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## Appeal Decision

Site visit made on 27 August 2024

**by C Rafferty LLB (Hons), Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> October 2024**

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**Appeal Ref: APP/C1435/W/24/3338370**

**Car Park adjoining Polegate Railway Station, Roy Martin Way, Polegate**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Bridgewater Investments Limited against the decision of Wealden District Council.  
The application Ref is WD/2022/1216/MAJ.
  - The development proposed is the erection of a five storey apartment block containing residential units on the upper floors and parking and servicing on the ground floor. Vehicle access off Roy Martin Way and pedestrian only access from Porters Way.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement (WMS), which is a material consideration, the proposed changes to the Framework can only be given limited weight at this stage, given that no final document has been published. The main parties have been provided with an opportunity to comment on these documents and their responses have been taken into account, where received.

### Main Issues

3. The main issues are: the effect of the proposal on the character and appearance of the area; and whether the proposal makes adequate provision for affordable housing, taking account of the viability of the development.

### Reasons

#### *Character and appearance*

4. The appeal site comprises a car park in Polegate, to the north of the railway station and to the east of High Street, accessed via Roy Martin Way. The proposal seeks permission to erect a five storey apartment block of 36 residential units at the site.
5. The immediately surrounding section of Polegate comprises a range of buildings of various uses, styles, and external designs. However, there remains a clear consistency in terms of the vertical scale of development in the area, with buildings predominantly reaching 2-3 storeys in height. This is particularly evident from within the appeal site, due to its current car park use and lack of vertical built form allowing clear views and appreciation of immediately surrounding development.

6. At present, to the south of the site lies the low level railway station structures, while to the north the site is primarily bounded by modest, two storey residential development. Slightly larger buildings are present to the east and west of the site, and comprise The Centre and Water House. The Centre is a two storey building with third floor mansard roof, while Water House is a three storey residential building with a shallow pitched roof. Even noting the larger footprints and heights of these structures when compared with other development neighbouring the site, their overall scale assimilates with the characteristic scale and height of buildings in the immediate surrounds.
7. The proposal would be constructed from a palette of materials that are present in the wider surrounds, and takes elements of design inspiration from neighbouring development, such as The Centre, Water House, and the station. It would have elements of articulation across its elevations, with balcony features and recessed sections. In the context of the mixed appearances and styles of buildings in this section of Polegate, the external design of the proposal would not, in itself, cause visual harm.
8. However, the proposal would be a sizeable and prominent structure at the site, notable particularly due to its imposing five storey height. While it would be set back from neighbouring buildings and feature a recessed upper level of different materials, it would nevertheless be an incongruous addition experienced among the immediate and wider structures in this part of Polegate. Overall, it would be an unduly dominant and out of place building that would read as visually jarring. While the appellant alleges a lack of local distinctiveness, it remains that the proposal would fail to reflect or respect the characteristic lower level of development that prevails in the area. In the context of the appeal site and its environs it would, due to its overall incongruous height, fail to represent good design.
9. My attention has been drawn to the fact that prior approval was granted for an additional two storeys at Water House, which would result in this being a five storey building. However, at the time of my visit this was not in place and evidence before me suggests that this should have been completed by July 2024. While the appellant states that the landowner has applied for such prior approval again, there is nothing to suggest this has been granted. As such, I attach limited weight to this matter and it remains that, on the information before me and my observations on site, the proposal would be out of place and result in visual harm as outlined above.
10. For the reasons given, the proposal would result in significant adverse harm to the character and appearance of the area. As such, it would fail to comply with Policy EN27 of the Wealden Local Plan 1998 (the WLP) insofar as it seeks to ensure that the scale of development should reflect the character of adjoining land.

#### *Affordable Housing*

11. Policy AFH1 of the Wealden District council Local Plan Affordable Housing Delivery Local Plan 2016 (the AHDLP) states that affordable housing is required at a level of 35% of the number of dwellings on development sites with 5 dwellings or more. It continues that where it can be proven that affordable housing requirement cannot be achieved, due to economic viability, there will be flexibility in meeting stated targets and that it will be the responsibility of the applicant to demonstrate that the requirements of the policy cannot be met. In exceptional circumstances, a commuted sum may be acceptable in lieu of on-site provision.

12. The proposal would provide 36 dwellings, such that the Council has stated a requirement of 12.6 affordable housing units, delivered as 3 on site first homes and an offsite contribution in respect of the rest. The appellant's Financial Viability Assessment and update find the proposal cannot provide for a policy-compliant level of affordable housing, taking account of the viability of the development.
13. The Council would normally rely on an external review of such assessments, but this was not carried out. Nevertheless, it has provided commentary as part of the appeal. Taking account of this, the main parties agree on certain inputs to the viability assessments. However, although no comments from a viability or valuations expert have been provided by the Council, it remains that it has raised concerns which I find to be reasonable.
14. The Benchmark Land Value of the site was calculated with reference to the existing public car park use. While the proposal would remove an element of this, 51 shared spaces would be retained for residents, visitors, and members of the public. No substantive reference or explanation is provided in the viability assessments regarding potential value arising from retained public parking. As such, it is unclear whether the residual land value provided has taken account of this.
15. The appellant has raised further concerns relating to abnormal costs. The viability assessments are clear that the following abnormal costs are included within the QS estimates: undercroft construction, deck access, and proximity of the railway. However, there is a lack of clarity as to precisely how these abnormal costs have been taken into account. In addition, in assessing construction costs, the analysis expressly states that no allowance has been made for works in relation to the close proximity of the railway line and that the deck access and undercroft are excluded from the GIFA of the scheme. While I note additional abnormal costs could further impact the viability of the proposal, it remains that the uncertainty in this regard reduces the weight that can be attached to the overall viability assessments.
16. Furthermore, I note the provisions of Policy AFH1, which are clear that where it can be proven that affordable housing requirement cannot be achieved due to economic viability, there will be flexibility in meeting stated targets and that in such exceptional circumstances the tenure of affordable housing should be examined prior to the proportion of affordable housing. There is no substantive evidence before me that alternative tenures or targets of affordable housing were the subject of discussion. The appellant's viability assessments consider two options: a policy compliant level of affordable housing; and no affordable housing provision. While I acknowledge that it finds both scenarios to render the scheme unviable, given the other highlighted concerns I cannot be certain that this would be the case, or that some alternative level of affordable housing contribution could not be provided.
17. The Framework sets the weight to be given to viability assessment as a matter for the decision maker, having regard to the circumstances of the case. Given the concerns outlined by the Council, which I have reviewed above and which have not been adequately addressed by the appellant, overall I cannot be satisfied that the viability assessment is accurately represented.
18. For the reasons given, I find that the proposal would not make adequate provision for affordable housing, taking account of the viability of the development. As such, it would fail to comply with Policy AFH1 of the AHDLP in this regard.

## **Other Matters**

19. The proposal would provide 36 housing units for up to 108 people, which would contribute to the housing mix and supply of the area and maximise the potential and use of the appeal site through effective use of previously developed land. Such housing would be provided in a sustainable location, adjacent to services and public transport opportunities, with the site itself having through routes for cyclists and pedestrians. This attracts considerable weight in favour of the development.
20. The proposal would also have economic benefits arising from the creation of jobs during the construction phase, spending by future residents in the local economy, and increased revenue for the provision of local services. There would also be a benefit in terms of increasing the vibrancy of the area. These benefits attract limited weight.
21. The proposal falls close to the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). However, as I am dismissed for other reasons, I have not considered this issue further.

## **Planning Balance and Conclusion**

22. The proposal would result in significant adverse harm to the character and appearance of the area and, on the basis of the information before me, would not make adequate provision for affordable housing. As such, there would be conflict with Policy EN27 of the WLP and Policy AFH1 of the AHDLP. The proposal would not accord with the development plan as a whole.
23. However, the main parties agree that the Council cannot demonstrate a five year housing land supply such that paragraph 11(d) of the Framework is engaged. As such, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. I have outlined the benefits of the scheme above. The Government's objective is to significantly boost the supply of housing, with the Framework recognising the important role that small and medium sites can play in this regard. The Framework promotes the effective use of land in meeting the need for homes, including the use of brownfield sites. It states that decisions should support development that makes efficient use of land, taking into account the availability of infrastructure and services, and the scope to promote sustainable travel modes that limit future car use.
25. However, the Framework is also clear that decisions should take into account the desirability of maintaining an area's prevailing character, the importance of securing well-designed places, and should ensure that developments are sympathetic to the surrounding built environment. I have found that this would not be the case with regard to the proposal. This, combined with the failure of the proposal to provide any contribution towards the provision of affordable housing are significant factors that count against the scheme. Therefore, even when taking all the benefits outlined above together, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. My conclusion in this regard would not be different if I were to have found there to be no adverse effects on the Ashdown Forest SAC and SPA.

26. The development would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan. I therefore conclude that the appeal is dismissed.

*C Rafferty*

INSPECTOR