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# Appeal Decision

Site visit made on 12 December 2023

**by D Wilson BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 January 2024**

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**Appeal Ref: APP/C1435/W/23/3328682**

**Land West of Church Lane, Laughton BN8 6AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Russell Jarvis on behalf of Jarvis Land Promotions Ltd. against the decision of Wealden District Council.
  - The application Ref WD/2022/3146/F, dated 29 November 2022, was refused by notice dated 17 July 2023.
  - The development proposed is the erection of 4 two storey dwellings with all necessary infrastructure.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 two storey dwellings with all necessary infrastructure at Land West of Church Lane BN8 6AH in accordance with the terms of the application, Ref WD/2022/3146/F, dated 29 November 2022, and the plans submitted with it, subject to the attached schedule of conditions.

## Applications for costs

2. An application for costs was made by Jarvis Land Promotions Ltd. against Wealden District Council. This application is the subject of a separate decision.

## Preliminary Matters

3. An amended version of the National Planning Policy Framework (the Framework) was published in December 2023. In the interest of natural justice and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the changes to the Framework, and this has informed my determination of the appeal.

## Main Issues

4. The main issues are:
  - whether the site is an appropriate location for the development proposed having regard to access to services,
  - the effect of the proposal on the character and appearance of the area,
  - the effect of the proposal on biodiversity; and
  - flood risk with particular regard to surface water.

## Reasons

### *Location*

5. The settlement of Laughton has no development boundary within the Wealden Local Plan Adopted December 1998 (LP) and the proposed development would therefore be located within the countryside. Policies GD2 and DC17 state that housing located outside of development boundaries will not be permitted unless it conforms with other policies in the LP.
6. Paragraph 5.91 of the LP lists those categories of development which are acceptable in principle outside development boundaries, and the specific local plan policy which applies to each. The proposal would not fall into any of these categories and would therefore be in direct conflict with Policies GD2 and DC17 of the LP.
7. Policy WCS6 of the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan Adopted February 2013 (CS), which post-dates the LP, sets out the Rural Areas Strategy. This lists four types of settlement: Service Centre, Local Service Centre, Neighbourhood Centre and Unclassified settlements. The policy makes provision for at least 455 dwellings within the first three categories.
8. The Council state that Laughton is classified within the hierarchy as a Neighbourhood Centre which is defined as 'a settlement with limited, basic or no facilities but with access to another centre, or a settlement with facilities but poor accessibility or access only to a service or local centre'. However, the Policy does not list Laughton as a neighbourhood centre and as such, there appears to be no specific provision for housing in the area. The proposal would also therefore conflict with Policy WCS6 of the CS.
9. While the proposal would conflict with Policies GD2 and DC17 of the LP and WCS6 of the CS, Laughton has several basic services including a public house, shop and post office. There is also a school, village hall, cricket ground and church. These facilities are within moderate walking distance from the site via a footpath located adjacent to the appeal site. There is also a bus stop within walking distance to the appeal site which allows for access to larger settlements including Lewes, Ringmer and Hailsham. I also note that the bus service had been upgraded since the determination of the application.
10. I therefore consider that due to the basic level of services within moderate walking distance and access to larger settlements by public transport for more essential services that the proposal would not conflict with Policy EN1 and of the LP and Policies SP07, SP08, SP09 and WCS14 of the CS. I also find no conflict with Paragraphs 109 and 128 of the Framework. Amongst other things, these seek to ensure housing is appropriately located to support the vitality of communities and maximise sustainable transport opportunities.
11. Nonetheless, the appeal site is outside the settlement boundary and within a rural area that will inevitably lead to a reliance on the private motor vehicle to access more everyday essential services and facilities. However, due to the modest scale of the proposal with some convenient access to services and complies with the Policies outlined, any material harm from the proposal through its conflict with Policies GD2 and DC17 of the LP and WCS6 of the CS would be minor.

