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## Appeal Decision

Site visit made on 17 October 2017

by **David Cliff BA Hons MSc MRTPI**

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

**Decision date: 26<sup>th</sup> January 2018**

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**Appeal Ref: APP/C1435/W/17/3178137**

**Land to the west of Culpepper Close, Station Road, Isfield, East Sussex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr M Tebbutt against the decision of Wealden District Council.
  - The application Ref WD/2016/1718/MAO, dated 11 August 2016, was refused by notice dated 10 April 2017.
  - The development proposed is 'outline consent for residential development of 10 dwellings'.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of 10 dwellings at land to the west of Culpepper Close, Station Road, Isfield, East Sussex in accordance with the terms of the application Ref WD/2016/1718/MAO, dated 11 August 2016 and subject to the conditions set out in the attached schedule.

### Application for costs

2. An application for costs was made by Mr M Tebbutt against Wealden District Council. This application is the subject of a separate decision.

### Preliminary Matters

3. The application is in outline with access to be considered as part of the application and matters concerning appearance, landscaping, layout and scale reserved for future consideration. Plans indicating layout, elevations and floorplans have been submitted which I have treated as being indicative or illustrative given that such matters are reserved.
4. As part of the appeal documents, the appellant has submitted a revised access plan and has invited me to consider it as an alternative to the previously provided plan used by the Council in its determination of the application. I cannot be sure that all interested parties have had the opportunity to comment upon it and therefore, in the interests of fairness to all parties, I have not considered it as part of this appeal.
5. Following the submission of the appeal, a s106 agreement between the appellant and the Council has been submitted making provision for mitigation against impacts from recreational pressure upon the Ashdown Forest Special Protection Area (SPA). I return to consider this later in the decision.

## **Main Issues**

6. The main issues are:

- i) The Council's development strategy and housing land supply position,
- ii) The accessibility to services and facilities (including matters concerning pedestrian access),
- iii) The effect upon the character and appearance of the area,
- iv) The effect upon the living conditions of the occupiers of 1 & 2 Culpepper Close, with particular regard to noise and disturbance.

## **Reasons**

### *Development strategy and housing land supply*

7. The main parties agree that the Council is not able to demonstrate a 5 year supply of deliverable housing sites. The Council states that its most up to date figures show a housing land supply of 2.61 years. This represents a significant housing shortfall. The proposal would make a contribution of ten dwellings to the supply of housing which I have given considerable weight.
8. The Wealden Core Strategy Local Plan 2013 (CSLP) has revoked the development boundary for Isfield. The Council states that further growth was to be accommodated in locations where larger settlements could meet a greater proportion of the needs of new residents. Isfield, classified as a neighbourhood centre, was not identified as a location to promote sustainable growth. The proposed development would be located outside of an identified settlement boundary and would be contrary to saved policies GD2 and DC17 of the Wealden Local Plan (LP). However, the weight to be given to conflict with the relevant policies in this regard is substantially reduced due the Council's significant shortfall in housing land supply. The draft Wealden Local Plan does not propose to change Isfield's classification, though I have given this emerging document little weight given that its relatively early stage in the plan making process.
9. Given that the Council is able to demonstrate a five year supply of deliverable housing land in accordance with paragraph 49 of the National Planning Policy Framework ('the Framework') relevant policies for the supply of housing should not be considered up to date. I go on to consider the implications of paragraph 14 of the Framework in the Planning Balance later in this decision.

### *Accessibility to services and facilities (including pedestrian access)*

10. The village of Isfield is classified by the CSLP as a Neighbourhood Centre with no development boundary. The Council argues that it is not a sustainable location for the proposed development, with very limited facilities, leading to dependency upon the private car.
11. Isfield has limited facilities within the village including a farm shop, public house, village hall, pre-school and outdoor recreational facilities all located within comfortable walking distance of the site. Such services, although useful, would not provide for the full day to day needs of residents.

