



Appeal Decision

Site visit made on 23 January 2024

by Jameson Bridgwater PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2024

Appeal Ref: APP/C1435/W/23/3324136

Land to the rear of 101 High Street, Uckfield, TN22 1RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Matthew, Kathleen & Victoria Braxton against the decision of Wealden District Council.
 - The application Ref is WD/2022/1993/F.
 - The development proposed is described as 'erection of a building containing 5 no flats'.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a building containing 5 no flats at Land to the rear of 101 High Street, Uckfield, TN22 1RN in accordance with the terms of the application, Ref WD/2022/1993/F, subject to the 11 conditions in the attached schedule.

Preliminary Matters

2. 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.
3. The appellants as part of their appeal submission have sought to revise their proposal by removing all 6 car parking spaces from the scheme; replacing them with an increased landscaped area. The proposed amendment would result in the scheme being car free. An amended plan was submitted to the Council detailing the change (21103 - PL - 02 Rev D). Responding to the revision, the Council have argued that the removal of the car parking should be considered a substantive change and they consider that the acceptance of the amendment could introduce procedural unfairness.
4. I have carefully considered the Council's representations; however, I do not consider that the removal of the car parking provision fundamentally or materially changes the appeal scheme in that the proposal would still relate to the erection of a building containing 5 flats. Regarding procedural unfairness, the Council and East Sussex County Council as the Highway Authority have had the opportunity to provide a detailed response in their appeal statement to the proposed revision. I therefore find that there would be no procedural unfairness. In reaching this conclusion I have had regard to the representations of interested parties.

5. I have therefore determined the appeal on the basis of this revision, mindful of the principles contained in the Wheatcroft decision. I consider that the amendments are not of a scale that the development is so changed that if I was minded to allow the appeal and grant planning permission it would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
6. The Council acknowledge that the appeal site is in a highly sustainable location with good transport links available, therefore, a car free development would be more suitable at this location; stating that in the event of the amended plans being accepted, they would not contest the third reason for refusal¹. Therefore, based on the evidence before me and my site visit observations I find no reason to disagree with the Council's conclusions in relation to highway safety.
7. A Unilateral Undertaking (UU) was submitted during the appeal under section 106 of the Town and Country Planning Act 1990 (s106). The appeal site is located within 7km of the Ashdown Forest Special Protection Area (SPA). The UU makes provision for a contribution to address the need for mitigation through Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) in line with the tariffs in the Council's Ashdown Forest Mitigation Zone Background Paper. This is an approach supported by Natural England. The Council have stated that the submitted obligation addresses the specific reasons for refusal in relation to these matters. I deal with the contents of this below.

Main Issues

8. The main issues in the appeal are;
 - the effect of the proposal on the character or appearance of the area; and
 - the effect of the proposal on the setting of nearby listed buildings.

Reasons

9. The appeal site is an existing car park located between the rear of the 101 High Street and Regency Close. The site lies outside, but adjacent to the Uckfield Conservation Area. The character of Regency Close is defined by a range of differing building designs and styles, but in the immediate vicinity of the site is a range of dwellings of varying designs, these are a mixture of two, and two and a half storey buildings. There is also a block of single storey flat roof garages near to the site. The rear of the buildings that front onto the High Street are also visible from Regency Close. The appeal proposal seeks to provide 5 new flats in a 3-storey building, with 2 flats per floor and a single flat occupying the whole 3rd floor.

Character and appearance

10. I have carefully considered the representations of the Council in that they argue that the proposal would appear obtrusive and dominant when compared to the simpler and more functional designs that contribute to character of the area.

¹ Wealden District Council Statement dated 9 November 2023

11. In terms of the proposal, based on the evidence before me and my on-site observations, the scheme although slightly different to the existing buildings in Regency Close, would not appear unduly obtrusive or dominant in this site-specific location. This is because there would be adequate separation between the proposal and the prevailing built form, including properties located on the High Street within the Uckfield Conservation Area. Therefore, although the proposal would have a slightly greater presence in the street scene (3-storeys) it would not materially harm the scale, rhythm, form, character, and general pattern of development of the area.
12. I accept that the building's design would initially appear more grand than other buildings in the immediate vicinity. However, the scheme is broadly consistent with architectural styles exhibited in the wider area, in particular Church House, Church Street. As such, subject to the careful use of local materials, detailing and fenestration the proposal is likely to reinforce local distinctiveness, rather than harm it. Regarding the provision of garden (private) space, the removal of the car parking from the scheme would ensure that there would be adequate private space available for future residents. Consequently, the proposal would not materially harm the character and appearance of the area, or the setting of the adjacent Uckfield Conservation Area.
13. Having reached the above conclusions, the proposed development would not conflict with Policies EN12 (6) and EN27 of the Wealden Local Plan 1998 and Spatial Planning Objective SPO13 and Policy WCS14 of the Wealden Core Strategy Local Plan 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.

Listed buildings

14. I have carefully considered the representations of the Council with regard to the potential impact of the proposed development on the setting of nearby heritage assets. It therefore rests with me as the decision maker to apply the intended protection for heritage assets as specified in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
15. 101, 103 and 103A High Street are a pair of C18 two storey houses. Originally built with red mathematical tiles but these have been renewed. Redbrick pilasters flank the front, modillion eaves cornice and a slate roof. The glazing bars remain intact on first floor although there have been some modern shopfronts installed. The houses are located on the High Street and principally contribute to the historic character of the street scene. The appeal proposal is located to the rear of the High Street and although there would be a degree of intervisibility between it and the rear of the pair of houses, there is adequate separation from the proposal. This relationship is further enhanced by the replacement of the car parking area with a private garden area. Therefore, I do not consider that the proposal would harm the setting and therefore the significance of these Grade II listed buildings.
16. Consequently, the proposed development would not result in material harm to the setting of the heritage assets identified above. Therefore, the proposed development would not fail to preserve the setting and therefore the significance of the Grade II Listed Buildings. Having reached this conclusion

there would be no conflict with Spatial Planning Objective SPO2 of the Wealden Core Strategy Local Plan 2013 that seeks, amongst other things, to ensure that development proposals avoid harm to heritage assets.

