

Appeal Decision

Site visit made on 7 August 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal Ref: APP/C1435/W/23/3330969

The Paddocks, Summer Hill, Five Ashes, Mayfield, East Sussex TN20 6JL

- 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 Stephen Lester against the decision of Wealden District Council.
 - The application Ref is WD/2023/1871/PIP.
 - The proposal is a development of a pair of joined single level dwellings built in a "U" shape. Joined in the base of the "U". Set in the ground so as not to be visible from either side or Spring Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The 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. 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. The appellants statement of case makes a reference to the benefits of between 1-3 dwellings but is otherwise clear that the appeal scheme is for 2 dwellings. I have reached my determination on the basis that two dwellings are proposed, as per the description of development in the application form.
5. The appellants statement includes computer generated images described as being of the proposed development. As these are not listed as being plans or documents on which the decision was based, and given the scope of considerations outlined above, I have based my determination on the description of development alone.

Main Issue

6. The reason for refusal refers to the location of the site and the effect of development there upon the High Weald Area of Outstanding Natural Beauty (the AONB) which, as of 22 November 2023, became the High Weald National Landscape (NL). I consider both to be within my remit in this appeal, given the scope to consider the location of development. As such, 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.

Reasons

Location

7. The appeal site is situated outside any development boundary, as set out in Policy WCS6 of the Wealden District Core Strategy 2013 (the Core Strategy), and in a location where Policies GD2 and DC17 of the Wealden District Local Plan 1998 (the Local Plan) resist new housing, other than in circumstances not applicable to the appeal scheme.
8. The nearest settlements are the villages of Five Ashes and Hadlow Down, approximately one mile from the site to the east and west respectively. Neither contains adequate shopping facilities to serve future occupiers of the appeal site who would, at least, travel some three miles to Buxted or Mayfield for such purposes. Substantial parts of the roads connecting the appeal site to each of these settlements are unlit and without pavements or cycle lanes. As such, it is unlikely that future occupiers of the appeal site would regularly walk or cycle even to the nearest villages, particularly in the evening or in poor weather.
9. The nearest public transport to the appeal site is the number 248 bus. It goes to Buxted and the town of Uckfield, and stops near Dog Kennel Lane. The bus stop is a short walk from the appeal site, along Spring Lane. However, the lane is undeveloped, narrow, and unlit. It has no pavements, and dense foliage encloses long stretches, impeding pedestrians from stepping off the roadway when cars pass. There is no shelter at the bus stop to protect waiting passengers from the elements, and the 248 service is infrequent. In all, even though the bus stop is nearby, conditions are such that future occupiers of the site would be highly likely to use private cars for day-to-day activities instead of taking the bus.
10. A dial-on-demand bus service operates locally. I have minimal evidence of its eligibility criteria, timetable, or range but note signs at either end of Spring Lane mark the road as unsuitable for large vehicles; there are tight, steep bends in the lane and nowhere for a bus to turn. As such, I have no evidence the dial-on-demand bus would pull up any closer to the appeal site than the 248 bus or would provide a notably more frequent or comprehensive service. It does not alter my view that site occupiers would likely depend on private cars, therefore.
11. I recognise that bus and train services become increasingly comprehensive as surrounding villages and towns are reached, that they are reasonably good for rural locations, and that if site occupiers drove to the nearest village

before switching to public transport it would limit their overall car use. However, site occupiers could not be compelled to adopt such an approach and, even if they chose to, would still be dependent upon their cars for day-to-day activities.

12. Whilst the appeal site is not in an isolated location, the distance of the site from services and facilities, and the difficulties in undertaking travel by means other than the motor car are nevertheless such that the site is not a suitable location for the proposed land use and the amount of development. The harm arising would be significant, thus conflicting with Policies EN1, GD2 and DC17 of the Local Plan, and SPO7, SPO8, SPO13, SPO14, and WCS6 of the Core Strategy where they resist development outside development boundaries, promote sustainable development, and seek to promote alternatives to private car use, as well as to the similar aims of the National Planning Policy Framework (NPPF).

