



Appeal Decision

Site visit made on 4 March 2025

by **S Harley BSc(Hons) M.Phil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 2 April 2025

Appeal Ref: APP/C1435/W/24/3348351

Land at No 1 Woodpecker Drive, Hailsham, East Sussex BN27 3EZ

- 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 Red Top Investments Limited against the decision of Wealden District Council.
 - The application Ref is WD/2023/2911/F.
 - The development proposed is 2 no. 3 bed terraced dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for 2 no. 3 bed terraced dwellings on land at No 1 Woodpecker Drive, Hailsham, East Sussex BN27 3EZ in accordance with the terms of the application, Ref WD/2023/2911/F, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. I have used the site location and description of development as set out on the appeal form as this most accurately and succinctly describes the proposal.
3. The main Parties have had the opportunity to comment on the National Planning Policy Framework (the Framework) which came into force in December 2024 and which is a material consideration.
4. At the time the Council decided the application it considered that about 3.83 years supply of deliverable housing land could be demonstrated against a requirement in the Framework of five years. A later version of the Framework introduced a lower requirement of four years supply where, as in this case, the Council had consulted on an emerging Draft Local Plan under Regulation 18 of the Town and Country Planning Act (England) Regulations 2012.
5. The recent Framework has reinstated the five year requirement for Councils with a very draft plan. The Council's Final Housing Land Supply Position September 2024 indicates a deliverable housing land supply of 4.45 years as of 1 April 2024. The Council advises that a recalculation of available sites means that it now considers a supply of 3.68 years deliverable housing land can be identified for the purposes of this appeal.
6. Since the application which is the subject of this appeal was refused, planning permission has been granted for a single dwelling attached to No 1 Woodpecker Drive planning Ref WD/2024/0775/F (the 2024 permission).

Main Issues

7. The main issues are: the effect of the proposal on the character and appearance of the area; and whether adequate provision for parking would be made.

Reasons

8. Woodpecker Drive is in a residential area inside the defined development boundary for Hailsham. The spatial strategy set out in the Wealden Core Strategy Local Plan 2013 (the CS) seeks to concentrate growth in urban areas particularly those of Hailsham and Uckfield. There are bus stops located close by in Forest View, Summerfields Avenue and Woodpecker Drive itself, and good footpath links into Hailsham which enable travel by means other than the private vehicle. Dwellings would therefore be acceptable in principle subject to other planning policies and material considerations being satisfied.

Character and appearance

9. Woodpecker Drive is part of a mixed residential estate including semi-detached and terraced houses and detached bungalows. Grass areas, open frontages to many properties, and a large open area at Summercourt, provide a network of open spaces which contribute to a pleasant green and open character and appearance of the local area albeit many of these areas, including that on the opposite corner, have been enclosed.
10. The proposed houses would be sited on a wide area of grass adjacent to the side of No 1 Woodpecker Drive. As it is a key corner of the junction of Woodpecker Drive and Summerfields Avenue it is prominent in views from both roads. The grass area, together with the open grassed frontages of Nos 50 and 52 Summerfields Avenue, provide an open, green, character on this corner and forms part of the network of local open spaces.
11. The proposed houses would be attached to the side of No 1 and, together with this and the attached semi-detached house, would result in a terrace of four houses. The houses would be of similar design, materials and scale to the existing houses. In these respects the proposal would be in keeping with the local area and would be acceptable.
12. However, the proposal would bring the built form and enclosed gardens substantially forward of the building line along the fronts of properties on this side of Woodpecker Drive and Nos 50 and 52 Summerfields Avenue. This would relate less well to Woodpecker Drive and the building, due to its position and prominence, would be inconsistent with the grain and rhythm of the existing built form. The proposal would harmfully erode the open spacious character and appearance of this prominent corner.
13. The proposed building would be some five metres wider than that of the extant permission and a much smaller area would remain undeveloped. Visual interest and biodiversity variety could be added by securing landscaping through a planning condition. However, this would not overcome the reduction in spaciousness by the encroachment of two-storey houses which would be of substantial built form. Moreover, the parking of cars as proposed would further intrude into the open space irrespective of the surface materials.

14. I acknowledge that some former open areas have been enclosed such as appears to have been the case at No 17 Woodpecker Drive. The appellant indicates there would be advantages to enclosing the land such as preventing unauthorised access and littering though there is little firm evidence to indicate this would occur and there may be covenants which resist this. Either way, a boundary hedge would not have such a harmful effect on the spaciousness and green character of this prominent corner as the building form proposed.
15. For the above reasons the proposal would unacceptably harm the character and appearance of the area and this location. Accordingly there would be conflict with the relevant provisions of Saved Policies EN18 and EN27 of the Wealden Local Plan 1998 (the LP), Policy SPO13 of the CS, Policies HAIL D1 and HAIL D2 of the Hailsham Neighbourhood Development Plan 2021 (the HNBP), the Wealden Design Guide Supplementary Planning Document 2008 and the Framework. These, amongst other things, seek to resist the loss of open areas and undeveloped gaps within settlements which contribute to the character or amenities of the locality and to promote high quality design which responds to local distinctiveness.