Ashdown Forest Special Protection Area

17. The appeal site falls within the zone of influence of the Ashdown Forest Special Protection Area. New residential development within the zone of influence is likely to have a significant effect on the habitat sites through increased recreational pressures. As the competent authority it is necessary for me to carry out an appropriate assessment to ensure that no significant adverse effects would arise from the proposed development, either alone or together with other development in the area.
18. The Council have developed the Ashdown Forest Mitigation Zone Background Paper, an approach supported by Natural England. The Council has confirmed that the appellant has entered into an agreement to pay the necessary contribution to secure mitigation under the SANG and SAMM. That contribution is necessary to make the development acceptable in planning terms, directly related to the scale of development and fairly and reasonably related in scale and kind to the development. It therefore accords with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and would count as mitigation toward maintaining the integrity of the habitat sites.
19. Therefore, subject to the mitigation discussed above and secured through the planning obligation, the appeal proposal would not adversely affect the integrity of the Ashdown Forest Special Protection Area in view of the site's conservation objectives. Accordingly, the proposal would not conflict with Policy WCS12 of the Wealden District Council's Core Strategy and saved Policies EN1, EN7 and EN15 of the Wealden Local Plan (1998).

Other matters

20. In reaching my decision I have had regard to the concerns of interested persons in relation to the loss of private parking for businesses. However, whilst the loss of the car park may cause some inconvenience, there are other car parks available within reasonable walking distance of this part of the High Street. In relation to the operation of both the cycle parking and bin stores within the proposed development, based on my on-site observations I see no technical reason to suggest that that they could not function as intended. Therefore, after fully considering the concerns of local interested parties they do not lead me to a different conclusion in this case.

Conditions

21. The conditions suggested by the Council have been considered in light of the advice contained within the PPG and the Framework. The appellant has not objected² to the terms of the pre-commencement conditions proposed by the Council. It is necessary and reasonable that the information required by these conditions be provided prior to the commencement of development, as these are matters which cannot properly or reasonably be addressed following the commencement of the development.

² Final comments 22 November 2023

22. The Council have suggested a 1-year implementation condition, however, whilst I note the desire to boost the supply of housing in the District, I do not consider this to be reasonable in this site specific circumstance; I have therefore applied the standard 3-year implementation condition (Condition 1), it is necessary for certainty, to define the plans with which the scheme should accord (Condition 11). To ensure the satisfactory appearance of the scheme it is necessary for the materials used in its construction to be agreed by the Local Planning Authority (Condition 2). It is necessary in the interests of amenity and to minimise light pollution for details of external lighting to be agreed with the Local Planning Authority (Condition No 3).
23. To minimise the risk to potential archaeological remnants it is necessary to apply conditions in relation to the provision of a scheme of archaeological investigation (Conditions 4 and 5). It is necessary in the interests of amenity to ensure that there is adequate protection for the trees/hedgerows on site during construction (Condition 6).
24. To minimise the risk of flooding, it is necessary for details of surface water drainage to be agreed with the Local Planning Authority (Condition 7). To ensure the satisfactory appearance of the scheme it is necessary for the details of the cycle and bin storage to be agreed by the Local Planning Authority (Conditions 8 and 9). To ensure sustainable building design it is necessary for details for the incorporation of water and energy efficiency measures within the scheme to be agreed by the Local Planning Authority (Condition 10).

Conclusion

25. 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. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date on which this permission is granted.
2. Before above-ground construction begins on the development hereby approved, samples / specifications of materials to be used on the external surfaces (including joinery, rainwater goods and masonry) and external boundary treatments of the development shall be submitted to and approved in writing by the Local Planning. The approved materials shall be used in the implementation of the development.
3. 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.
4. No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
5. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 4 to the written satisfaction of the Local Planning Authority.
6. No trees and/or hedgerows 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'.

7. Prior to preparation of ground levels of the development approved by this permission, full details of the proposed means of surface water disposal, shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage works shall be completed prior to the first occupation of the site for residential purposes.

8. The development shall not be occupied until details for the provision of cycle storage (including appropriate detailing of the structure itself) in accordance with East Sussex County Council's adopted standards shall be submitted to and approved in writing by the Local Planning Authority, and the approved cycle storage area shall be retained thereafter.

9. Before the use hereby permitted commences, details of the siting and form of bins for the disposal of refuse and litter to be provided on the site (internally or externally), to include appropriate detailing of the structure itself, shall be submitted to and approved in writing by the Local Planning Authority and thereafter so retained.

10. Before the preparation of any groundworks or foundations for the development hereby approved, full details for the incorporation of water and energy efficiency measures, the promotion of renewable energy and sustainable construction within the development shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details and thereafter so retained.

11. This planning decision relates solely to the information contained within the application form, the following plans and where appropriate documents:
Referenced and dated.

21103-PL-01 Rev B - 29 July 2022

21103-PL-02 Rev D - 29 July 2022

21103-PL-03 Rev B - 29 July 2022

Design & Access Statement - 29 July 2022

Planning Statement - 29 July 2022

Heritage Statement - 29 July 2022

Arboricultural Report - 19 January 2023

End.