



Appeal Decision

Site visit made on 23 January 2024

by Jameson Bridgwater PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2024

Appeal Ref: APP/C1435/W/23/3315458

14-30 High Street, Heathfield, TN21 8LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Weekes, Piers Compton Dev. Co. against the decision of Wealden District Council.
 - The application Ref is WD/2022/1519/MAO.
 - The development proposed is described as 'redevelopment of new parade with up to 12 shops, 10 maisonettes and associated parking'.
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Decision

1. The appeal is allowed, and outline planning permission is granted for the redevelopment of new parade with up to 12 shops, 10 maisonettes and associated parking at 14-30 High Street, Heathfield, TN21 8LS in accordance with the terms of the application, Ref WD/2022/1519/MAO, subject to the 14 conditions in the attached schedule.

Preliminary Matters

2. The planning application to which the appeal relates was submitted in outline form with all matters reserved for subsequent consideration.
3. Since the submission of the appellant's appeal, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 December 2023. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

4. The main issues in the appeal are;
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on surface water flooding.

Reasons

5. The appeal site is currently occupied by a parade of shops with a flat above. There is an existing car park and servicing area to the rear accessed to the eastern side of the site.

Character and appearance

6. As an outline application, matters of layout, scale and appearance of the buildings are reserved for future consideration. Notwithstanding this I have considered the concerns of the Council regarding the potential overdevelopment of the site, and its impact on the character of the area. However, based on all the evidence before me and my site visit observations I consider that the substantial size of the appeal site, its location, and relationship to the existing built form of the surrounding area would mean that the site could be redeveloped at a scale consistent with the quantum of development being proposed. Therefore, I am reassured that a subsequent detailed development proposal for the site at the reserved matters stage would not result in an overdevelopment of the site or result in harm to the character of the area.
7. Having reached the above conclusions, the proposed development would not conflict with Policies GD1, EN1, and EN27 of the Wealden Local Plan 1998, and Policies SPO13 and WCS14 of the Wealden Core Strategy 2013. These seek amongst other things to ensure that new development is of high quality and does not harm the character and appearance of the area. In reaching this conclusion I find no conflict with the Framework.

Surface water

8. I have carefully considered the Council's concerns in relation to surface water flood risk, including the comments from the Lead Local Flood Authority and the WDC Drainage Engineer. However, the site is brownfield, with most of the site area (approximately 90%) already covered by a combination of built form and hardstanding. I therefore consider that the redevelopment of the site provides an opportunity to materially improve on-site mitigation to address any potential issues with surface water. The redevelopment of the site is likely to lead to the introduction of up-to-date surface water management, that may include the reduction of impermeable areas and increased attenuation measures. Enhancements such as these would be likely to materially reduce surface water runoff from the site and therefore contribute to reducing the risk of surface water flooding in the wider area. These matters can be adequately addressed through the detailed design process at the reserved matters stage. Furthermore, to ensure that surface water issues are fully addressed I have imposed conditions consistent with those recommended by the officers of the Council within their original committee report.
9. Having reached the above conclusions, the proposed development would not conflict with Policies EN1 and CS2 of the Wealden Local Plan 1998, and Policies SPO13 and WCS14 of the Wealden Core Strategy 2013. In reaching this conclusion I find no conflict with the Framework.

Other matters

10. I have carefully considered concerns in relation to the potential loss of the Post Office as part of any future development. However, there is no substantive evidence before me that demonstrates that it could not be relocated to alternative accommodation within the town or that many of the services it provides could not be accessed through other service providers in Heathfield. Moreover, I have no reason to disagree with the officers of the Council who concluded that Paragraph 88 of the Framework is not applicable in terms of the retention factors in that it specifically relates to rural locations.

11. There was local concern raised in relation to the potential effect of the proposed development on the safety of the local road network. However, based on all the evidence before me and the observations during my site visits, I am satisfied that any traffic generated from the proposed development would not result in severe harm to highway safety. This is consistent with the conclusions of the Highways Authority who raised no objection in relation to highway safety.
12. Consequently, after fully considering the concerns of local interested parties they do not lead me to a different conclusion in this case.

Conditions

13. The conditions suggested by the Council have been considered in light of the advice contained within the national Planning Practice Guidance and the Framework. I have amended their wording where required, in the interests of clarity. In addition to the outline implementation conditions (Conditions 1 and 2), it is necessary for certainty, to define the plan with which the scheme should accord (Condition 15). It is necessary for certainty to define the parameters of the reserved matters development; however, I have modified the Council's suggested condition 4 to ensure that it is not unduly restrictive and consistent with the governments aim to increase flexibility (Conditions 3 and 4).
14. To minimise the risk of flooding, it is necessary for details of foul and surface water drainage to be agreed with the Local Planning Authority (Conditions 6 and 7).
15. It is necessary to apply a condition to protect and enhance biodiversity both during construction and for its future management once the development is completed (Condition 8). It is necessary in the interests of amenity to ensure that there is adequate protection for the trees/hedgerows on site during construction (Condition 5). Further it is necessary to control and agree details of methods of construction to mitigate the impact on the living conditions of nearby residents (Conditions 9 and 10). It is necessary to apply conditions to ensure satisfactory living conditions of future occupiers and nearby residents in regard to noise pollution, and operational delivery times (Conditions 11, 12, and 13).
16. I have not applied a condition in relation to the requirement of an air quality assessment as it has not been adequately demonstrated that it is necessary in this site-specific circumstance.