Parking

16. Woodpecker Drive is a fairly busy road and neighbours have indicated it is used as a route through to Grovelands School and Hailsham Community College. Many properties on Woodpecker Drive have no on-site provision so parking takes place at the kerb or in the parking laybys inset into verges. The carriageway along this part of Woodpecker Drive is relatively narrow and, where vehicles are parked at the kerb, it is more difficult for other vehicles, particularly larger ones including buses, to pass. Vehicles may also come close to the footway edge and make those using the footpath feel unsafe and/or uncomfortable. However, although inconvenient I have seen no technical evidence of safety problems on Woodpecker Drive.
17. During my visit, which I acknowledge is just one point in time, there were a number on parking spaces available along Woodpecker Drive or in parking laybys. The photographs supplied by the appellant also show spaces available although these do not amount to a comprehensive analysis of parking stress in the area. It seems very likely to me that there would be more demand for on-street parking at other times of day, including at school opening and closing times, and that residents may be unable to easily secure parking spaces as close to their homes as they would like.
18. The proposal includes two parking spaces at right angles to Woodpecker Drive. The proposal would therefore fall short of the guidance at Appendix 6 of the LP of two parking spaces per dwelling and one space per three dwellings for visitors, and of the Highway Authority Minor Planning Application Guidance, although the latter does not specifically require visitor parking for small residential schemes.
19. Access to the on-site parking spaces would displace some kerb-side parking. This together with the shortfall of on-site parking would be likely to increase demand for kerb-side parking spaces and in the laybys. This would further inconvenience for those seeking parking spaces near their home and/or to pass along the road. The appellant has offered to omit on-site parking as was the case with the 2024 permission but that is not the scheme before me and is not a matter that interested

parties have been consulted on. Accordingly I have not accepted this as an amendment to the proposal.

20. I conclude that adequate provision for parking would not be made in terms of Saved Policy TR16 of the LP which seeks on-site parking to meet the needs of the development. However, this is inconsistent with the Framework in terms of not sufficiently taking into account the accessibility of services and facilities and the availability of public transport. The Framework goes on to state that development should only be refused or prevented on highway grounds if there would be an unacceptable impact on highway safety or a severe cumulative impact on the road network. In my judgement the inconvenience identified above would fall short of this. Accordingly I consider the harm caused by the conflict with Saved Policy TR16 of the LP to be relatively small in this instance.

Other Matters

21. A colleague Inspector dismissed an appeal Ref APP/C1435/W/22/3308703 on the corner at 32 Forest View. However, that was a much smaller site and less open land would have been retained so it does not set a precedent for the appeal before me. Local residents are concerned that allowing this appeal would set a precedent for other developments in the area, but each case would need to be considered on its own merits in relation to the planning policies in force at the time.
22. Whilst the land adjacent to No 1 is open I have seen no evidence to indicate there is a public right of access for local residents or for children to play there. Moreover an open area would be retained albeit of reduced size.
23. The proposed building would project beyond the front wall of Nos 50 and 52 Summerfields Avenue. The Council has raised no objections in planning policy terms to the effect of the proposal on the living conditions of occupiers of those properties. Due to the relative orientation of the buildings and the distances between them, I find no compelling reason to come to any different conclusion.
24. I have considered comments raised by third Parties including in relation to drainage, flooding, failure to properly provide vehicular access on another development, the slow take up of flats nearby and the previous refusal of permission on the appeal site.
25. There would undoubtedly be disturbance and potential safety hazards during construction but this would be relatively short term and is not normally a reason for withholding planning permission.
26. The grassed area is clearly separated from the rear garden of No 1 by the side boundary fence and the flank wall of No 1 so does not appear to form part of its curtilage even though in the same ownership. Nor is there any indication of built structures so, whether or not the land has residential use, it would not fall within the definition in the Framework of previously developed land.
27. None of the above matters lead me to any different conclusions on the planning merits of the proposal.

Planning Balance

28. The Saved Policies of the LP pre-date any Framework and the CS and the HNBP pre-date the current Framework. Due weight should be given to them according to

their consistency with the Framework. In this case I find no material conflict between the Framework and policies seeking high quality design that responds appropriately in scale, character and architectural rhythm to the existing built form. However, Saved Policy TR16 of the LP is inconsistent with the Framework and conflict with it carries relatively little weight in this appeal.

