



Appeal Decision

Site visit made on 25 June 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st July 2024

Appeal Ref: APP/C1435/W/23/3327278

Land adjacent to 1 Coldharbour Farm Cottages, Lower Dicker BN27 3PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Richard Aisbitt against the decision of Wealden District Council.
 - The application Ref is WD/2023/0922/PIP.
 - The development proposed is described as 'permission in principle for residential development on land adjacent to 1 Coldharbour Farm Cottages for 3 or 4 houses'.
-

Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of 3 and a maximum of 4 dwellings at Land adjacent to 1 Coldharbour Farm Cottages, Lower Dicker BN27 3PU in accordance with the terms of the application, Ref WD/2023/0922/PIP.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
4. Since the detailed design and layout of development falls outside the considerations relevant to an application for permission in principle, I have treated the application plans showing potential layouts for 3 or 4 dwellings as being indicative.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development, with reference to the Council's spatial strategy and accessibility to services and facilities.

Reasons

6. The appeal site lies outside any settlement boundary defined in the development plan. An earlier settlement boundary at Lower Dicker was removed by Policy WCS6 of the Core Strategy¹. The same policy describes Lower Dicker as an unclassified settlement, where no allocation is made for additional residential development as part of the spatial strategy for delivery of housing in the rural areas. Furthermore, residential development outside settlement boundaries is contrary to Policies GD2 and DC17 of the Wealden Local Plan 1998 (WLP), other than in certain limited circumstances which are not applicable in this case.
7. Although a Village Area is defined in the Hellingly Neighbourhood Plan 2021, this does not reintroduce a settlement boundary for purposes of the spatial strategy. In any case the appeal site lies just outside the Village Area.
8. In order to promote sustainable development in rural areas, the National Planning Policy Framework (the Framework) says that housing should be located where it will enhance or maintain the vitality of rural communities and identify opportunities for villages to grow and thrive, especially where this will support local services. Isolated homes are generally to be avoided. The Framework seeks more generally to promote travel by means other than the private car, while recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
9. Lower Dicker is a relatively loose knit rural community, strung out along the A22 and Coldharbour Road. There are several employment sites and commercial premises along the A22. There is also a concentration of housing on Coldharbour Road, including two cul-de-sacs of modern dwellings. On the periphery of the settlement, around the appeal site, housing is more sporadic, but there are dwellings fronting Coldharbour Road to either side of the site. As such, the appeal site is not isolated, given its close relationship with this existing rural community.
10. Despite the concentration of employment uses, Lower Dicker has only limited services and facilities to support day to day living. There is a convenience shop and coffee shop at the petrol station, but this is located at a busy roundabout, at the intersection of four A-roads. Although access is possible on foot, these services are more clearly orientated towards the needs of those travelling by car and the retail offering would support limited top-up shopping at best.
11. There are some local services including a village shop and café, pub and primary school in Upper Dicker, around a mile from the appeal site. However, access is via an unlit, rural road without pavements, parts of which have an unrestricted speed limit. Cycling would be possible, for a confident and proficient cyclist, but would not be a realistic option for all future occupiers. Therefore, services in Upper Dicker are likely to be accessed mainly by car.
12. More extensive services and facilities are available in Hailsham, which is a relatively short travel distance away. These can be accessed by bus, and there are bus stops on the A22 within a comfortable walking distance of the site. Evidence of a range of scheduled and on-demand bus services is included in the appellant's evidence which, in combination, would provide a realistic option

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

for accessing higher order services such secondary education, comparison shopping and medical services.

13. There are pavements most of the way from the appeal site to the bus stops, although there is only limited street lighting along Coldharbour Road. Along the short stretch between the appeal site and the existing pavement, it is feasible to walk along the level grass verge, clear of moving traffic, although this may be more challenging during periods of very wet weather. While pedestrians have to cross Coldharbour Road several times, visibility along this straight road is generally good and the Highways Authority did not raise any safety concerns in relation to use of the existing footpath. As such, travel by public transport is a reasonably feasible option much of the time, and future occupiers need not be entirely reliant on the private car.
14. It is also proposed that a new section of pavement could be provided by the developer, on land owned by the Highways Authority, to link the site with the existing pavement. This would enhance walkability to the bus stops, which would also benefit other nearby properties. When responding to the application, the Highways Authority expressed support for this enhancement. However, since conditions cannot be imposed on a permission in principle, no legal mechanism is available to secure its delivery at this stage. Therefore, its implementation would be reliant on acceptable details being agreed at the technical details stage.
15. In terms of land use, the introduction of a small number of additional dwellings would be consistent with the sporadic pattern of dwellings along Coldharbour Road. A small development in this location would not compromise the sense of separation between Lower Dicker and other settlements in the Neighbourhood Area, although there would be some consolidation of the sporadic pattern of development along Coldharbour Road. The building footprints shown on the plans are indicative and the scale, type and layout of the dwellings would be subject to technical details consent. In principle, the appeal site could accommodate three or four dwellings, fronting the highway, reflecting the pattern and grain of the surrounding development. The detailed design and layout, including any measures to maintain a sense of connection with the surrounding countryside, would be a matter for the application for technical details consent.
16. Nevertheless, for the reasons given above, I conclude that the site would not be suitable for residential development, having regard to its location, with reference to the Council's spatial strategy and accessibility to services and facilities. The proposal would conflict with Policies GD2 and DC17 in the WLP and Policy WCS6 of the Core Strategy, which collectively restrict housing development outside settlement boundaries. To a lesser extent, it would conflict with Policy EN1 of the WLP, Spatial Planning Objective SPO7 of the Core Strategy, and relevant paragraphs of the Framework, which support sustainable patterns of development which limit reliance on travel by car.
17. However, both the Framework and Spatial Planning Objective SPO8 recognise the positive role of some housing in rural areas, where it would enhance or maintain rural communities, and the location would be consistent with that aspect of the relevant policies.

