



Appeal Decision

Site visit made on 7 November 2023

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 January 2024

Appeal Ref: APP/C1435/W/23/3318434

**Little Nodes, Nodes Lane, Magham Down, Hailsham, East Sussex
BN27 1PW**

- 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 Peter Dromgoole against the decision of Wealden District Council.
 - The application Ref WD/2022/1958/O, dated 27 July 2022, was refused by notice dated 10 January 2023.
 - The development proposed is an outline application for one self-build dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for one self-build dwelling at Little Nodes, Nodes Lane, Magham Down, Hailsham, East Sussex BN27 1PW in accordance with the terms of the application, Ref WD/2022/1958/O, dated 27 July 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal relates to an application for outline planning permission with appearance, landscaping and scale identified as reserved matters. As such, where the proposed site plans show any information relating to those matters, I have treated this as illustrative for the purposes of making my decision.

Main Issues

3. The decision notice includes reference to 'the amenity of future occupiers'. However, the Council has confirmed that this was included in error, and as such, I have not considered this issue any further when making my decision.
4. Therefore, the main issues are, firstly, whether the proposed development would be in a suitable location, taking account of the Council's spatial strategy and access to services and facilities, and secondly, the effect of the proposed development on the character and appearance of the area.

Reasons

Whether the proposed development would be in a suitable location

5. The appeal site is located within the village of Magham Down, a relatively small settlement with very limited services and facilities. The site itself is a manège area for equestrian use and is therefore previously developed land. Magham Down does not have a defined settlement boundary within the adopted development plan, and Policies GD2 and DC17 of the Wealden Local Plan, December 1998 (LP) seek to prevent residential development outside of

boundaries unless specific criteria are met. In this instance, the proposed development does not accord with any of the criteria listed in the pre-amble to Policy DC17, and so there is a clear conflict with the Council's spatial strategy.

6. Given the limited services that exist in the village, it would be necessary for future occupiers of the proposed dwelling to travel to Hailsham or further afield to access facilities that are required for everyday living, such as supermarkets. There is a bus stop a fairly short distance away from the appeal site, although this would involve walking along narrow country roads that are poorly lit and do not have pavements. The evidence also indicates that services are relatively infrequent. Walking or cycling into Hailsham could be possible, although this is likely to be an unattractive option given the distance, particularly in adverse weather or during the hours of darkness.
7. Taking all of this into account, the use of sustainable modes of transport would be relatively unattractive for future occupiers in this location, and as such, it is highly likely that the majority of trips to access services and facilities would be undertaken by private car. While the proposed development would include provision for an electric vehicle, it is not possible to require future occupiers to own such a vehicle.
8. I therefore conclude that the proposed development would not be in a suitable location, taking into account the Council's spatial strategy and access to services and facilities. As a result, the proposal conflicts with LP Policies GD2, EN1 and DC17, and also Objectives SPO7 and SPO8 and Policies WCS6 and WCS14 of the Wealden District Core Strategy Local Plan, February 2013 (CS). Taken together, the relevant aspects of these policies seek to ensure that new development is provided in sustainable locations, and in areas that encourage the use of sustainable forms of transport. There would also be conflict with the aspects of the National Planning Policy Framework (the Framework) that have similar aims.
9. I do not find conflict with CS Objective SPO12. I recognise that the appeal site is located on a country road with few streetlights, and that this is likely to discourage future occupiers from using sustainable forms of transport. However, there is no substantive evidence before me to suggest that the location of the dwelling would have an adverse effect in relation to highway safety.

Character and Appearance

10. The site forms part of the Low Weald Character Area. The preamble to LP Policy EN8 notes that the area is notable for its open landscape which has a gently undulating topography.
11. The existing manège is set back a reasonable distance from Nodes Lane. However, there are no other dwellings between the site and the road, only a barn associated with the current equestrian use. As such, the proposal would not result in a 'backland' style of development. In addition, there are several dwellings in the village that are also set well back from the road, and as such, the location of the proposed dwelling would not appear to be incongruous or out of place with the appearance of the surrounding area. While there are undeveloped fields nearby, the site is well screened by existing mature planting, and it is largely contained within the built-up area of the village with existing development on three sides. The development would therefore not be

seen to encroach on the surrounding countryside or erode the character of the Low Weald. While the dwelling would be visible from a public footpath that passes close by, this would not lead to any visual harm, primarily because the site is previously developed.

12. Furthermore, the existing dwellings nearby have a wide range of styles and sizes. As a result, while appearance, landscaping and scale are reserved matters, I have no reason to believe that the proposed dwelling could not be designed in such a way as to conform with the prevailing character of the area.
13. I therefore conclude that the proposed development would not result in harm to the character and appearance of the area, subject to the careful consideration and control of the reserved matters. On this basis there would be no conflict with LP Policies EN8 and EN27 or CS Objectives SPO1 and SPO13. Taken together, the relevant aspects of these policies seek to ensure that development is well designed and preserves character and appearance, including that of the Low Weald area. There would also be no conflict with the provisions of the Framework which have similar aims.