Landscape

13. The appeal site falls within the AONB/NL. The PPG refers to the relevance of management plans for AONB/NLs for assessing planning applications. Whilst these do not form part of the development plan, they help to set out the strategic context for development and provide evidence of the value and special qualities of these areas. The High Weald AONB Management Plan (2024-29) (HWMP) is therefore a material consideration.
14. The HWMP sets out core character components to the natural beauty of the AONB/NL. Irrespective of its qualities compared to other parts of the AONB/NL, the appeal site corresponds to those components in that it resembles a small, irregular field bound by hedgerows and woods, has no evident impact on the dark night sky, and has a timeless, rural, and tranquil character. The general character and appearance of the area is derived from these same features, and the appeal site therefore adheres and contributes to it.
15. The site comprises the crest of a small hill, the rise of which, in conjunction with established roadside greenery, is sufficient to prevent views of the far side of the site from the entrance at Spring Lane. The open, central area of the site is predominantly screened from outside view by mature boundary trees and bushes which would be retained, and the site does not form part of any wider or longer views over the area. There is an existing vehicular access from Spring Lane, marked by a short track leading to a low gate.
16. Paragraph 182 of the NPPF states that "Great weight should be given to conserving *and* enhancing landscape and scenic beauty in.... Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues" [my emphasis]. Given the site circumstances, it is possible to make such minimal alterations to the existing access, and to set two dwellings into the ground in such a way that the overall building is not visible from outside of the site. However, even if the development would not, in principle, fail to conserve the landscape and scenic beauty of the AONB/NL as appreciated from outside of the site, it would not enhance it, as any additional landscaping visible from the road would make little material difference to what is already a densely vegetated area.

17. Moreover, the houses would be prominent from within the site. Even if green roofs and additional landscaping were incorporated, the land would no longer resemble a small, irregular field. Even if external lighting for the development was tightly controlled, light from windows, doors and cars would increase overall illumination from the site, neither conserving nor enhancing dark skies. Whilst intermittent residential development is a feature of the area, the part of Spring Lane near the appeal site is largely undeveloped, displaying timeless rurality and tranquillity. These qualities would not be conserved or enhanced by even the modest comings and goings associated with two new dwellings, even if the dwellings themselves were concealed.
18. Whilst the appeal site is not previously developed land, and I have no evidence that anything remains of some greenhouses approved historically, there are some structures on the site associated with its use as a domestic residential garden, and which could be removed as part of the appeal proposal. I have no evidence that any impacts attributable to the existing structures are comparable to those of two new dwellings, and the prospect of removing any existing structures does not alter the failure of the scheme to conserve or enhance the AONB/NL therefore, nor mitigate the harm to the rural character of the area.
19. The proposal would not be in a suitable location having regard to the proposed land use and the amount of development, in that it would fail to enhance the natural beauty of the AONB/NL and, in the main, would fail to conserve it, leading to a clear reason for refusing it. In addition, it would harm the rural, undeveloped character of the area. The proposal is therefore contrary to Policies EN6 and EN27 of the Local Plan and SPO1, SPO13 and SPO14 of the Core Strategy, which require development to conserve or enhance the natural beauty of the landscape, promote local distinctiveness, and ensure housing densities are compatible with locations, as well as to the similar aims of the NPPF.

Other Matters

20. My attention has been drawn to two nearby planning permissions. The first, a 3-bay garage at Jasons Keep, replaces an existing building of a similar footprint rather than introducing development to previously open land. It would serve a current dwelling and not create wholly additional residential activity. It may emit light through windows, but the garage is close to the existing dwelling where light is already emitted, rather than a location which would otherwise be dark at night. The second permission, for alterations and a change of use at Little Broadreed Farm, pertains to an existing building and commercial land use rather than undeveloped domestic land. In these respects, both developments are materially different to the appeal site and proposal, and have not influenced my determination, therefore.
21. It is intended that one of the proposed dwellings be occupied by a family member of the appellant, who works some two miles from the appeal site but lives some twenty miles away. Whilst the work-related car use of that individual may decrease if they lived at the appeal site, it could not be ensured that they continued to live there or remained employed at the same location. As such, the prospect has not influenced my determination.

Planning Balance

22. The Council cannot demonstrate a five-year supply of deliverable housing sites, with a supply of 3.92 years. I have found the failure of the appeal scheme to conserve and enhance the AONB/NL to provide clear reason to refuse the development proposed. As such, paragraph 11d(ii) of the NPPF, which requires development be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, is not engaged.
23. Notwithstanding the above, the benefits of the scheme are material in my determination. The proposal would yield a net gain of two new houses towards the Government's aim of significantly boosting supply and improve the current shortfall in the district's housing land supply. The benefits of housing delivery carry significant weight, but are tempered by the modest scale of the scheme. There would be temporary economic benefits associated with the construction phase, including excavation. Thereafter, there would be ongoing local economic benefits relating to the occupation of the site, and local facilities, including schools, may benefit from increased demand. Nevertheless, given the relatively modest scale of the proposal and the small number of new residents brought about, these benefits would be minor.
24. In all, the benefits from the appeal proposal would be greatly outweighed by the harm caused by its unsuitable location having regard to the proposed land use and the amount of development, in that it would create reliance on the private motor car, fail to preserve and enhance the AONB/NL, and erode the rural character of the area.

Conclusion

25. The proposal would conflict with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal should be dismissed.

A Knight

INSPECTOR