Other Considerations

18. Evidence from both parties confirms that the Council cannot currently demonstrate a 5-year supply of deliverable sites for housing, with supply standing below 4 years according to the Council's most recent evidence. The appellant has also highlighted that the Council's Housing Action Plan 2022 acknowledged that policies defining the housing requirement have been out of date since 2018 and this has not been disputed. In any case, as a result of the shortfall in housing land supply, paragraph 11d of the Framework is applicable.
19. Policies GD2 and DC17 take a more restrictive approach to housing in the rural areas than is set out in the Framework and the Core Strategy also identifies that development boundaries would have to be breached to accommodate the required level of housing. Against that background, I have given limited weight to the conflict with Policies GD2 and DC17 in the WLP and Policy WCS6 in the Core Strategy.
20. The proposed development would deliver 3 or 4 new homes, which are likely to provide family accommodation. The appellant highlights a need for family homes in the southern part of the District, as articulated in the Core Strategy, and no evidence has been presented to the contrary. The site is not affected by national landscape designations which are likely to constrain housing delivery in a significant proportion of the District's rural areas.
21. Subject to the approval of technical details, development of this small site could be delivered quickly, supporting the contribution of windfall sites to the overall housing land supply. There would be short term economic benefit during construction and future occupiers may support local services such as the shop and café in Upper Dicker, although that cannot be guaranteed. However, payment of the Community Infrastructure Levy is a neutral consideration, since this relates to the additional infrastructure needs arising directly from the proposed development itself and not any additional net benefits.
22. If delivered, the extended pavement would be of wider benefit to pedestrian accessibility. However, while the Highways Authority appears to be supportive in principle, limited detail is available as to the proposed legal mechanism for securing its delivery in a timely manner to support the proposed development. There is no opportunity to impose conditions on a permission in principle and I cannot be certain that this would be secured through the technical details process. As such, while I have had regard to the opportunity to enhance accessibility on foot, I have given this aspect of the proposal limited positive weight.
23. The stables at the host dwelling are modest in scale and an existing sand school provides facilities for exercising horses in all weathers. The proposal would not prevent the keeping of a small number of horses for domestic enjoyment, proportionate to the scale of the retained grazing land and therefore the loss of grazing land is not, in principle, harmful.
24. The appeal site is outside a defined Zone of Influence of the Ashdown Forest Special Protection Area and Special Area of Conservation. The Council's Officer Report concludes that there would be no likely significant effect on the qualifying features of Habitats Sites, either alone or in combination with other development, on the basis that the location does not provide a pathway of effect for recreational disturbance and the cumulative level of development

would not trigger a harmful deterioration in air quality. Based on the evidence before me I have no reason to reach a different view.

25. The Council did not allege that there would be any harm in principle to the setting of the listed building at Hatches Farmhouse, taking into account that any specific heritage considerations can be considered further through an application for technical details consent. Having considered the development and visited the site, I concur that the proposed location, land use and amount of development would, in principle, preserve the setting of the listed building and its significance as a designated heritage asset.
26. Technical requirements raised in consultation responses, including any effect on protected species and provision for storage and collection of refuse, visibility splays, parking and turning facilities would be matters for the technical details consent stage.
27. Several other decisions have been brought to my attention regarding housing development outside settlement boundaries, with a variety of outcomes. While I have had regard to all those mentioned, none is precisely equivalent to the appeal proposal in terms of the site-specific relationship with local services and available modes of transport. In the case of the Blackbrooks Garden Centre decision², the scale of the proposal was also significantly greater. Therefore, while I have noted the reasoning set out in all the decisions mentioned, I have considered the appeal proposal based on the specific circumstances applicable in this case.

Planning Balance

28. In light of the significant and protracted shortfall in housing land supply, in a District where there are significant landscape constraints elsewhere in the rural areas, I have given moderate weight to the delivery of a small number of new family homes in this location, along with the associated economic benefits. However, the opportunity to secure improved pedestrian accessibility carries limited weight, given the uncertainty about how that would be secured.
29. I have given limited weight to the conflict with Policies GD2, DC17 and WCS6, for the reasons given above. Nevertheless, there would be harm arising from the limited availability of everyday services and facilities in Lower Dicker itself and the consequent need to travel. This would be contrary to Policy EN1 of the WLP and SPO7 in the Core Strategy, which are broadly consistent with the Framework's provisions about managing the need to travel. However, future occupiers would not be entirely reliant on travel by car, since usable public transport is available. Furthermore, the additional trips to local shops, schools and higher order services would be relatively short. The dwellings would not be isolated and future occupiers would be in a position to contribute to the vitality of rural communities, including by making use of those local services which exist. Taking all those factors into consideration, I give moderate weight to the disadvantages of the site's location and the harm arising from the need to travel.
30. Since the level of harm and the level of benefit carry similar weight, the adverse impacts of granting permission in principle would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the

² Appeal Ref: APP/C1435/W/22/3292375

Framework taken as a whole. As such, the proposal benefits from the presumption in favour of sustainable development as defined in paragraph 11d of the Framework and the similar provisions in Policy WCS14 of the Core Strategy.

Conditions

31. National Planning Practice Guidance makes clear that it is not possible for conditions to be attached to a grant of permission in principle. However, an application for approval of technical details consent must be made within three years of the date at which permission in principle is granted. Conditions recommended by consultees could be applied at that point if they are considered to meet the relevant tests.

Conclusion

32. The proposed development would conflict with the development plan. However, other material considerations, including the presumption in favour of sustainable development as defined in the Framework, indicate that a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

Jane Smith

INSPECTOR