



Appeal Decision

Site visit made on 6 February 2025

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/C1435/W/24/3348203

Top Barn, Station Road, Isfield, East Sussex TN22 5EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Andrew Moxon of Helix Homes Ltd against the decision of Wealden District Council.
 - The application Ref is WD/2023/2693/O.
 - The development proposed is the erection of up to No.5 dwellings, access, landscaping and other associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline. I have had regard to the submitted plans but have regarded all elements of these drawings, apart from access, as indicative. I am also aware of a previous appeal decision at the site, under reference APP/C1435/W/20/3261155.
3. The Council is no longer defending reasons for refusal 1 (sustainable location) and 4 (affordable housing) of the decision notice. I will therefore make no further reference to them in my decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - the effect of the proposed development on protected species.

Reasons

Character and appearance

5. The appeal site is formed of a parcel of land to the eastern edge of Isfield, accessed by an unmade track. The site comprises an open field and domestic garden space relating to the dwelling known as Top Barn. At the time of my site visit, a range of domestic and agricultural paraphernalia existed across the site.
6. Despite the existence of nearby established residential development, the appeal site contributes to a clear transition between the main settlement to the west of the site and open countryside to the east. This is, in part, due to the landscaping that

encloses the unmade road and appeal site, the site's principally open nature and the agricultural fields visible beyond.

7. There is also a sense of physical separation between the site and established housing in the east. This includes Tile Barn Close where dwellings, by reason of their position and orientation, have a stronger (and physically closer) relationship with Station Road and the settlement. This physical separation, together with the limited domestic activity which currently takes place along the unmade road, contributes to a notably rural character here.
8. The proposed development would introduce up to five dwellings to the currently open site, together with the inevitable access roads, parking areas and domestic garden areas typical of a residential development. The proposal would likely result in the development of a significant proportion of the site. The proposed development would be partly visible from the site access and footpath to the eastern boundary of the site, with views obtained through gaps in the existing hedgerow and landscaping. This would particularly be the case during winter months. In any case, although vegetative screening currently exists, planting and boundary features cannot be relied on in perpetuity to give the same level of screening as at present. Moreover, increased activity would take place along the unmade road, whatever its surface, and the appeal site.
9. I accept that it is the intention of the appellant to set the proposed dwellings in from the boundaries of the site. I also accept that the properties could be of a similar scale and design to those that exist to the east. Nevertheless, the proposed development would have a harmful urbanising effect on a site which is largely open and lacks any significant development, and which contributes to a transitional character in this part of Isfield. Moreover, despite the existing paraphernalia that exists across the site, this is likely to be intensified through the introduction of up to five individual dwellings, each with their own gardens and parking areas.
10. I accept the appellant's argument that land near to and adjacent to the development site is earmarked for future development and I note the quote from the examining Inspector for the Mid Sussex Site Allocations Development Plan Document. However, this relates specifically to site allocations affecting Burgess Hill and Keymer. In any case, I am not bound by the comments made by that Inspector at that moment in time. Those comments, and nearby site allocations, do not mean that any future development that extends the urban area of a settlement into the open countryside should automatically be accepted.
11. Overall, I conclude that the proposed development would harm the character and appearance of the surrounding area, contrary to the relevant provisions of saved policies GD2, EN8, EN27 and DC17 of the Wealden Local Plan (LP, 1998) and Policy WCS 14 of the Wealdon Core Strategy Local Plan (CS, 2013). These policies, in summary and when taken as a whole, seek to ensure high quality design in development which should respect its location and the surrounding context. This is in a similar vein to the provisions of the Wealdon Design Guide (2008) insofar as appropriate design is concerned, and paragraph 187 of the National Planning Policy Framework (the Framework) which speaks of recognising the intrinsic character and beauty of the countryside.

Protected species

12. The development falls within the red impact risk zone for Great Crested Newts (GCNs). The Council's third reason for refusal relates to insufficient evidence having been provided in order for the Council to conclude that the proposed development would have an acceptable effect on GCNs. I also note that the submitted Preliminary Ecological Appraisal (dated March 2023) concluded that the potential for the site to support GCNs is low/moderate.
13. The appellant set out during the course of the appeal that they were willing to enter into a District Licensing Scheme, including ongoing engagement with Naturspace. I also note evidence of a payment to Naturspace in respect of this, and the submission of a Naturspace Report to demonstrate that the impacts of the development can be mitigated through the District Licensing Scheme. Several conditions have also been suggested by the Council in respect of this matter, agreed by the appellant.
14. On the basis of the evidence before me, I am of the view that the appellant has provided sufficient evidence to demonstrate that appropriate measures can be taken to avoid harm to GCNs, in accordance with the provisions of CS Policies SPO1 and WCS12. These policies, in summary, seek to prevent a net loss of biodiversity. Nevertheless, this does not overcome or outweigh the harm identified under the other main issue.

Other Matters

15. I acknowledge the appellant's argument that the proposed development would make use of previously developed land (PDL), mindful of case law¹. Even were I to agree with the appellant that the site could reasonably be described as PDL, the definition within the Framework clearly states that 'it should not be assumed that the whole of the curtilage should be developed'. This consideration has not led me to an alternative conclusion in the main issues. I also acknowledge that the site is not subject to any heritage designations. Nevertheless, this is neutral in my determination of the appeal.
16. My attention is drawn to appeal cases at other sites. This includes at Land to the West of Culpepper Close and Windmill Feeds and Saddlery. Whilst I only have limited information before me in respect of these decisions, both involve a planning balance in respect of housing shortfall. However, in the case of Land West of Culpepper Close, this proposed 10 dwellings and in both cases the housing land supply position was different (significantly lower) to that currently before me. For these reasons, the circumstances that applied to these other cases, and the planning balance there, are not directly comparable to those before me. Ultimately, the existence of those other cases has not led me to an alternative conclusion on the main issues.
17. The submitted evidence indicates that the Council cannot demonstrate a five-year housing land supply, currently at 3.83 years. As such, and noting the Government's objective of significantly boosting the supply of homes, the provisions of Framework paragraph 11.d are engaged. This sets out that where the policies which are most important for determining the application are out of date, permission should be granted unless (i) the application of policies in the

¹ Dartford Borough Council v SSCLG [2016] EWHC 635 (Admin).

Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed, or (ii) 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. In this instance, it is necessary to apply Framework paragraph 11.d(ii).

18. The proposed development would represent a contribution of up to five dwellings to housing supply in an area with an acknowledged lack of future provision. There, too, would be some other social and economic benefits of the proposed development, including in supporting employment during construction and the bringing of trade to nearby services and facilities. I, too, accept that the proposal would support the development of a relatively small site, also an objective of the Government. In considering these matters, I have had regard to the case law² drawn to my attention by the appellant.
19. Whilst I give considerable weight to the proposed development's contribution to housing supply in the district, the support in the development plan, and Framework, for new housing is not at the expense of appropriate design. The economic benefits, by reason of the scale and nature of the development, could reasonably be described as limited. On the other hand, I have identified significant harm to the character and appearance of the area, including in respect of the setting of Isfield. Overall, I find that the adverse effects of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

20. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR

² Including: Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East Borough Council [2017] UKSC 36; Hallam Land Management Ltd v Secretary of State for Communities and Local Government [2018] EWCA Civ 1808.