Conclusion

17. For the above reasons and having regard to all other matters I conclude that the appeal should be allowed.

Jameson Bridgwater

INSPECTOR

Conditions Schedule

1. Permission is granted subject to the subsequent approval by the Local Planning Authority of the detailed particulars of the layout, scale and appearance of the buildings to which this permission relates, the means of access thereto and the landscaping of the site before any development is commenced, such matters being reserved from the permission.
2. (a) Application for approval of the matters reserved for subsequent approval must be made to the Local Planning Authority no later than the expiration of three years beginning with the date of the grant of this outline permission; and
(b) the development to which this permission relates must be begun no later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
3. This Outline consent gives consent and sets the parameters of the Reserved Matters submission to a basement car park, up to 850m² of E(A) Retail Floor space and up to 10 flats on the first and second floors. Reserved matters details submitted must not exceed these parameters.
4. The ground floor retail premises (details of which to be approved under the relevant Reserved Matters consent) shall only be used for Class E(a), (b), (c) and (e) purposes of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 or in any provision equivalent to those classes in any statutory instrument revoking and reenacting those order/regulations with or without modification.
5. Before development commences a full Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority which shall include numbering and detailing trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. It shall include full details for tree protection fencing including a phasing for erection of this. The works shall be implemented in accordance with the approved details.
6. Prior to commencement of any works associated with the development approved by this permission full details of the proposed means of foul drainage disposal shall be submitted to and approved in writing by the Local Planning Authority. These shall include details for phased occupation of the development to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development. The approved drainage works shall be completed prior to the completion or occupation of any dwelling on site, whichever is the sooner and occupation shall only occur in accordance with the approved phasing.
7. Prior to commencement of any works associated with the development approved by this permission full details of the proposed means of surface water drainage disposal shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the following:

- i. Supply detailed plans, layouts and sections of the proposed drainage system and pollution/silt control devices and construction details of any non-standard features.
- ii. Provide a full management and maintenance plan for the development which shall include the setting up of any necessary management company to secure the operation of the scheme throughout its lifetime.
- iii. Confirm that permission has been received in writing from the owner of the off-site land for the works to create the outlet.
- iv. Supply hydraulic calculations to the correct level of climate change (40%), to the satisfaction of the Lead Local Flood Authority.
- v. Provide a means of dealing with the surface water flow path.
- vi. Control of surface water during construction.
- vii. Full CCTV survey for existing connections to foul drainage system if this presently exists and the surface water scheme seeks to discharge in part to the foul drainage system.

The approved drainage works shall be completed prior to the completion or occupation of any dwelling or commercial unit on site, whichever is the sooner.

8. Prior to preparation of ground levels for the construction of the development hereby approved, a scheme for the enhancement of the site for biodiversity purposes to include timescales for implementation and future management, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter so retained.

9. No work below ground level shall be carried out on site for the development hereby approved, until full written details for a Code of Construction Practice has been submitted and approved in writing by the Local Planning Authority. The Code of Construction Practice should detail 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, control of run-off, application of design controls for construction equipment and construction vehicles, vehicle routing, wheel washing facilities, sheeting of lorries during transportation of construction materials, provision of water sprays during delivery and dumping of sand and gravel, mixing and batching on wet rather than dry aggregate materials, minimum drop heights to be used for continuous and batch drop activities and waste disposal. The approved Code of Construction Practice shall be implemented throughout the period of work on site.

10. No work below ground level shall be carried out on site for the development hereby approved, until details of access points and routes for construction traffic shall be submitted to and approved in writing by the Local Planning Authority. Construction vehicles shall visit and access the site only in accordance with the details so approved.

11. Before preparation of any groundworks or foundations for the dwellings hereby approved, full details of a scheme for the insulation of the residential units against noise shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be implemented before the first occupation of any dwelling and shall be retained thereafter.

The scheme shall ensure the recommended Indoor ambient noise levels, taken from the following guidance; British Standard: BS 8233:2014, tables 4 and 6 guidance on sound insulation and noise reduction for buildings, and WHO (2009): World Health Organisation-Night noise guidelines for Europe is met. Also, the separating floor/ceiling between the commercial and residential units shall also be designed to achieve a sound insulation value of 5dB better than Approved Document E Resistance to the passage of sound-Building Regulations 2010, performance standard for airborne sound insulation for floors of purpose built dwelling-houses and flats.

12. A noise mitigation scheme to protect the nearest noise sensitive properties shall be submitted in writing to the local Planning Authority, clearly detailing the measures that will be put in place to prevent noise from sound emitted from any fixed plant proposed such as Air Source Heat Pumps or air conditioning units. The rating level for all proposed plant shall be selected, and if necessary be mitigated to meet the recommended noise thresholds for indoor ambient noise levels in table 4. British Standard: BS 8233:2014. All measurements shall be made in accordance with the methodology of British Standard: BS4142 (2014) Methods for rating and assessing industrial and commercial sound and/or its subsequent amendments. Where access to the nearest sound sensitive property/properties is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property/properties.

13. Deliveries shall be restricted to; 07:00-21:00 on any given day.

14. This planning decision relates solely to the information contained within the application form, the following plan:

Ref. Date Stamped. STN4 79115/22/PCP/06A 22/7/2022 NOTE THE INDICATIVE BLOCK PLAN IS NOT APPROVED ONLY THE SITE PLAN ELEMENT AT 1:1250

End.