



Appeal Decision

Site visit made on 19 March 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th April 2025

Appeal Ref: APP/C1435/W/24/3352404

**BROILER HOUSE PADDOCK, INGRAMS FARM, BEXHILL ROAD, NINFIELD
TN33 9EE**

- 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 Court Developments Ltd against the decision of Wealden District Council.
 - The application Ref is WD/2023/2745/F.
 - The development proposed is the erection of 9 no. dwellings together with associated access, roads, parking provision and open space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 9 no. dwellings together with associated access, roads, parking provision and open space at Broiler House Paddock, Ingrams Farm, Bexhill Road, Ninfield TN33 9EE in accordance with the terms of the application, Ref WD/2023/2745/F, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Court Developments Ltd against Wealden District Council. That application is the subject of a separate decision.

Preliminary Matters

3. I have omitted the references to the previous permissions from the description of development in the banner heading as these are not acts of development for which permission is sought.
4. A signed legal undertaking pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) (unilateral undertaking) was submitted with the appeal. I comment on the obligation within it later in my decision.

Main Issue

5. The main issue is the suitability of the proposed access for all users.

Reasons

6. The land at Broiler House Paddock has previously been granted planning permission for 9 houses which are currently under construction. The principle of the dwellings and their location has therefore been established. Consequently, the key issue before me is the revised access arrangements and in particular the use of the existing lane to the east of the site.

7. There is no dispute between the main parties that the Highway Authority is content with the revised access details and has raised no objections to the scheme. However, the Council's concerns centre not on the technical specifications but the usability of the scheme.
8. In particular, they raise concerns that those who are less able and those with pushchairs or wheelchairs would have difficulties accessing and using the proposed pedestrian refuge when vehicles were also using the access. They note that were this route to be formalised it would be the most direct route to the village shop, the northbound bus stop on Bexhill Road or the Parish Hall.
9. However, the existing pedestrian routes through the adjacent site would not be removed. Indeed, it seems to me that they would be preferable when walking to the village shop or bus stop, particularly to those who are less able or who have pushchairs or wheelchairs. This is because they already offer a safe access with footpaths. Formalising the proposed new access would not necessarily make it more preferable over those other options, especially to those who might perceive it as being less safe, given that the distances and travelling times for either option would be very similar.
10. Those wishing to use the Parish Hall might choose to use the new access as it would be a more direct route from the 9 new houses. However, it seems to me that most of the time and for most other people, the other options would be easier and more convenient. Thus, the potential for occurrences of pedestrian/vehicular conflict on the new access would be limited.
11. On those occasions when pedestrians and vehicles would both be using the access, there would be opportunities for drivers to safely react to the situation. Given the nature, length and width of the access, vehicles would not be travelling fast. The positions of the passing places, the alignment of the road and the visibility would allow drivers, even ones coming in opposite directions at the same time, sufficient opportunity to see any pedestrians and give them priority in reaching a safe location, regardless of their mobility.
12. The pedestrian refuge would be midway between the passing places. It is not clear why this space is considered by the Council to be inadequate for any particular users. I have not been presented with any evidence to indicate why it would be sub-standard nor has it been shown to fall below any required specifications.
13. It may have been preferable for the new access arrangements to incorporate a dedicated footpath the full length of the access. Therefore, insofar as the combination of passing places, refuge, widenings etc. has been designed to overcome such concerns, then the scheme might be considered 'contrived'. However, this does not mean that it is unacceptable. The access would in effect be an additional route for pedestrians rather than a replacement for what has already been agreed and there is nothing before me to indicate that the arrangements would be unsuitable given the particular context of the appeal site.
14. I therefore find that the proposed access would be suitable for all users. Accordingly, it does not conflict with Policies EN1 and EN27 of the adopted Wealden Local Plan 1998, or Policies SPO7, SPO8 and WCS14 of the Wealden Core Strategy Local Plan 2013 which, amongst other things, support sustainable development that is of a design and layout that ensures quality journeys for

pedestrians, supports the day-to-day needs of residents without having adverse traffic movement impacts.

15. Given that the site has planning permission for 9 houses and they are under construction, Policies GD2 and DC17 of the adopted Wealden Local Plan 1998 and Policy WCS 6 of the Wealden Core Strategy Local Plan 2013 are not relevant to this appeal insofar as they relate to the Council's spatial strategy for housing.
16. The proposal would accord with the National Planning Policy Framework which seeks to ensure that safe and suitable access to sites can be achieved for all users and that the needs of all pedestrians/users are addressed and prioritised.

Legal Undertaking

17. The appeal is accompanied by a legal undertaking that would secure a commuted sum payment towards off-site affordable housing provision.
18. The need for a contribution and the amount has been established between the main parties following various viability assessments. Having regard to the evidence before me, I am satisfied that the submitted legal undertaking is necessary to make the development acceptable, is directly related to the proposal and fairly and reasonably related in scale and kind to the development. As such, it would accord with the requirements of the Framework and Community Infrastructure Levy Regulations 2010.

