



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: 10 October 2024

Appeal Ref: APP/C1435/W/24/3340102

Hawthorn, Nodes Lane, Magham Down, Hailsham, East Sussex BN27 1PW

- 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 RSS Construction Ltd against the decision of Wealden District Council.
 - The application Ref is WD/2023/2608/F.
 - The development proposed is the erection of one new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have removed reference to a previous approval from the description set out above, as it does not form part of the proposed development.

Main Issue

3. The main issue is whether the site is in a suitable location for residential development, having regard to the development plan and accessibility to services and facilities.

Reasons

4. The appeal site is in Magham Down, a hamlet set in countryside west of the town of Hailsham. The site is outside of any development boundary and, as such, Policies GD2 and DC17 of the Wealden District Local Plan 1998 (the WLP) resist new housing unless in accordance with specific policies. Policy WCS6 of the Wealden District Core Strategy 2013 (the WCS) makes provision for at least 455 new dwellings in rural settlements, including in Neighbourhood Centres. Although Magham Down is a Neighbourhood Centre, Policy WCS6 functions on an allocation-basis, listing the settlements identified for additional residential development, and the number of new houses required in them. Magham Down is not listed and, therefore, the appeal proposal does not have the benefit of policy support.
5. Paragraph 225 of the National Planning Policy Framework (The NPPF) makes it clear that due weight should be given to existing policies according to their degree of consistency with the NPPF, rather than their age. The preamble to Policy WCS6 cites the provision of sustainable settlements as one of its purposes, and the NPPF describes the purpose of the planning system as being "to contribute to the achievement of sustainable development", an aim containing an environmental objective of mitigating and adapting to climate

change. This includes moving to a low carbon economy achieved, in part, by the promotion of walking, cycling and public transport. Paragraph 159 requires new development to avoid increased vulnerability to the range of impacts arising from climate change. The aims of Policies GD2, DC17 and WCS6 align directly with those of the NPPF, and as such these development plan policies are consistent with national policy.

6. Magham Down has a small hotel and restaurant, a chapel, and a trug shop. The nearest convenience shops are over a mile away, with the nearest supermarkets and notable leisure facilities over 2 miles away, all in Hailsham. The A271, which connects Magham Down and Hailsham, has a footpath on one side but it is narrow, mostly unlit, and liable to encroachment from overgrowth. The section of road between the two settlements has a 40mph speed limit. These factors combine to create a sufficiently unpleasant environment to discourage pedestrians and casual cyclists, even in good weather.
7. There are sheltered bus stops near the appeal site on the A271. The local bus service connects Magham Down with Hailsham and runs near-hourly during the day, but less frequently in the evenings and on Sundays and Bank Holidays. An additional service is provided at either end of the school day. The walk between the site and the bus stops is short but is over Squab Lane and Old Road. These highways, whilst relatively quiet, are nevertheless narrow in places, largely unlit and without pavements. A separate footpath running between residential plots offers an alternative to part of the route but, whilst this separates pedestrians from cars, it is gloomy and unlit, encroached upon by overgrowth and concealed from outside view. These factors make it unwelcoming. In any event, one must cross the busy, poorly lit A271 without a pedestrian crossing to reach the Hailsham-bound bus stop.
8. Occupiers of the appeal scheme may be able to plan journeys around the limited bus service but, given the restricted service outside the working day and the nature of the routes between the bus stops and the site, public transport is not likely to be the primary means of transport. I recognise that Hailsham is relatively nearby, but it is not so close that walking or cycling are likely. The site has poor levels of accessibility, therefore, and the development does not meet the aim of the NPPF to promote walking, cycling and public transport.
9. My attention has been drawn to a previous planning permission at the appeal site¹ which was for much the same development as the appeal proposal, as well as several nearby planning applications for residential development². Applications 1, 2, and 3 were approved partly due to weight given to a (then) emerging plan 'Issues, Options and Recommendations', in which Magham Down was identified for further growth of 25 dwellings. That plan was found unsound and withdrawn in 2020. It is not for me to comment on whether the Council should have afforded the weight it did to the emerging plan at the time of granting applications 1, 2 and 3. Nevertheless, I am satisfied that those decisions were taken following a materially different policy approach to that

¹ WD/2016/0212/F (application no1).

