



Appeal Decision

Site visit made on 20 February 2025

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 28th March 2025

Appeal Ref: APP/C1435/W/24/3348324

Warren Drive Rest Home, Fielden Road, Crowborough, East Sussex TN6 1TP

- 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 and Mrs B & K Lewis against the decision of Wealden District Council.
 - The application Ref is WD/2022/2499/F.
 - The development proposed is redevelopment of the existing retirement home site comprising part demolition of existing building and re-instatement of original detached dwelling together with three new detached dwellings within the site boundary.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I sought submissions from the parties on this matter. I have considered the additional submissions alongside the original representations.

Background and Main Issues

3. Within their appeal statement the Council has indicated that it does not intend to defend the second reason for refusal. However, during the planning application interested parties expressed concerns with the effect of the proposal on surface water drainage. Therefore, it forms part of the main issues of the appeal.
4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the appeal site is an appropriate location for residential development, with particular regard to the spatial strategy and accessibility of services and facilities; and,
 - the effect of the proposal on flood risk.

Reasons

Character and appearance

5. The appeal site is in proximity to the High Weald National Landscape (HWNL), which is an area characterised by its historic, undulating, rural landscapes and small pockets of woodland. Paragraph 189 of the Framework indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes and development within their setting should be sensitively located and designed to minimise adverse impacts.

6. The area around the appeal site has two distinctive characters. To the east and south of the appeal site, the area is characterised by large dwellings bound by mature vegetation within large plots; this area is suburban in character. To the west and north of the appeal site, the area is characterised by pockets of woodland and farmland. Given the proximity to nearby residential development; this area is semi-rural in character.
7. The appeal site is a vacant rest home set within substantial grounds. Most of the built development within the site is located toward Fielden Road with the grounds wrapping around and sloping downhill in a westerly direction. The appeal site reflects the prevailing pattern of development and provides a verdant transition between the suburban edge of Crowborough and the HWNL. It makes a positive contribution to the setting of the HWNL.
8. Due to the partial demolition of the rest home, the proposed development would only increase the floor area of built development by a modest amount. However, the footprint of the development would be spread further across the site and would lead to more development closer to the boundary of the HWNL. The proposal would also increase the massing of built development. The dwelling within proposed Plot 1 would be large and sited close to the access from Warren Road. Consequently, it would be highly prominent in the street scene. These factors combined would have an urbanising effect on the area and would erode the verdant transition between the suburban development and the HWNL.
9. The proposed dwellings would be large family homes and similar in design to those on the opposite side of Fielden Road. Nonetheless, the three proposed dwellings to the west of the site would be located close together and would utilise the access from Warren Road. Given their siting and the use of an access to the rear of the proposed dwelling formed from the redevelopment of the rest home, they would appear as backland development. The prevailing pattern of development in the area is predominantly dwellings set apart from one another with individual accesses on to the road. Therefore, the proposed layout would appear discordant with the prevailing pattern of development.
10. Although most of the site is screened by tall vegetation, which would be largely retained, and some of the proposed dwellings would be sited on the lower ground, they would still be visible above the vegetation. Moreover, the proposed dwellings would be prominent in views from Warren Road, from and toward the HWNL.
11. The redevelopment of the vacant rest home and the demolition of some of its extended sections, would improve the appearance of the site. Furthermore, the retention of most trees, shrubs and hedges within the site would also be a positive. Nevertheless, as a whole the proposed development would have an urbanising effect, would not reflect the prevailing pattern of development, and would visually encroach upon the verdant area between suburban Crowborough and the HWNL.
12. I conclude that the proposal would have a harmful effect on the character and appearance of the area, including the setting of the HWNL. Therefore, the proposal would be contrary to policies EN6 and EN27 of the Wealden Local Plan, December 1998 (LP) which indicates that development will be permitted where the scale, form, site coverage, density and design of the development respects the character of adjoining development, amongst other matters. It would also be contrary to Spatial Objective SPO13 of the Wealden District Core Strategy Local

Plan, February 2013 (CS) where it indicates that the Council will encourage the development of high-quality living environments.

13. The proposal would be contrary to the Framework where it advises that planning decisions should ensure that developments are sympathetic to local character and should contribute to protecting valued landscapes.

Location

14. LP Policies GD2 and DC17 indicate that residential development will be resisted outside of development boundaries unless it conforms with other policies in the plan. The appeal site is outside of the development boundaries and does not conform with other policies in the plan. Consequently, the proposal is contrary to the spatial strategy set out within the LP.
15. Nonetheless, the appeal site is located on the western edge of Crowborough which is identified as a District Centre. The site is in proximity to multiple services including schools, doctor's surgeries, and supermarkets. Several bus stops are within walking distance of the appeal site and there is a train station within Crowborough which offers services to London, amongst other places. As such, there is a good provision of public transport close to the site. Although some of these services are not within the walking distance limits suggested within Sustrans guidance, it would still be possible for future occupiers to access services and facilities necessary for their everyday needs using sustainable transport modes.
16. The Council cannot demonstrate five years supply of deliverable housing land and has underperformed in relation to the Housing Delivery Test. This is an indication that the spatial strategy set out within the LP is not delivering enough homes. For this reason, reduced weight is given to the spatial strategy outlined in the LP.
17. On balance, whilst the proposal would be contrary to the spatial strategy, it would be in an accessible location close to services and facilities as well as public transport. Therefore, I conclude that the appeal site would be an appropriate location for residential development. This is despite it being contrary to LP policies GD2 and DC17 for the reasons set out above.