12. The closest bus stop is 490m from the site. The nearby settlement of Uckfield would provide several day to day services including schools, with fairly frequent buses in the morning and evening. In the context of its rural location, the bus services appear to provide reasonable access to other centres including several larger centres, with a fairly good overall frequency. Although it lacks a bus service later in the evenings, detracting to a limited degree from the benefits of the bus service overall. Opportunities for cycling to village facilities and other nearby centres also exist, though I consider this to be a less desirable form of transport during winter months given the road conditions and lack of cycle way provision.
13. There is a footpath on the east side of Station Road although only limited footways on the east side. However, whilst there are no formal crossing points, the road does not appear to be such a busy one that would make crossing the road particularly hazardous. However, street lighting is limited which would reduce the comfort of accessing bus stops and some facilities by foot at times of darkness.
14. I do not consider that for the size of scheme proposed and resulting traffic likely to be generated, the use of a shared surface would create any significant issues for pedestrians leaving or entering the site.
15. I have also taken into account representations made regarding the impact of overflow parking when activities are taking place at the nearby recreation ground. Whilst I acknowledge that at such times, pedestrian access may not be as comfortable as at other times, I am not persuaded from the evidence before me that the access would be harmfully impeded, or result in a significant highway safety risk.
16. Paragraph 34 of the Framework seeks to reduce the need to travel and to maximise sustainable travel modes. However, in doing so it recognises that this needs to take into account other policies in the Framework, particularly in rural areas.
17. In the context of its rural location where accessibility is not normally able to be as good as in urban areas, I consider that the proposed development would have reasonable accessibility to services and facilities without being entirely dependent on the private car. I acknowledge, however, that residents may still opt to use their cars for travel for several journeys, particularly given the rather limited extent of services in Isfield itself. Bus services would also not provide the accessibility required later in the evening.
18. I therefore find that whilst there is reasonable accessibility without being dependent of the private car, the location of the site would not have the high level of accessibility generally sought by the relevant policies. It would therefore lead to some, albeit only moderate harm, in relation to the relevant accessibility aims of policies EN1 and EN2 of the LP, policy SP07 of the CSLP and the Framework. I have not, however, found any significant harm in relation to pedestrian safety impacts and find no harm in respect of policies TR3 and TR13 of the LP.

#### *Character and appearance*

19. The appeal site comprises currently open land just beyond the existing built-up area of the village. It forms part of the Low Weald Landscape. Although it is

not of any particularly high landscape value itself, it contributes positively to the rural setting of the village. The existing village is predominantly linear in form though there are some exceptions, including at Lavender Fields, where cul-de-sac type developments have been constructed deviating from the linear form.

20. The indicative layout drawings show the development would form a single line of dwellings extending as a cul-de-sac adjacent to the adjoining access track, approximately at right angles to the existing development fronting on to Station Road. As such it would extend considerably, as a finger of development, into the currently open land. Whilst it may be possible to arrange the proposed development in different ways, the form indicated seems to be the most likely option to be pursued.
21. As such, the development would not follow the typical pattern or urban grain of existing development in the vicinity of the site. Along with the other domestic paraphernalia that would be likely to appear, the proposed development would significantly change the appearance of the site, having an urbanising effect upon it. Some mitigation could be provided by the retention of and the addition of new landscaping and the full visual impact could be limited through appropriate design and layout. However, extending the built envelope in the form indicated, into the open countryside, would in my view be likely to lead to moderate harm to the rural setting and character of the village. Whilst views into the site from public vantage points would be limited, this does not significantly alter my overall conclusions on this matter.
22. This moderate harm would be contrary to the relevant landscape and design aims of policies EN8 and EN27 of the LP, SPO1 of the CSLP and the Framework.

*Residential living conditions*

23. The proposed access drive from Station Road into the site would be located immediately adjacent to the side elevation and garden of 1 Culpepper Close. This dwelling contains habitable room windows in its side, front and rear elevations.
24. Noise from passing vehicles would therefore be likely to be audible from within the house itself and most certainly from the rear garden. However, the speed of passing vehicles would be likely to be low. The Council states that at peak hours, the number of vehicle movements would amount to a conservative figure of one every 12 to 15 minutes. They would be likely to be considerably lower at other times of the day and night. Some other use of the access may also occur in connection with the adjacent agricultural land.
25. A representation submitted on behalf of neighbouring residents suggests that the number of vehicle movements would be greater – leading to 70 trips per day. However, there is no detailed evidence to support this assertion. Even should the trip generation be moderately higher than that predicted by the appellant, I do not consider that this would be of such intensity or magnitude to result in significant harm to living conditions.
26. In my view, whilst some limited noise and disturbance would result, I do not consider that the intensity of use of access and the resulting noise impacts would result in any unacceptable harm upon the living conditions of the occupiers of either 1 or 2 Culpepper Close, or any other neighbouring property

including 2 Ivy Cottage. The proposal would therefore satisfactorily accord with the amenity aims of policy ENV27 of the LP and the Framework.