29. The spatial strategies for development have been unable to deliver the housing needed. In such circumstances the presumption in favour of granting permission at Paragraph 11d) would be engaged.
30. I have found that the proposal would be harmful to the character and appearance of the area and would not be suitable for the development in this respect. I give considerable weight to this harm which would be long lasting. The proposal would not provide adequate parking which would add to the inconvenience of other local residents and users of the highway. However, this inconvenience carries limited weight in this appeal.
31. The site is in an accessible location with good access to local services and public transport so future occupiers could access day-to-day facilities without relying unduly on the private vehicle. There would be a net benefit to the overall housing stock of one private dwelling as the 2024 permission would separately provide one dwelling without the appeal proposal. Development could take place quickly. There would be short term economic benefits during the construction stage and additional occupants would be likely to stimulate consumer spending, boost local labour supply and help to support local services. These are all significant public benefits in favour of the proposal even though somewhat limited by the small scale of the development.
32. The proposal would make more effective use of the site but the Framework is also clear that account should be taken of the desirability of maintaining an area's prevailing character and the importance of securing well-designed places. For this reason I give the effective use of the site limited weight in this balance.
33. There would also be private advantages to the appellant who wishes to down size and remain in the locality.
34. The Framework is a significant material consideration in assessing the proposal. Taking the above together I conclude that the adverse effects of the proposal would not significantly and demonstrably outweigh the benefits having particular regard to the key policies of the Framework of directing development to sustainable locations and making effective use of land.

Conditions

35. I have considered the conditions proposed by the Parties in the light of the Framework and the Planning Practice Guidance. Where necessary I have amended wording to align more closely with the guidance.
36. A shortened commencement period (1) is specified in line with the Government's aim to quickly increase the supply of housing. A condition specifying compliance with the approved plans is necessary in the interests of certainty (2). A condition for the securing of cycle storage is necessary to facilitate travel by means other than the private vehicle (3).

37. A scheme for the disposal of surface water is necessary to reduce the risk of flooding (4).
38. Conditions regarding matching materials, means of landscaping and control over boundary treatments are necessary in the interests of the character and appearance of the area (5), (8), (11) and (12). Improvements to biodiversity are necessary and reasonable in the interests of enhancing the natural environment (13).
39. Controls on the hours of construction works and deliveries are necessary in the interests of mitigating the impact on local residents (6). It is necessary to identify, and if necessary treat, any contamination on the site in the interests of health and safety (7).
40. The Framework states that the removal of permitted development rights may not pass the tests of reasonableness or necessity. However, in this case because of the prominence of the site and the relationship with neighbouring properties the removal of such rights is necessary and reasonable (9) and (10).
41. A requirement for a scheme for the control of noise and dust would be unreasonable given the relatively small scale of the proposed development and as another condition controls audible sound at unsociable hours. No specific planning policies in respect of low carbon energy or climate change measures have been drawn to my attention to justify the imposition of planning conditions in these respects.

Conclusion

42. For the reasons set out above the proposal would conflict with policies in the development plan taken as a whole. However, in this particular case the material considerations of the Framework are of sufficient weight to indicate there should be a decision other than in accordance with it. The appeal should be allowed.

S Harley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 18 months from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 01 Rev A; 02; 03; 04; 05; 06; 07; 08 Rev A.
- 3) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing nos. 02 and 07 for cycles to be stored and that space shall thereafter be kept available for the storage of cycles.
- 4) No above ground works shall take place until a detailed surface water drainage scheme for the site has been submitted in writing to, and been approved in writing by, the Local Planning Authority. The approved drainage scheme shall be completed prior to the completion or occupation of each dwelling on site, whichever is the sooner, and retained thereafter.
- 5) Prior to the occupation of the development hereby permitted details of the positions, height, design, materials and type of all boundary treatments to be erected shall be submitted in writing to, and have been approved in writing by, the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before each dwelling is occupied and shall be retained thereafter.
- 6) During the construction phase, no audible works shall take place other than within the hours Monday to Friday 08:00 to 18:00 hours, Saturday 08:00 to 13:00 and not at all on Sundays, Public or Bank Holidays. Deliveries shall take place between 08:00 to 18:00 Monday to Friday only and not at all on Saturdays, Sundays, Public or Bank Holidays.
- 7) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, no development shall take place until:
 - i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted in writing to and approved in writing by the Local Planning Authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

- i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority; and
- ii. a verification report for all the remediation works has been submitted to and approved in writing by the Local Planning Authority.

- 8) All external materials used in the construction of the dwellings hereby permitted shall match the type, texture, tone, colour, size and profile of those used on adjoining property No.1 Woodpecker Drive, and they shall be retained permanently as such.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development as defined within Part 1 of Schedule 2, Classes AA, B, E and F of that Order, shall be erected or undertaken on the site.
- 10) Notwithstanding the provisions of Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no gates, fences, walls or other means of enclosure and no building as defined in Section 336 of the Town and Country Planning Act 1990 shall be erected along the western, northern or eastern boundaries of the site other than those hereby permitted or approved pursuant to Condition 5 above..
- 11) No above ground works shall commence until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include schedules of plants/seed mix, noting species, plant sizes, types, forms and proposed numbers/densities; and details of long term future maintenance for the open green space. All landscaping shall be retained and maintained in accordance with the approved details.
- 12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 13) The dwellings hereby permitted shall not be occupied until a scheme for the enhancement of the site for biodiversity purposes, which can include bird boxes added to buildings, has been submitted to and approved in writing by the Local Planning Authority. This shall also include timescales for implementation and future management. The approved scheme of enhancement shall be implemented in accordance with the approved details and thereafter so retained.

End of Schedule