### *Character and appearance*

12. The appeal site is an open parcel of land, bordered by hedgerows and is located between two existing dwellings. The appeal site is accessed from Church Lane via an existing access. There are other dwellings nearby, many of which are sporadically spaced and have generously sized plots that are set back from the road. The overall result is a loose knit pattern of housing which are mostly located on the same side of the road as the proposed development.
13. The proposed dwellings are modest in size and therefore allows for some spacing between them as well as the existing properties either side of the appeal site. The dwellings would also be staggered which would help the proposed development blend in with the sporadically spaced and loose knit pattern of other properties within the area.
14. While the proposal would result in the loss of an open space, the proposed dwellings would be set within spacious plots and there would still be gaps to the frontage and rear which would result in a general sense of openness being maintained.
15. Dwellings in the area differ in style and as such, there is no overarching design characteristics to draw upon. However, the proposed two storey dwellings have low ridge heights which reduces the overall bulk and mass of the units. As a result, the dwellings would sit well within the street scene while respecting the varied design within the area.
16. The proposal includes a large, planted landscape buffer to the rear of the site which will aid in transitioning the site to the countryside beyond. Furthermore, the retention of the hedgerows along the border of the site helps to maintain the sense of openness and soften the built form of the development as well as the formalisation of the access and car parking in front of the dwellings.
17. I therefore conclude that the proposal would not harm the character and appearance of the area. I find no conflict with Policies EN8 and EN27 of the LP, Policy SP013 of the CS and Paragraphs 131 and 180 of the Framework. Amongst other things, these seek to ensure development conserves the character of the landscape, respects the character of adjoining development, promotes local distinctiveness and good design.

### *Biodiversity*

18. The application was accompanied by a preliminary ecological appraisal which concluded the presence of a grass snake as well as the potential for the presence of Great Crested Newts, dormice and bats.
19. Avoidance measures are proposed for grass snakes and no habitat for dormice is proposed to be removed. No trees are proposed to be removed and artificial lighting can be controlled by means of a condition.
20. The Council consider that despite these measures, the proposal would prejudice the ecological value of the site and connectivity with surrounding ecological networks, thereby resulting in a net loss of biodiversity.
21. Based on the ecological evidence provided, the site is dominated by tussocky grassland and is bordered by hedgerows. While much of the grassland would be lost, the hedgerows would be retained which will still provide connections to

neighbouring sites. The appellant's updated ecology statement also indicates that there would be no net loss of biodiversity through the scheme.

22. I appreciate the Council's concern that they consider that further details should be submitted at application stage. However, based on the ecological evidence and details of planting provided, it is clear that provision is being made for biodiversity within the scheme and that there is additional space and scope for additional enhancements. Therefore, I am satisfied that the required biodiversity safeguards and enhancements could be secured through a suitably worded condition.
23. I therefore conclude that the proposal would not harm biodiversity. I find no conflict with Policy WCS12 of the CS and Paragraphs 180 and 186 of the Framework. Amongst other things, these seek to ensure that existing habitats, biodiversity features and ecological networks are maintained, restored and enhanced.

#### *Flood risk*

24. The appeal site is located within flood zone 1, which is at the lowest risk of flooding. However, the Council are concerned that the proposal would increase surface water run-off, particularly during heavy rainfall and during the winter. It is also suggested that the proposed drainage scheme is not being capable of being achieved.
25. The appellant proposes to connect the site's surface water drainage to an existing drainage ditch to the east of the site, on the opposite side of Church Lane. The discharge flow would be controlled by a hydro brake to ensure that the surface water is disposed of in a controlled manner.
26. The receiving ditch is not within the ownership of the appellant and is therefore a concern for the Council in terms of the capability of the scheme being implemented. However, I am satisfied that a suitably worded could be used to ensure that the methods outlined are secured.
27. In regard to the connection and other associated works, this would be controlled by the water body under separate legislation.
28. I therefore conclude that the proposal would not increase flood risk with respect of surface water. I find no conflict with Policy CS2 of the LP which seeks to ensure adequate provision is made for surface water drainage.

#### **Other Matters**

29. The Council have highlighted that the appeal site is located outside a 7km zone of influence around the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). The Council has confirmed that there would be no likely significant effects, alone or in combination, on the SPA and SAC from the proposed development and I have no reason to disagree with this conclusion.
30. I note that there are concerns in relation to whether adequate living conditions would be provided for future occupiers, parking on church lane, highway safety, foul drainage and the effect of the proposal on listed buildings in the area. However, the Council have found no harm in relation to these matters for which I have no reason to conclude otherwise.

31. There have been concerns raised in respect of blocked drains on Church Lane. However, this would be outside of the appeal site and would be covered by separate legislation.
32. I have been drawn to two appeal decisions<sup>1</sup> and while I have not been provided with the full details of these cases. However, these appeals related to applications for outline consent for significantly larger housing schemes and are therefore substantially different from the appeal proposal before me.

### **Planning Balance**

33. The adverse impacts arising from the proposal relate to its unsatisfactory location when judged against the settlement strategy policies in the CS and LP. My findings judged those impacts to be minor given the convenient access to some basic services, compliance with CS policies regarding the provision of rural housing, proximity to basic services and regular transport connections that would access more essential services. I have also found that the scheme would integrate well with the street and the existing pattern of the settlement, as well as providing ecological enhancements that would improve local biodiversity.
34. The Council is not meeting its 5-year housing land supply requirement and therefore paragraph 11(d) of the Framework is triggered. The supply of deliverable housing sites in Wealdon is equivalent to 3.92 years of the housing requirement according to the Council's latest findings. I find this a moderate under supply.
35. The four dwellings proposed would be a small but important contribution to the existing housing shortfall. Small scale schemes can be built out quicker compared to larger volume developer sites and would provide new family housing, to meet the local need and be sited close to some basic, but important community services and facilities. Because of this I consider the conflict with the development plan to be slight and outweighed by the additional supply.
36. The additional homes would to a small extent help the vitality of the village and support the small number of local services. These factors would align favourably with Paragraph 83 of the Framework.
37. There would be some net biodiversity enhancement proposals that would weigh in favour of the scheme, and align with the Framework's environmental objectives, as well as additional landscaping. Energy efficiency measures at each dwelling would also weigh positively in the scheme's favour by encouraging a reduction in carbon emissions.
38. The adverse impacts associated with this proposal would not be great. They therefore do not significantly and demonstrably outweigh the benefits of four additional homes when assessed against the policies in the Framework when taken as a whole. As a result, the presumption in favour of sustainable development should be applied.
39. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be in accordance with the development plan unless material considerations indicate otherwise. In this case, the presumption in favour of sustainable development is a material consideration of sufficient

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<sup>1</sup> APP/P1425/W/23/3314192 & APP/P1425/W/23/3315235

weight to indicate that permission should be granted notwithstanding the minor conflict with the development plan.

### **Conditions**

40. I have considered the Council's suggested conditions in the event I were to allow the appeal. Where necessary, and in the interests of clarity and precision, I have slightly altered them to more closely reflect the advice in the National Planning Policy Framework and the Planning Practise Guidance.
41. Condition 1 relates to the commencement of development and the Council have proposed a reduced timescale which would in in line with the Councils Housing Action Plan. The appellant has not objected and I have therefore imposed this to support the delivery of the dwellings within a timely manner.
42. Condition 2 specifies the approved plans for the avoidance of doubt. Condition 3 would be necessary to ensure the existing landscape features are retained and protected. Condition 4 is required in order to ensure that the amenities of neighbouring occupiers is maintained during construction.
43. Condition 5 is required to ensure safe and suitable access is provided. Condition 6 is necessary to ensure the satisfactory appearance of the development. Condition 7 is required in the interests of securing sustainable measures and condition 8 is to ensure suitable cycle parking is provided.
44. Condition 9 is required in the interests of biodiversity. Condition 10 is required to ensure that provision is available for vehicles to manoeuvre within the site and condition 11 is needed to ensure refuse and recycling facilities are available for future occupiers.
45. Conditions 12 and 13 are required to ensure satisfactory surface water and foul drainage. Conditions 14, 15 and 16 are required in order to secure additional and protect important species.
46. I have found it exceptionally necessary to remove some permitted development rights through condition 17 and also require details of boundary treatment to be submitted in the interests in protecting the character and appearance of the area.

### **Conclusion**

47. The proposed development would be contrary to the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal should be allowed subject to the conditions in the attached schedule.

*D Wilson*

INSPECTOR



### **Schedule of Conditions**

1. The development to which this permission relates shall be begun not later than the expiration of 18 months beginning with the date on which this permission is granted.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: L01A, P100A, P102A, P200A, P201A, P103B, P101B, P105B, P104B, P02A, 10379L.PP.001A, SK02A, Ecological Impact Assessment Date of report 7 November 2022, Preliminary Ecological Appraisal Date of report 18 July 2022, Arboricultural Report 4 November 2022, Drainage Strategy incorporating a Flood Risk Assessment November 2022, Great Crested Newt Survey Report Date of report May 2023 and GCN Strategy 13 February 2023.
3. Before development commences a full Arboricultural Method Statement and Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority which shall include numbering and detailing trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details.
4. No development shall take place, including any ground works or works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate but not be restricted to the following matters,
  - the anticipated number, frequency and types of vehicles used during construction,
  - the method of access and egress and routeing of vehicles during construction,
  - the parking of vehicles by site operatives and visitors,
  - the loading and unloading of plant, materials and waste,
  - the storage of plant and materials used in construction of the development,
  - the erection and maintenance of security hoarding,
  - the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
  - details of public engagement both prior to and during construction works.

The development shall thereafter be carried out in accordance with the approved Management Plan.
5. The access shall not be used until visibility splays of 43m by 2.4m to the north and south are provided within which there shall be no obstruction to visibility above a height of 0.9m above each carriageway level, including no

gates, fences or walls shall be constructed within the sight lines / visibility splay and maintained thereafter.

6. Before the commencement of the development hereby approved above foundation level, samples of materials to be used on the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the implementation of the development.
7. Before the development commences above foundation level, full details for the incorporation of water and energy efficiency measures, the promotion of renewable energy and sustainable construction within the development shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details and thereafter so retained.
8. Details of the appearance of the cycle storage shown on Drawing No. P02A (dated 29/06/2023) in accordance with East Sussex County Council's adopted standards shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing above foundation level, and the approved details shall be implemented before the first occupation of the dwelling to which they relate and be retained thereafter.
9. Prior to the commencement of the development above foundation level, a scheme for the enhancement of the site for biodiversity purposes, in accordance with Ecological Impact Assessment (7 November 2022), to include timescales for implementation and future management, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of enhancements shall be implemented in accordance with the approved details prior to the first use of the building hereby approved and thereafter so retained.
10. No dwelling shall be occupied until space has been laid out within the site in accordance with Drawing No. P02A (dated 29/06/2023) for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.
11. Before the first occupation of the dwellings to which they relate, the refuse and recycling storage shown on approved drawing number P02A (dated 29/06/2023) shall be provided and thereafter so retained.
12. The development shall be carried out in accordance with the approved Drainage Strategy & Flood Risk Assessment (November 2022) in line with the Principles of Sustainable Urban Drainage (SUDs) and be implemented in full prior to the first occupation of the related dwelling. Thereafter it shall be managed in accordance with the approved management schedule and be retained in working order at all times.
13. The dwellings shall not be occupied until each of the dwellings are connected to a means of disposal of foul sewage in agreement with the relevant statutory undertaker.



14. The development shall be carried out in accordance with the approved planting plan, drawing number 10379L.PP.001A (dated 30/06/2023).

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 the occupation of the building(s) or the completion of the development, whichever is the sooner, and 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.

All existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in full with BS5837:2012 Trees in relation to design, demolition & construction – Recommendations and the approved plans with the future maintenance and management of landscaped areas in accordance with the approved management plan.

All wearing courses shall be completed within one year of the occupation of the dwellings to which they relate. With the exception of the wearing courses, the development shall be completed in accordance with the approved hard landscaping details prior to the first occupation of the relevant dwellings.

15. The development hereby approved shall be implemented strictly in accordance with the recommendations/measures stated in section 4.5 of the supporting document Great Crested Newt Survey Report, the Weald, Laughton (Corylus Ecology, May 2023).
16. 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 a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained thereafter. No additional lighting shall be provided on the site unless in accordance with a further approved scheme of external lighting.
17. 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 shall be erected at the site except in accordance with a detailed scheme which shall include scaled elevations and locations of any boundary treatments and that has been submitted to, and approved in writing by, the Local Planning Authority. The boundary treatments shall be implemented in accordance with the approved details and retained as such thereafter.