Planning Balance

14. There is no dispute between the parties that the Council cannot currently demonstrate a 5-year supply of deliverable sites for housing. Indeed, at less than four years the current shortfall is significant, and I have no evidence before me to suggest that this position is likely to improve in the short-term. In such circumstances, Paragraph 11d and footnote 8 of the Framework require that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
15. In this instance, the benefits of the proposal include the provision of a single self-build home that would assist in meeting need in the area, and support for local facilities. Despite the shortfall in housing land supply, I only afford limited weight to these benefits given that the proposal is relatively minor in nature.
16. I have concluded that there would be material harm in relation to the suitability of the site's location. The support for the principle of development within the Framework, including the development of an existing 'brownfield' site, is countered by the importance it places on the provision of development that encourages the use of sustainable modes of transport.
17. In this instance, the proposed single dwelling would be located very close to a significant range of services and facilities in Hailsham. As such, while future occupiers would be largely reliant on the private car to access these facilities, the majority of trips are likely to be very short. Furthermore, given that the proposal is for only one dwelling, the number of journeys would be relatively few. As a result, the associated harm would be limited and therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts would not significantly and demonstrably outweigh the benefits.

Other Matters

18. The Council's statement refers to several previous appeal decisions. However, while I do not have the full details of those cases before me, the context of each of those sites appear to be quite different given that they are either more remote than the Nodes Lane site, or they do not form part of a recognised

settlement. In addition, in two of the cases, the relevant Inspector found harm in relation to character and appearance. As such, these decisions are not directly comparable to the appeal scheme before me. The Council also refers to the absence of a Unilateral Undertaking to secure the proposed dwelling as a self-build unit. However, this is unnecessary as it forms part of the application description.

19. The appellant has produced a Great Crested Newt Survey (The Ecology Partnership, July 2022). The survey concludes that while newts are present near to the appeal site, the proposal would not adversely impact them, and so their legal protection would be upheld. The Council does not appear to dispute the findings of this survey, and there is no evidence before me that leads me to disagree. A suitably worded condition could be imposed to reflect the recommendations of the report.
20. The Council's officer report notes that the site is more than 7km from the Ashdown Forest Special Area of Conservation and Special Protection Area, and as such, an appropriate assessment is not required. Based on the evidence before me, there is no reason for me to disagree with this conclusion.

Conditions

21. I have imposed the standard conditions to identify the relevant reserved matters, timescales and plans in the interests of certainty. In respect of timescales, the Council has requested that this be identified as 18 months. The Framework encourages Councils to identify their own timescales in order to speed up the provision of new development. Given the current lack of housing supply in Wealden, I find that this bespoke timescale is reasonable.
22. Other conditions require the submission of details relating to surface water and foul drainage to ensure that the proposal would not lead to adverse consequences in that regard. I have also imposed conditions to ensure the protection and enhancement of biodiversity on the site including trees and wildlife. A condition to control lighting is imposed to preserve existing character while also preventing harm to protected species. A final condition is required to ensure that onsite parking and cycle parking is sufficient.

Conclusion

23. The proposed development conflicts with the development plan when considered as a whole. However, there are material considerations, notably the provisions of the Framework, that indicate that the decision should be taken other than in accordance with the development plan. The appeal is therefore allowed.

C Butcher

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and scale, (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place. The development shall then be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall take place not later than 18 months from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: P001 Site Location Plan and P001 Site Layout Plan.
- 5) The building hereby permitted shall not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 6) Before preparation of ground levels of the development hereby permitted, full details of the proposed means of foul drainage disposal shall be submitted to and approved in writing by the local planning authority. The drainage works shall be provided in accordance with the approved details before first occupation of the related dwelling.
- 7) The reserved matters shall include a scheme for the enhancement of the site for biodiversity purposes, in accordance with section 4 of the submitted Preliminary Ecological Assessment date stamped 27 July 2022, to include timescales for implementation and future management. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter so retained.
- 8) Site clearance and mitigation measures during construction works for the development hereby approved shall be carried out in strict accordance with the Reasonable Avoidance Measures set out in chapter 4 of the Great Crested Newt survey report, dated July 2022.
- 9) No trees and/or hedgerows indicated to be retained on the site, unless dead or dangerous, shall be felled, reduced, pruned or destroyed without the

consent in writing of the local planning authority. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the local planning authority:

(i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.

(ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.

(iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.

(iv) No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.

(v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.

(vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction'.

- 10) The development shall not be occupied until vehicle parking and turning areas and provision for cycle storage have been provided in accordance with details submitted to and approved in writing by the local planning authority. The parking spaces shall measure at least 2.5m by 5m (with an additional 50cm where spaces abut walls). The parking and turning areas shall thereafter be retained for such purposes.
- 11) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained thereafter.