Flood risk

18. The proposed soakaways and permeable paving have been designed to accommodate surface water flows during a 1 in 100-year storm event, with an allowance for climate change and urban creep. The drainage calculations demonstrate that the proposal would not increase flood risk in this type of event.
19. Given it was not possible to undertake soakaway testing before the submission of the planning application, the use of an assumed infiltration rate based on the substrate found at the site would be acceptable. In principle the proposed drainage scheme would be acceptable, but it would be necessary for full details of the drainage scheme to be agreed prior to construction supported by soakaway testing. This could be secured via a condition attached to a planning permission.
20. I conclude that the proposal would not have a harmful effect on flood risk and would comply with LP Policy CS2 which indicates permission will be permitted only where adequate provision is made for surface and foul water drainage. The proposal would also be in accordance with paragraph 181 of the Framework where

it advises that when determining applications, authorities should ensure that flood risk is not increased elsewhere.

Other Matters

21. The appeal site is located within the zone of influence of the Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA). The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. However, as I have found the appeal proposal to be unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment. In addition, I have not assessed the proposal against CS Planning Objective SPO1 which indicates that the Council will protect internationally important sites including Ashdown Forest. For the avoidance of doubt, even if I had identified no adverse effect upon the SAC and SPA, it would not have altered the outcome of the appeal.
22. The appellant has indicated that an appeal¹ allowed for four dwellings at Land west of Alice Bright Lane and south of Hurtis Hill sets a precedent for the appeal proposal. Although there are similarities between the proposals, that site is not in proximity to the appeal site and therefore was assessed against the character and appearance of that area. The conclusions in relation to the effect on the development boundary, SAC, and SPA are consistent with this decision.
23. The appellant has also highlighted several permissions² in proximity to the appeal site for new residential development. All these permissions except for one were for infill development. Planning permission Ref. 2020/0017/FA was for backland development for three dwellings. However, that proposal is located to the south of Warren Road, where residential development is more prevalent, and the area is suburban in character. Moreover, the presumption in favour of sustainable development applied and the Council concluded in that case that the adverse impacts did not significantly and demonstrably outweigh the benefit of the provision of dwellings. Therefore, these permissions and the aforementioned appeal decision are materially different and do not set a precedent for the appeal proposal.

Planning Balance

24. Benefits of the proposal include the provision of four dwellings on previously developed land, which would utilise modern materials, include energy efficient measures, and would be water neutral. The proposal would also provide a biodiversity net gain. As above, the appeal site is in an accessible location close to services and facilities. The proposal could result in reduced vehicle movements compared to the extant use. An increase in the population of Crowborough would also generate more local spend. There would be economic benefits associated with the construction of the dwellings. These benefits are consistent with the Framework where it indicates that planning decisions should promote an effective use of land in meeting the need for homes and support the development of

¹ Appeal Ref. APP/C1435/W/23/3316110 dated 5 February 2024

² Planning Permission Refs. 2016/1043/F; 2017/1234/O; 2019/2093/F; 2020/0017/FA; and 2023/3038/F.

under-utilised land and buildings. A lack of an effect on neighbouring occupiers' living conditions and heritage assets are neutral factors.

25. Even when considering the objective of boosting significantly the supply of homes, due to the scale of the proposal, I ascribe moderate weight to the benefits.
26. The LP dates from December 1998 and the CS dates from February 2013 but the weight attached to them does not hinge on their age. Rather paragraph 232 of the Framework is clear that due weight should be given to existing policies according to their degree of consistency with the Framework.
27. The Framework indicates that the creation of high-quality places is fundamental to what the planning and development process should achieve and that decisions should ensure that developments are sympathetic to local character. The Framework also indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes. As such, significant weight is ascribed to the conflict between the proposal and LP policies EN6 and EN27 and CS Spatial Objective SPO13.
28. There are no policies in either the LP or CS which support development which would be contrary to these policies. As such, the proposal conflicts with the development plan when read as a whole.
29. The appellant contends that the Council can only demonstrate 3.68 years supply of deliverable housing land, this is not contested by the Council. Consequently, footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date. In this instance, paragraph 11 d) i) is engaged and it advises granting permission unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development.
30. Even when working on the presumption that the proposal would not have a harmful effect on the SAC and SPA, the proposal would have a harmful effect on the setting of the HWNL. The proposal would have an urbanising effect and would almost entirely erode the verdant transition between this part of Crowborough and the HWNL. As such, this provides a strong reason for refusing the development. In accordance with footnote 7 of the Framework, the provision of paragraph 11 d) ii), as replicated within CS Policy WCS14, is not engaged.

Conclusion

31. The proposal conflicts with the development plan, when read as a whole, and the material considerations, including the presumption in favour of sustainable development, do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR