified within the explanatory text of saved policy DC17 of the Wealden Local Plan (LP), 1998.
4. Spatial objective SPO3 of the Wealden Core Strategy¹ (CS), seeks to focus development primarily in and around Hailsham/Hellingly, Polegate/Willingdon/Stone Cross and Uckfield, and to less of a degree in an around Crowborough and Heathfield. CS spatial objective SPO8 supports some additional growth in the district's villages. CS spatial objective SPO7 seeks to reduce the need to travel by car. To achieve this aim development will be

¹ Wealden District (incorporating part of the South Downs National Park) Core Strategy Local Plan (CS), February 2013

directed to places where there are opportunities to use public transport and improve the quality of journeys that can be made on foot or by bike.

5. The appeal site is located some distance from the A22, which is characterised by a loose pattern of ribbon development including houses and commercial uses. These include a garden centre, a pet store and the extended business park. Therefore, there would be a limited opportunity to work close to home. However, future residents would be reliant on travelling much further to Hailsham to access services such as a doctor's surgery, school or supermarket. To reach services on the A22, residents would need to travel along an unadopted narrow road, leading to Hackhurst Lane. Both the access road and Hackhurst Lane are unlit and have no footpath. Walking or cycling these roads would not be a pleasant experience in daylight during the summer. In the dark or inclement weather, at best it would be uncomfortable, at worst it would be unsafe. Furthermore, to reach Hailsham, future residents would need to walk along the footpath adjacent to the A22. Given this is an arterial route and the distance to services within Hailsham this walk would be neither pleasant nor practical to undertake on a daily basis.
6. The nearest bus stop is located on the A22 and offers an infrequent service between Uckfield and Eastbourne. Given the frequency of this service and the distance to the appeal site, it would provide a limited opportunity to use public transport. Nonetheless, to reach most facilities and services it would be quicker and more convenient for future residents to do so by car. Using a car would almost certainly be the default choice of travel mode for anyone who has access to private transport.
7. A new route to the A22 is provided through the extended business park and this includes a footpath; however, residents would still need to walk along the unadopted road, and it connects with the A22 further away from Hailsham than Hackhurst Lane. As such, it is not a practical alternative.
8. Although more people now work from home and the use of fossil fuels will reduce through the increasing use of electric vehicles, these changes are not a justification for locating new housing in the countryside where access to facilities is limited. Also, the modest scale of development does not justify allowing housing which is distant from facilities and services and largely reliant on the use of private motor vehicles.
9. The extended business park was granted planning permission, subject to conditions including the need to provide a travel plan and provide a Local Sustainable Access Improvement Contribution. The provision of a travel plan and the payment of a contribution would not necessarily improve the provision of public transport in the immediate area. Furthermore, as no additional measures have been agreed they cannot be relied upon to justify the appeal proposal.
10. Examples of other developments in the countryside have been put before me, planning permission² for the extended business park was predicated on the substantial economic benefits provided by that proposal. Planning permission³ for the siting of 29 park homes considered the previous use to site caravans

² Planning permission Ref. WD/2007/1504/MAJ

³ Planning permission Ref. WD/2020/2033/F

and the quantum of development. Planning permission⁴ for the barn conversion was granted due to a fallback position, based upon what could be achieved by utilising the applicant's permitted development rights. Planning permission⁵ for a bungalow outside the settlement boundary was allowed as it is closer to the settlement boundary and the characteristics of the surrounding roads meant the council assessed it to be an accessible location. All these proposals are materially different to the appeal proposal which the Council determined on having regard to their individual merits, consistent with the principles established by the three judgements put to me.

11. I conclude that the site is not a suitable location for a residential development having regards to local and national planning policy for the provision of housing. The appeal proposal is contrary to LP policy DC17 and CS spatial planning objectives SPO3, SPO7 and SPO8, which set out acceptable forms of development in the countryside, identifies where development in Wealden will be directed toward and encourages the reduction in the need to travel by car.