² WD/2016/0908/O (application no2), WD/2016/2118/O (no3), WD/2017/0479/O (no4), WD/2017/1827/O (no5), WD/2021/0538/F (no6), WD/2022/0234/F (no7), WD/2022/1958/O (no8).

applicable to the appeal scheme, and I do not consider those decisions to set a precedent for this appeal, therefore.

10. Applications 3, 4, 5, and 6 were for sites on the A271 where residents of the developments concerned would be able to access bus stops far more easily. In addition, applications 4 and 6 were on sites far closer to Hailsham, where walking into the town would be more likely. Application 7 was refused and a subsequent appeal dismissed for reasons, insofar as they relate to accessibility, similar to those I have set out above. Application 8 was allowed at appeal, but the Inspector found the site harmfully unsuited to residential development given limited access to services and facilities. It was explicit in the decision that the site had been previously developed, and that its status as an existing 'brownfield' site was a factor in the planning balance. The appeal site is not previously developed and attracts a different assessment, therefore, which I will set out in the following section of my determination. In these ways, the cited schemes differ from the appeal one, and do not act as precedents.
11. I conclude that the proposal would not be in a suitable location for residential development given the poor levels of access to services and facilities. Permitting it would be materially harmful, in that the strategy for the distribution of housing would be undermined and reliance on the private motor car would be encouraged. As such, the proposal conflicts with Policies GD2, EN1 and DC17 of the WLP, and Policies SPO7, SPO8, WCS6 and WCS14 of the WCS, as these policies seek to ensure new development is provided in sustainable locations and encourage use of sustainable forms of transport. The proposal would also conflict with the similar aims of the NPPF.

Other Considerations

12. The proposal would help to remedy the shortfall in the district's housing supply and in doing so it would accord with the Government's objective of significantly boosting the supply of homes. The need for housing is a matter of considerable importance, although the contribution made by a single dwelling would be very modest. This tempers the weight I can attach to the benefits of housing delivery.
13. The proposed dwelling would adhere to the character and appearance of the area and could be landscaped to further enhance its appearance. It would provide adequate parking facilities and a good standard of accommodation for its occupants, would be built to good levels of energy efficiency including facilities to charge electric cars, and would provide cycle parking facilities for its occupiers. Measures to enhance biodiversity could be provided as part of the scheme. These aspects of the scheme largely comprise compliance with policy and, as such, are neutral in the balance.
14. There would be temporary economic benefits associated with the construction phase, and ongoing economic and local benefits relating to its occupation, but these would be relatively minor, and I attribute only modest weight to them.

Planning balance

15. The appeal proposal would undermine the strategy for the distribution of housing and create reliance on the private motor car. As above, whilst the Local Plan dates from 1998 and the Core Strategy from 2013, those policies are consistent with the aims of the NPPF, which requires development to protect and enhance the natural environment, minimise pollution, move to a low

carbon economy, promote walking, cycling and public transport, and further requires the planning system to actively manage patterns of growth in support of these objectives. Therefore, the conflict between the proposal and Policies GD2, EN1 and DC17 of the WLP, and SPO7, SPO8, WCS6 and WCS14 of the WCS is given significant weight in this appeal. As there are no policies in the Local Plan which positively favour development of this kind in this location and as the proposal would be contrary to the policies referred to above, there would be a conflict with the development plan as a whole.

16. The Council cannot demonstrate a five-year supply of deliverable housing sites and, with a supply of 3.83 years, the shortfall is considerable. Footnote 8 of the NPPF indicates that, in such circumstances, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
17. As described above the benefits associated with one additional dwelling would be modest and, even taking account of the objective of significantly boosting the supply of housing in the NPPF and the Council's housing land supply position, would be outweighed by the adverse impacts of the site location would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

18. The proposal would conflict with the development plan as a whole and the material considerations, including the NPPF, 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