



Appeal Decision

Site visit made on 5 February 2025

by D Wallis MRTPI, BSc (Hons), PGDip (Environmental Planning)

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/D3830/W/24/3344963

Land at Wellhouse Lane, Burgess Hill, WEST SUSSEX, RH15 0BN

- 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 Phyllis Homes Ltd against the decision of Mid Sussex District Council.
 - The application Ref is DM/23/2372.
 - The development proposed is nine dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the application, an amended red line site boundary plan showing access to the public highway was submitted alongside a revised ownership certificate. The application was determined on the basis of this information, and I have considered the appeal using the same.
3. The Council highlighted that information had been produced at the appeal stage, which had not been formally consulted upon. I consider the details submitted by the appellant serve to substantiate a rebuttal of the reasons for refusal, rather than evolving the nature of the appeal scheme. In any event, the Council has provided comprehensive comments on this additional detail, so I do not believe any party has been prejudiced by the appellant's submissions.

Main Issues

4. The main issues for the appeal are:
 - the effects of the development upon the character and appearance of the area;
 - whether or not the development would be accessible by different modes of transport;
 - the effects upon highway safety;
 - whether or not the development would provide an acceptable level and quality of affordable housing units;
 - the effects upon local drainage infrastructure; and
 - whether or not the development would have an adverse effect on social infrastructure.

5. The Council advised, as a result of receiving additional information from the appellant, that they would withdraw the reasons for refusal giving rise to the last two main issues identified above. I have taken this into account in reaching my decision.

Reasons

Character and appearance

6. The appeal site is situated to the south of Wellhouse Lane, a single-track rural lane lined with mature trees and hedgerows. A small number of large, detached dwellings are strung across the northern side of the lane separated by spacious and verdant grounds. Woodland copse and heavily landscaped field boundaries are prevalent in the locality, with the natural green corridor extending northwards towards the edge of Burgess Hill along Ockley Lane and Keymer Road. The appeal site falls outside of the South Downs National Park (SDNP), but this designation passes close to the south and east.
7. The appeal development comprises nine dwellings split over three new buildings in the form of two terraces and a pair of semi-detached units. The dwellings would occupy the northwest corner of an existing parcel of land, with a new regimented landscape strip down its eastern and southern sides. The building closest to Wellhouse Lane would be single storey, whilst the remaining buildings would be two storey and designed to resemble different types of agricultural barns.
8. The overall appeal site area is broadly equivalent to one of the corresponding detached dwelling plots on the northern side of the lane and yet nine units are proposed within it. This creates a development wherein units are visually, spatially and discordantly smaller than nearby dwellings, with consequential small garden plots that bear little resemblance to the prevailing pattern of development in the locality. This results in a very urban cul-de-sac arrangement which starkly contrasts with the local built environment and detracts from the rural countryside.
9. Despite the attempted agricultural architecture, the proposed layout does not resemble a farmyard setting and introduces significant depth of development away from Wellhouse Lane in contrast to the linear form of housing opposite. The overall design solution results in a form and appearance that would not harmonise with the surroundings and would represent urbanisation of a designated local gap.
10. In terms of the wider rural surroundings, I consider that the height and scale of the central and southern proposed buildings would render them visible from within the SDNP. In addition, the formal screen planting proposed would be an obvious engineered feature in an otherwise organic and rural landscape on the southern side of the lane, jarring with the character of the SDNP. This would be harmful to the special qualities and attributes of the SDNP, contrary to paragraphs 187 and 189 of the National Planning Policy Framework (the Framework).
11. I conclude the proposal would have an adverse impact on the character and appearance of the area, including the landscape of the SDNP. This would be contrary to policies DP18 and DP26 of the Mid Sussex District Plan 2018 (the LP) as well as policies 6 and 9 of the Hassocks Neighbourhood Plan 2019 (HNP), which together seek to secure high quality design that is respectful of place.