Character and appearance

12. The appeal site is a large clearing within an area of woodland, having previously been used as a landfill, the site is now largely free from development. It is being used to store caravans and a motorhome, it also accommodates a timber shed which would be retained as part of the proposal. Hackhurst Lane provides access to several large properties which are close to the A22. By contrast the appeal site is toward the end of an unadopted road leading from Hackhurst Lane with only one property, Blue Bells, further to the north. Despite being distant from the nearest settlements, due to the presence of nearby properties the appeal site is semi-rural in nature. However, as it is north of a mature dense woodland belt it is in an area transitioning to open countryside. The prominent feature of the site is the thick woodland which largely encloses it. The whole site is subject to a tree protection order, which was made in the interest of amenity. This has helped maintain the sylvan character of the site.
13. The proposal seeks construction of a large four bedroom house, with a two bedroom guest annexe with a garage attached. It would be sited back from the access road and include a garden, with the rest of the land converted to a wildflower meadow. The proposed dwelling has been designed to emulate a Sussex farm arrangement and to appear as though it is the conversion of a previously collapsed stone building with a contemporary barn. As such, the proposal incorporates aspects of other buildings in the Low Weald area. Notwithstanding this, the bulk and mass of the proposed dwelling together with a significant amount of hardstanding would be at odds with the semi-rural nature of the site. Also, the introduction of new external materials to this area would lead to the proposed dwelling having an incongruous appearance. This is also contrary to the guidance contained within the Wealden Design Guide⁶.
14. The submitted tree survey and plans shows that the bulk of the proposed development would be sited away from the woodland. I also note that the appellant proposes to use piling foundations which would allow flexibility to avoid roots. Based on the evidence provided I conclude that trees on site would

⁴ Planning permission Ref. WD/2017/1651/F

⁵ Planning permission Ref. WD/2021/0748/0

⁶ Wealden Design Guide, Supplementary Planning Document, November 2008

not be directly affected by the development and could be protected during the construction period.

15. As the site is enclosed by mature woodland it would be partially screened from wider views. Nonetheless, the proposed development would be out of character with the area and therefore a harmful intrusion into the countryside.
16. I conclude that the proposed development would have a harmful effect on the character and appearance of the area. It would therefore be contrary to LP policies EN8, and EN27, CS policy WCS13 and CS spatial planning objective SPO13. These policies and objective indicate that development within the Low Weald will only be permitted where it conserves the low rolling, agricultural character; proposals for development will be permitted where the scale and use of materials respect the character of adjoining development; the existing network of green infrastructure will be protected; and the council will promote local distinctiveness through good design.
17. The proposal is also at odds with the National Design Guidance which advises that well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary.
18. Notwithstanding this, it is in accordance with LP policies EN12 and EN13 which indicate that the council will seek to retain and enhance woodland and they will resist development proposals that involve the prejudice of ancient woodland.

Other Matters

19. The benefits of the proposal include economic benefits associated with CIL payments, increased council tax receipts, improve viability and vitality of local facilities and services; environmental benefits associated with the installation of photovoltaic panels, an air source heat pump, and a greywater and rainwater recycling system, the construction of the house to Passivhaus standards and the provision of wildlife friendly features; and social benefits including the provision of a family home and the ability for the house to accommodate disabled persons.
20. The appeal site not being subject to any restrictive designations and their being sufficient capacity for the proposed dwelling to connect to local energy infrastructure are neutral factors. The lack of objections from local residents is not a factor in the scheme's favour.
21. The conduct of the council during the determination of the application is not a matter for me to address in the context of this appeal which is confined to a consideration of its planning merits.
22. Paragraph 128 of the National Planning Policy Framework (the Framework) advises that design guides should allow a suitable degree of variety. The Wealden Design Guide conforms with this requirement.
23. There is a dispute over whether the appeal site comprises brownfield land as per the definition in the Framework. Insufficient evidence in relation to previous planning permissions has been provided to conclude whether the appeal site comprises brownfield land. Regardless, even if I was to conclude that the appeal site was brownfield land, the provision set out within paragraph 119 c) of the Framework would not apply as the site is not within a settlement.

Planning Balance

24. Due weight should be given to existing policies based upon their consistency with the Framework. The countryside is not protected for its own sake, but its intrinsic character and beauty is recognised by the Framework which also expects development to prioritise pedestrian and cycle movements, whilst being sympathetic to the local character. The Framework also advises that the creation of beautiful buildings is fundamental to what planning should achieve. Furthermore, it indicates that rural housing should be located where it will enhance or maintain the vitality of rural communities. Therefore, the conflict between the appeal proposal and LP policies EN1, EN8 and EN27, CS policy WCS13 and CS spatial planning objectives SPO7 and SPO13 should be given significant weight in this appeal.
25. As there are no policies in the LP or the CS which positively favour development of this kind in this location, and as the proposal would be contrary to the policies listed above, there would be a conflict with the development plan as a whole.
26. The Council can only demonstrate 3.92 years of deliverable housing land supply. In these circumstances paragraph 11 d) of the Framework is engaged.
27. The benefits associated with a single dwelling would only be limited, even when taking into account the objective of boosting the supply of housing and contribution small and medium sites can make toward this objective. I have also found that the proposal would not accord with the Framework's approach to the location of housing in rural areas and would be harmful to the character and appearance of the countryside. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

28. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
29. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR