



Appeal Decision

Site visit made on 8 November 2017

by **J Ayres BA Hons, Solicitor**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15th December 2017

Appeal Ref: APP/C1435/W/17/3180696 **Land at Golden Cross, Hailsham BN27 4AW**

- 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 Osborne Leisure LLP against the decision of Wealden District Council.
 - The application Ref WD/2016/2787/F, dated 14 November 2016, was refused by notice dated 25 January 2017.
 - The development proposed is four two bedroom dwelling houses formed in a terrace with car parking for 8 vehicles.
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Decision

1. The appeal is allowed and planning permission is granted for four two bedroom dwelling houses formed in a terrace with car parking for 8 vehicles on Land at Golden Cross, Hailsham BN27 4AW in accordance with the terms of the application, Ref WD/2016/2787/F, dated 14 November 2016, subject to the conditions in the attached schedule.

Preliminary Matter

2. I have amended the description to refer to the provision of 8 parking spaces as demonstrated in drawing 2014/046/PL2 Rev D. This amendment was agreed between the parties and accurately reflects the proposal.

Main Issue

3. The main issue is whether the site is in a suitable location for development, having regards to the principles of sustainability.

Reasons

4. Golden Cross is not named in any of the six types of centre identified for development in the Wealdon Core Strategy Local Plan 2013 (WCSLP), and therefore falls within the 'other unclassified settlements' category. The site is adjacent to the A22 and is surrounded by development. Roosters, a large detached dwelling, is situated to the west. Golden Cross Cottage and the Golden Cross public house (now in residential use) are to the east. The Golden Cross holiday park extends to the south. On the opposite side of the road there is a BP petrol station which provides a small convenience store. Further residential and commercial development is dispersed within the area. In my view the site forms part of a small cluster of development, and is seen within this context.

5. There is a bus stop adjacent to the site and an hourly service provides transport to Hailsham and Uckfield. These settlements provide a range of facilities and services that would be utilised by occupiers of the proposal. There appears to be some dispute as to the exact travel time to either location, but it is approximately 20 minutes or so. The pavement at this point is narrow, however taking into account the immediate location of the bus stop, I consider it likely that for some trips residents would be likely to utilise this service. This is a benefit to which I attach moderate weight.
6. The pavement alongside the A22 does not benefit from street lighting in a number of places, and varies in width. The road carries a significant level of traffic, including heavy good vehicles. I consider it highly unlikely that residents, particularly those that are elderly, have children, or are of limited mobility, would choose to walk much further than the convenience store ancillary to the petrol station. The fast nature of the A22, and the types of vehicles that use it, would make it unappealing to cyclists, other than those confident in travelling on main routes. The appellant asserts that the absence of a range of alternative methods of transport should not weigh against the proposal. However, I consider that the Framework, and the WCSLP encourage the use of a range of transport modes and the limited options available weighs against the proposal.
7. The BP shop would provide some day to day goods. However, despite reference to the commercial uses in the area, I consider that it would be necessary for residents to travel further afield to access services and facilities. Although some journeys may be made by bus, it is likely that heavy reliance will be placed upon a private vehicle particularly those residents who have young families, are elderly, or of limited mobility.
8. The Council cannot demonstrate a five year supply of deliverable housing sites. In these circumstances paragraph 49 of the National Planning Policy Framework establishes that relevant policies for the supply of housing should not be considered up-to-date. In turn, the test in the fourth bullet point of Framework paragraph 14 applies, so that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
9. The proposal would be contrary to saved Policies EN1, GD2 and DC17 of the Wealdon Local Plan 1998 (WLP) and Policies SPO7, SPO8 and WCS14 of the WCSLP which restrict new development in the countryside in order to ensure new development is located in areas that promote the use of sustainable modes of transport, and support the location of housing in areas with accessible local services. However, the strict application of these policies would prevent improvements to the shortfall in the supply of housing. Because of this I attribute limited weight to the conflict with them.
10. The area has a limited range of services and facilities. I have found that residents of the proposal would have a limited choice of sustainable modes of transport and that there would be high dependency upon the use of private vehicles. Furthermore, employment opportunities within the area are relatively limited. In combination, these adverse impacts carry substantial weight.
11. Set against this harm are the social and economic benefits of addressing the under supply of housing in the District and I attach moderate weight to the

provision of an additional four units. There would also be a modest benefit to the local economy during the construction phase and through continued use of the local services. I consider that in these particular circumstances the appeal site is located close to a bus stop which would encourage and support the use of public transport which is a positive factor. There are a number of small clusters of development along the A22, varying in terms of their character. The appeal site is seen within the context of an existing built environment. It is not isolated and the development of the site would not encroach into the open countryside. Cumulatively these factors weigh in favour of the proposal and I attach substantial weight to them.

12. Both parties referred to a number of appeal decisions. The appeal site was considered in 2015¹ for the same scheme. At that time the Council was able to demonstrate an up to date supply of housing. The position has fundamentally changed with regards to the Council's housing land supply and I have considered this appeal with specific regard to the current housing position. Furthermore, since the previous appeal the public house has been converted to residential use, this has changed the social dynamic slightly with regards to the residential context of the area.
13. West Lodge, The Dicker² was determined at a time when the Council was able to demonstrate a five year supply of housing. Furthermore, the Inspector considered that the proposal would introduce built form to a previously open area. The appeal site before me is seen in the context of existing development and as such is materially different.
14. Proteus, Coldharbour Road³ related to a proposal for fourteen units at a time when the Council had an up to date housing land supply. The position has now changed, and I consider that the harm associated with fourteen dwellings is fundamentally different to the proposal that I am determining.
15. Unit 20, The Blue Shed⁴ also related to an appeal site outside of the settlement area, and was determined following the Council's acceptance that it was unable to demonstrate an up to date housing land supply. However, that site was deemed to be an isolated residential dwelling (live/work unit) due to its location on an industrial site. The appeal before me is seen within the context of existing residential development and I do not consider it to be isolated.
16. Land adjacent to 2 Summer Bank Cottages⁵ related to a single dwelling which was located some distance from the bus stop. I agree that this would deter residents from using public transport. However, the proposal before me would utilise an adjacent bus stop, and I have found that residents would be likely to use the bus for some of their journeys. As such I consider these appeals to be materially different.
17. Land adj. West View, Deanland Road⁶ would result in the development of an area of open countryside, I agree with the Inspector that this would be harmful in this regard. However the appeal that I am determining would not encroach into the countryside as it is surrounded by built form.

¹ APP/C1435/A/14/2228185

² APP/C1435/W/15/3023009

³ APP/C1435/W/14/2214798

⁴ APP/C1435/W/17/3171939

⁵ APP/C1435/W/17/3167192

⁶ APP/C1435/W/15/3129798

18. I have carefully considered all of the decisions referred to. However, as required by law, I have determined this appeal on its own merits and on the basis of the evidence before me.

Other Matters

19. With regards to comments from local residents relating to overlooking, overdevelopment, effect on amenity, and effect on the character of the area. These matters did not form part of the Council's reasons for refusal and I do not consider them matters that would result in a level of harm that would justify dismissal of the appeal.
20. Matters relating to highway safety are dealt with through the imposition of conditions. In respect of concerns raised with regards to use of the access, the reliability of the gate, and issues in respect of the caravan park are matters that should be raised with the Land owner in the first instance.
21. Concerns relating to other development that may require planning permission should be raised with the Council in the first instance.
22. Whilst I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an overriding issue warranting dismissal of the appeal.

Conclusion

23. I have found that the appeal site conflicts with the WLP and WSCLP in respect of the strategy for delivering housing in suitable locations. However, in the particular circumstances of this appeal I find that overall the adverse impacts identified above do not significantly and demonstrably outweigh the social and economic benefits. Consequently the presumption in favour of sustainable development applies. In this case, it is a material consideration which outweighs the conflict with the development plan as a whole and indicates that planning permission should be granted for development that is not in accordance with it.
24. I therefore conclude that the appeal should succeed.

Conditions

25. The Council and the Highways Officer have suggested a number of planning conditions. I have considered these in accordance with the Framework and the Planning Practice Guidance and imposed them where I consider them to be necessary and reasonable. I have amended some of them for clarity and elimination of duplication.
26. I have imposed a condition requiring the development to be carried out in accordance with the specified plans for certainty. Conditions to secure a construction management plan, appropriate finishing materials and refuse storage are necessary in the interests of amenity and the character and appearance of the area.
27. Conditions including parking and turning areas, the widening of the footpath, details of surface drainage, and the provision of cycle spaces, are necessary to ensure highway and pedestrian safety and to encourage sustainable modes of transport.

28. Conditions 3, 5 and 6 are pre-commencement conditions which are justified in this case as they cover matters that are essential to be agreed before the development starts.
29. The PPG states that permitted development rights should only be restricted in exceptional circumstances. Taking into account the surrounding area and nature of the site, I consider that in these circumstances it is necessary to restrict permitted development rights.

J Ayres

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Plans as Existing 2014/046/PL1
Plans and Elevations as Proposed 2014/046/PL2 Rev D
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) Demolition or construction works shall take place only between 0800 to 1800 hours on Monday to Friday, 0800 to 1300 on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority providing a scheme to prevent the discharge of surface water from the site onto the public highway and, similarly to prevent surface water from the public highway onto the site. The development shall be carried out in accordance with the agreed scheme.

- 6) No development shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 7) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 2014/046/PL2 Rev D for 8 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 8) No dwelling shall be occupied until space has been laid out within the site for bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 9) No dwelling shall be occupied until space has been laid out within the site for the storage of refuse and that space shall thereafter be kept available for that purpose.
- 10) No dwelling shall be occupied until steps have been taken to widen the footway adjacent to the site in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 11) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (as amended) (or any order revoking and re-enacting that order with or without modification), no buildings, structures or works as defined within Part 1 of Schedule 2, classes A-H inclusive of that order, shall be erected or undertaken on the site.

END OF SCHEDULE