Accessibility

12. Wellhouse Lane is an unlit rural road which takes direct vehicular access off Ockley Lane and Keymer Road. Neither Wellhouse Lane, Ockley Lane nor Keymer Road are lit in the vicinity of the appeal site, and neither are there any public footpaths alongside the respective carriageways. Heading towards Burgess Hill, the nearest public footpath is after the junction with Broadlands, approximately 0.2 miles north of Wellhouse Lane. Heading south towards Hassocks, there is no public footpath for an even greater distance.
13. The appellant states that pedestrians could walk into Burgess Hill to access services and facilities by using the grass verges that line Keymer Road. I would not advocate this as a safe or secure pedestrian route, and it is certainly not suitable for users with restricted mobility or children. The other option suggested by the appellant involves a lengthy route along a public right of way through woodland, which is impractical for day-to-day trips. Routes by bus to Burgess Hill, the train station and a wider area are possible, but are inaccessible without needing to navigate along grass verges or actually walking within the carriageway of Keymer Road.
14. In my view these circumstances would lead to most journeys being undertaken by private car. I note the appellant intends to provide car club membership and supply e-bike vouchers for prospective occupants. Whilst these may go some way to alleviate the use of private vehicles temporarily, there would not be compulsion for future residents to use such means of transport and inevitably the convenience of the private car would prevail given the rural nature of the appeal site.
15. Whilst geographically close to the facilities in Burgess Hill, the proposal would be inaccessible by range of different transport modes, thus heavily dependent on the private car for access to day-to-day facilities. This would be contrary to the environmental limb of sustainability set out in the Framework. It would also be contrary to policies DP21 and DP32 of the LP, that seek to promote safe and active travel.

Highway Safety

16. Wellhouse Lane is a private no-through road that has a junction with Ockley Lane to the west. I observed that the junction is not particularly wide or formal, appearing as a domestic drive as it emerges onto the public highway.
17. On the northern side of the junction there is a mature oak tree on land owned and maintained by the local highway authority (LHA). On seeking to exit Wellhouse Lane, the tree currently obscures visibility looking northwards and thus causes a degree of hazard to drivers who have to push their cars forward in order to see oncoming traffic clearly.
18. This situation is existing, but the appeal development would intensify the use of this access, increasing the risk of a collision. To resolve this, the appellant has undertaken a survey of the tree and concludes that it is in poor health and could be removed. The LHA, as owners of the oak tree, are not willing to cut the tree down at the present time. Whilst the appellant has stated they could enter into an agreement with the LHA to remove the tree, no such agreement is before me.

19. I note that the appellant's assessment indicates that, whilst the oak tree has a reduced safe life expectancy compared to other oaks, its condition is not to a point where removal or harsh pruning is immediately essential. This, combined with the reluctance of the LHA to remove the tree, represents an impediment to the delivery of the proposed development that has no prospect of being resolved in the short-term. I do not consider that a Grampian condition requiring details of the highway access to be agreed once the tree has been removed provides any measure of comfort in this instance. Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission, and there is no indication the tree requires attention within a 3-year period.
20. On this basis the tree would remain an obstruction within the visibility splays for vehicles turning out of Wellhouse Lane. With the likely increase in private vehicles using the entrance, this situation gives rise to an unacceptable level of hazard for all users of the highway. This would be contrary to policy DP21 of the LP that seeks safe highway access for all road users.

