



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: 7 October 2024

Appeal Ref: APP/C1435/W/23/3335109

Fast & Shiny Car Wash, Burwash Road, Heathfield, East Sussex TN21 8QZ

- 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 Mr E Sallahi against the decision of Wealden District Council.
 - The application Ref is WD/2023/1965/F.
 - The development proposed is the redevelopment of car wash to 4 No 3 bedroom dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - the effect of the proposed development on the character of the surrounding area; and
 - whether the development provides satisfactory living conditions for the future occupiers of the dwellings with particular regard to noise and disturbance.

Reasons

Character and appearance

3. The appeal site is on the A265 opposite its junction with the B2096, midway between the town of Heathfield and the village of Broad Oak. The nearby stretch of this busy road is intermittently developed, with a mix of commercial, industrial, and residential buildings interspersed between open countryside and woodland.
4. Generally, houses along this part of the A265 are located against a rural backdrop, are either set back from the road or at least screened from it by dense greenery, and are often orientated away from the road towards relatively secluded cul-de-sacs or access roads. In these ways, the A265 is characterised as a main thoroughfare from which some housing is accessed, and not as a residential street itself.
5. The appeal site comprises a car wash neighboured by an MOT testing centre on one side and by Windsor Mews, a block of flats, on the other. Behind the site is a relatively substantial industrial estate, the access to which runs alongside the appeal site.

6. The appeal proposal involves the erection of a terrace of four houses with parking behind. The houses would have shallow front gardens, and face directly onto the road. This layout would be incongruous locally and harmfully at odds with the character and layout of the A265 as a main thoroughfare rather than a residential street, as described above.
7. Terraced housing is uncommon locally; there are no examples facing onto the A265 near the site, and very few even once the road has been followed into Heathfield or Broad Oak. Using such an uncommon form of housing would exacerbate the incongruity described above, and increase the harm caused to the character and appearance of the area.
8. The proposed terrace would be seen against the backdrop of the industrial estate behind it, particularly the nearest warehouse building. This building is so large as to be highly prominent despite mature trees on the site boundary and would dominate views past the terrace. The resulting relationship would create a compressed, intensively developed feel to the site, more commonly associated with urban settings. This would be harmfully at odds with the more open, spacious character found in most nearby residential developments, where houses are set against a rural backdrop.
9. I recognise that the proposed terrace would incorporate design features based on nearby housing, but this would not mitigate the harm to the character of the area described above. I appreciate that other sites nearby have recently been developed residentially, and that some of these, including those at and near Rother View to the west of the appeal site, include a small amount of terraced housing. Even in the context of those developments, these terraces are limited in size and number. Moreover, they are not facing onto the A265. Overall, they are not a notable contributor to local character, and would not serve to integrate the appeal proposal, therefore.
10. Given the above, the appeal proposal would be significantly harmful to the character and appearance of the surrounding area, and as such conflict with Policies EN27 of the Wealden Local Plan 1998 (the Local Plan), and WCS14 of the Wealden Core Strategy Local Plan 2013 (the Core Strategy) where they require the scale, form, site coverage, and density of development to respect the character of adjoining development, as well as the similar aims of the National Planning Policy Framework (the NPPF).

Living conditions

11. The site is between a busy road and an active industrial estate, and flanked to one side by the access connecting the two. As such, the proposed homes would be bound by inherently noisy land uses on three sides. On the evidence of the submitted Noise Impact Assessment, it would be necessary to close windows to achieve acceptable noise levels inside the proposed dwellings. Leaving rear windows open would lead to detectable, adverse effects on quality of life for occupiers, whilst opening front windows may result in significant adverse effects on health as well as quality of life. Whilst mechanical ventilation may be possible, I consider that being unable to leave windows open would create an oppressive feel in the houses.
12. Occupiers would have little relief from noise in their rear gardens; even if the houses blocked some noise from the road, the gardens would be affected by noise and disturbance from the estate to the north and west as well. The

proposed parking and access area is too narrow to provide a significant buffer between the gardens and the estate and would, in any event, result in vehicle noise of its own. This would be at a comparatively moderate level, but vehicular movements associated with four dwellings would nevertheless be noticeable, and the parking area would contribute to the harmfully noisy environment around the gardens at least as much as it would mitigate it, therefore.

13. The arrangements described above would harmfully undermine the value and utility of the gardens as a peaceful respite, disincentivising their use. This would be exacerbated by the gardens being north-facing, and therefore cast in shade through much of the day. In addition, heavy goods vehicles (HGVs) travelling to and from the industrial estate would be audible and visible above garden fences, and these movements would add to the disturbance.
14. Whilst the position of the nearest warehouse would prevent visible vehicular movements immediately adjacent to the northern site boundary, it has a large sliding door facing towards the appeal site which, if opened has the potential to allow noise from within to affect the appeal site. Nothing before me indicates that the use is subject to any planning controls which would prevent nuisance to residential neighbours.
15. I recognise that the neighbouring site to the east has been developed into a block of flats, but that plot has a different relationship to neighbouring uses. The land west of the appeal site comprises a wide and busy access leading to the open part of the industrial estate, both of which are traversed frequently by HGVs. In contrast, Crown Drive, which flanks Windsor Court, is a narrower roadway leading to far more modest industrial and commercial facilities which make very little use of HGVs. Furthermore, even the nearest part of Windsor Court is significantly further from the access and main external area of the industrial estate than the proposed dwellings would be. These factors result in a less harmful environment at Windsor Court, and the decision to allow residential development there does not indicate the same should be acceptable at the appeal site, therefore.
16. The location of the proposed development relative to the road and the industrial estate, including its access, would give rise to the potential for noise and disturbance for occupiers of the development and therefore a poor living environment. It has not been demonstrated to my satisfaction that the adverse impacts could be mitigated using planning conditions. As such, the proposal conflicts with Policies EN27 of the Local Plan and WCS14 of the Core Strategy where they require development to ensure a satisfactory environment for future occupants, as well as the similar aims of the NPPF.

Other Matters

17. A similar, previous application was recommended for approval by officers but refused at planning committee. That decision, in turn, influenced the approach to this application. The process leading to the Council's decision is not a matter before me, and I have made my determination based on the planning merits of the development.
18. I note uncertainty over the ongoing financial viability of the car wash at the site, and that the appellant has provisionally identified potential drawbacks to

non-residential development. I have insufficient evidence to consider the viability of other uses within my determination.

19. The site is within the former High Weald Area of Outstanding Natural Beauty (AONB), now a National Landscape (NL). The Council has not found the appeal scheme to harm the AONB/NL, and given it is previously developed land against an industrial backdrop, I see no reason to disagree.

Other Considerations

20. Set against the harm identified, the proposed development would supply four houses which could be delivered quickly. The benefits of housing delivery carry significant weight, particularly in light of the Council's housing shortfall and the NPPF's aim to significantly boost the supply of new homes. However, the benefits of housing delivery in this particular case are tempered by the modest scale of the scheme.
21. The proposed development would improve the appearance of the site, particularly if a high-quality front boundary and planting scheme were supplied. This would be a minor benefit as the existing appearance of the site is not particularly harmful given its use, position near other industrial sites, generally tidy condition, and existing front boundary hedgerow.
22. The development would provide employment temporarily related to the construction period and sustained economic benefits relating to the activities of future occupiers. The modest size of the scheme means that these benefits would be limited, and attract modest weight, therefore.
23. The design is said to incorporate optimum insulation standards and, where possible, water efficiency and carbon reduction measures. There is little explanation of the technology involved or the degree to which it would exceed the requirements of the Building Regulations which apply to all housing schemes, and I therefore attach limited weight to the potential of the site in these respects.

Planning Balance

24. The appeal proposal would cause harm to the character of the area and provide unacceptable living conditions for future occupiers of the dwellings with regard to noise and disturbance. I have found these harms to be significant.
25. The weight given to the Local Plan and the Core Strategy does not hinge on their ages, but rather on their degree of consistency with the NPPF. According to the Framework the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning development process should achieve. It requires development to be sympathetic to local character and achieve a high standard of amenity for users. Therefore, the conflict between the proposal and Policies EN27 and WCS14 should be given significant weight in this appeal.
26. Notwithstanding that the Council has not objected to the principle of residential development, there are no policies in the Local Plan which positively favour development of this kind in this location. As the proposal would be contrary to the policies referred to above, there would be a conflict with the development plan as a whole.

27. The Council cannot demonstrate a five-year supply of deliverable housing sites. In these circumstances footnote 8 of the NPPF establishes that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
28. As described above the benefits associated with four additional dwellings would be between minor and moderate, even taking account of the objective in the NPPF of significantly boosting the supply of housing, and the Council's housing land supply position.
29. The NPPF requires planning decisions to ensure developments are sympathetic to local character including the surrounding built environment and landscape setting, maintain a strong sense of place, and create places which promote health and well-being, with a high standard of amenity for existing and future users.
30. In light of the above, the adverse impacts of the appeal proposal on the character of the area and on the living conditions of its future occupiers would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. As a result, the scheme does not benefit from the presumption in favour of sustainable development.

Conclusion

31. The proposal conflicts with the development plan and, in that way, would not be sustainable. The material considerations do not indicate that the appeal should be decided other than in accordance with the development plan and, as a result, the appeal is dismissed.

A Knight

INSPECTOR