Other Matters

19. The Highway Authority raises no objections to proposed arrangements at the junction with Bexhill Road, including the visibility splays. There is no information to indicate that these arrangements would be unsafe or unacceptable.
20. Enforcement of planning conditions on the previous permissions would be a matter for the Council and is beyond the remit of this appeal.

Conditions

21. As the development has commenced there is no need for a time limit condition but a condition listing the approved plans is necessary in the interests of certainty.
22. To make sure that the development functions as intended and safeguards the character and appearance of the area, it is necessary for there to be conditions addressing external materials, landscaping, access, road layout, car parking, drainage, lighting and energy. Conversely, to ensure the development does not adversely affect the natural or historic environment in and around the site, conditions are necessary to address, tree protection, Great Crested Newts, ecology and archaeology.
23. I have omitted the suggested condition that the estate road be built to the Highway Authority's standards as it is imprecise, and the adoption of the road would be a separate matter for the Highway Authority to consider.
24. Previous cycle storage details have been agreed for the development and implemented. Seeking further details is therefore unnecessary.

Conclusion

25. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed, subject to the conditions below.

Stewart Glassar

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing numbers:
 - 7295 / 23-LP-A Location plan
 - 7295 / 23-L2 Site plan
 - 7295 / P1/B Proposed plot 1
 - 7295 / P2/B Proposed plot 2
 - 7295 / P3/B Proposed plot 3
 - 7295 / P4/B Proposed plot 4
 - 7295 / P5 / B Proposed plot 5
 - 7295 / P6/B Proposed plot 6
 - 7295 / P7/A Proposed plot 7
 - 7295 / P8/A Proposed plot 8
 - 7295 / P9-A- Proposed plot 9
 - 7295 / G4-A Plot 4 garage
 - 7295 / 24 / CMP / 1 - Construction Management Plan
 - Plan of Tree Constraints - Rev A (December 2023)
 - Tree Protection Plan - Rev D (December 2023)
 - Arboricultural Impact Assessment Rev B (December 2023)
 - External Lighting Plan 7295 / 23 / L3
 - Proposed Access Arrangement 2023/7462/001 Rev P3
- 2) No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan "Broiler House Paddock: Impact Plan for great crested newt District Licensing (Version 2)", dated 8 February 2024.
- 3) No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence'), and in addition in compliance with the following:
 - I. Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
 - II. Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e. hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).

III. Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.

- 4) The development hereby approved shall be carried out through the lifetime of the development phase in accordance with the Tree Protection Measures as provided in details Plan of Tree Constraints - Rev A (December 2023); Tree Protection Plan Rev D (December 2023); and Arboricultural Impact Assessment Rev B (December 2023).
- 5) The development hereby approved shall be carried out in accordance with the Archaeological Evaluation Report by Archaeology South East February 2023.
- 6) The development hereby approved shall be carried out in accordance with the Materials Schedule by Pump House Designs Ltd.
- 7) Prior to first occupation of the development hereby permitted a scheme of landscape shall first be submitted to and approved in writing by the Local Planning Authority.

All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following either the substantial completion of the development or the occupation of the development, whichever is the sooner.

Any trees, shrubs, hedges or plants which within a period of five years from the completion of 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, unless the Local Planning Authority gives written consent to any variation.

- 8) No dwelling hereby permitted shall be occupied until the vehicular access serving the development has been constructed in accordance with the approved drawing No. 2023/7462/001 Rev P3.
- 9) The access shall not be used until visibility splays measuring 2.4m x 120m to the north and 2.4m x 85m to the south of the access have been provided and maintained thereafter.
- 10) The development hereby approved shall be carried out in accordance with the Construction Method Statement by Pump House Designs Limited dated June 2024 and drawing 7295/24/CMP/1. These shall be implemented and adhered to in full throughout the entire construction period.
- 11) No dwelling hereby permitted shall be occupied until the car parking spaces and turning area shown on drawing 7295 / 23-L2 Site plan, have been provided. Thereafter they shall be retained for such purposes.
- 12) The development hereby approved shall be carried out in accordance with the recommendations as set out within the accompanying Preliminary Ecological Appraisal by Mayhew Consultancy dated October 2023. The works and other measures forming part of that plan shall be carried out in accordance with it.
- 13) The development hereby approved shall be carried out in accordance with the drainage details as provided in

Common Parts Maintenance 23057 DR-D-0250-S4 Rev P01

Common Parts Maintenance 23057 DR-D-0250-S4 Rev P02
Conceptual Drainage Scheme 23057 DR-D-0200-S4 Rev P02
Drainage Details 1 23057 DR-D-1220-S4 Rev P01
External Works GA 23057 DR-D-0300-S4 Rev P01
External Works Details 1 23057 DR-D-1330-S4 Rev P01

and thereafter maintained in accordance with the agreed details.

- 14) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with External Lighting Plan 7295 / 23 / L3. The scheme shall be implemented in accordance with the approved details and retained thereafter.
- 15) The development hereby approved shall be carried out in accordance with the submitted 'Sustainability Assessment' by Award Energy Consultants dated September 2023.

END