Affordable Housing

21. The appeal development is pitched as being a rural exception site wherein all nine of the dwellings would be affordable housing. Specifically, the appellant would offer seven of the dwellings as discounted market rate housing, with 20 per cent off the asking price, and the other two dwellings being marketed as First Homes. A legal agreement pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) (S106) is provided securing the delivery of the housing, with clauses allowing a phased marketing of the units in terms of a local and regional audience if interest is low.
22. My attention is drawn to the evidence in respect of local housing need, with the main parties disagreeing on the extent of local need and local interest. The Council highlight that, despite a recent under-delivery in the number of affordable houses district-wide, planning permissions have been granted with a reasonable proportion of affordable housing coming forward that would meet any local need.
23. I turn to LP Policy DP32 to assess compliance. I have already concluded that the character and appearance of the area would be harmed, so criterion (IV) of the policy is breached. I have also concluded that, despite being geographically in the region of Burgess Hill, the appeal site is not in close proximity to shops and services whereby such facilities would be accessible by multiple modes of transport. Therefore criterion (V) of the policy is also failed. Whilst I note the ambition in the S106 to offer affordable housing to the local community, the S106 secures this only for a period of 8 weeks before opening up the housing to a much wider market. This calls into question whether or not the affordable units would be delivered in the spirit of criterion (III) of policy DP32.
24. I note the proposal has come forward without consultation or involvement from the parish council, as envisaged under LP Policy DP32, and is not a suggested area for growth in the HNP. Whilst policy DP32 does not make it mandatory for parish council involvement, the presence of a made Neighbourhood Plan strongly suggests that a developer should engage with the relevant authorities when promoting a rural exception scheme. This has not been pursued in this instance.

25. Other appeal decisions are presented to me that offer an alternate view to that I am taking. I am however mindful that each appeal needs to be determined on its own merits and the circumstances behind this case, and the policies underpinning it, are different to those in other examples.
26. In conclusion, notwithstanding the benefits of additional affordable housing units in the District, the proposed development would fail to secure an acceptable level and quality of affordable housing units. The proposal would conflict with criteria (III), (IV) and (V) of LP Policy DP32, which seeks to deliver suitably located rural exception sites to meet identified local needs.
27. Through non-compliance with LP Policy DP32, the proposal conflicts with the LP strategic housing policies DP6, DP12 and DP15 and the HNP, which all seek to direct growth to suitable locations.

Drainage and social infrastructure

28. The appellant provided a Surface and Foul Drainage Addendum to the appeal in response to the Council's reasons for refusal. The Council reviewed the document and concluded drainage issues could be resolved and managed via planning conditions should the appeal be allowed.
29. Equally, the appellant provided a signed S106 making the necessary financial contributions towards the social infrastructure resources requested by the Council and the County Council. Information has been provided to the appeal demonstrating that the obligations meet the tests set out in the Community Infrastructure Levy 2010 (as amended). The Council have provided written confirmation that the reason for refusal relating to social infrastructure would no longer be pursued.
30. I note the revised position of the Council and its consultees and do not find any reasons to disagree with the assessments made in respect of both drainage and social infrastructure. However, resolving drainage concerns and mitigating the impacts of development upon social infrastructure are expected from proposals as standard, so these matters weigh neutrally in the planning balance. Such matters being resolved does not alter my view regarding the harm caused in respect of the other main issues.

Other Matters

31. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that my determination must be in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out above, the development proposed is contrary to the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
32. It is common ground between the parties that the Council can demonstrate a five-year housing land supply, standing at 5.04 years. Whilst this is described by the appellant as marginal, there is no challenge or contention that the LP, or the policies most important for determining the appeal, are out of date. Therefore paragraph 11(d) of the Framework is not engaged.

33. The appellant states that the Framework encourages boosting the supply of housing. However, I consider that any additional housing should be suitably located in order to be a worthwhile boost to supply. The appellant also points to residential development coming forward on an allocated site to the north of Wellhouse Lane, bringing the urban extent of Burgess Hill closer to the appeal site. However, this planned growth would not diminish the harmful impacts I have identified in this case, including conflict with the HNP.
34. I am not convinced that the considerations brought to my attention are of such weight as to overcome the harms and conflicts identified. There are no material considerations to warrant a decision to be made otherwise than in accordance with the Development Plan.

Conclusion

35. For the reasons given above the appeal should be dismissed.

D Wallis

INSPECTOR