### **Other matters**

#### *Ashdown Forest*

27. The proposal, through increased activity and disruption arising from the new residents, has the potential to have an adverse impact upon the integrity of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC), located approximately 8km from the appeal site. The main parties agreed, as set out in the Statement of Common Ground, that the adverse impacts upon the SPA and SAC could be avoided by the use of planning condition to provide contributions towards Strategic Access Management and Monitoring (SAMM). Alternatively, the Council states that if the scheme is CIL liable, then the appropriate CIL contribution would include Ashdown Forest Mitigation.
28. During the course of the appeal, I wrote to the parties regarding the proposed mitigation. Taking account of the Planning Practice Guidance, I do not consider that the mitigation is able to be properly secured through the use of a planning condition. Furthermore, the use of CIL leaves open a possibility that the mitigation might not be provided in the event of the scheme being exempt from CIL. Therefore, adopting the *precautionary principle* I do not consider that these methods provide the certainty or transparency required.
29. However, these concerns have been alleviated following the submission of a s106 agreement by the appellant to provide for the necessary mitigation through a financial contribution towards the Council's Strategic Access Management and Monitoring Strategy for Ashdown Forest. I am satisfied that this provides for an appropriate way of providing the necessary mitigation, complying with the relevant Planning Practice Guidance. I conclude that, following the submission of the legal agreement, the proposal would not be likely to result in any adverse impacts, from increased recreational activity and disturbance from residents, upon the integrity of the SPA and SAC.
30. In respect of impacts of nitrogen deposition upon Ashdown Forest, following consideration of three detailed reports, the main parties are in agreement that the low level of impacts identified from traffic flows would be offset by the removal of other trip generation development from the area, specifically the closure of the Ship Inn pub. Although this is outside of the Wealdon District area, it is only approximately 1.5km from the appeal site. It seems reasonable that an assessment of in-combination impacts can look beyond the District boundary, particularly as in this case where the Ship Inn is fairly close to the site. Furthermore, there is no evidence to suggest that there is any significant likelihood of it being returned to a pub use. It has also not been proven to be the case that other nearby pubs would become busier since the Ship Inn closed. Consequently, I am satisfied from the evidence provided, there would be no harmful air quality impacts upon Ashdown Forest.

#### *Other issues*

31. The proposed development would be able to be located on land at a low risk of flooding. The Council has not objected on this basis and I see no reason to

disagree. Matters concerning surface water drainage would be able to be resolved by a condition requiring details of a suitable system.

32. As the development is below the Council's policy threshold there is no development plan requirement for affordable housing to be provided within the scheme. There is no evidence to suggest that the proposed number of dwelling houses would result in unacceptable impacts upon existing infrastructure. Indeed, it is likely that the incoming residents would provide additional support to sustain existing facilities within the village.

### **Planning Balance**

33. I have found that the proposal would result in moderate harm in terms of its accessibility to services and facilities and moderate harm in terms of its impact upon the character and appearance of the area including the rural setting of the village. In spite of the five year housing supply, I still attach substantial weight to the conflict with the relevant policies in these respects, given the aims of these policies are generally consistent with those of the Framework. The site is also not located within an identified development boundary, though the weight I have given to the conflict with the Council's development strategy is substantially reduced due to considerable shortfall in housing land supply.
34. Set against the harm are the substantial social and economic benefits of addressing the under supply of housing in the District. I attach substantial weight to the provision of 10 residential units in the context of the very significant current housing land shortfall. There would also be a modest benefit to the local economy during the construction phase and in the longer term new residents would help to support shops and services in the village through an increase in local household spending. Paragraph 55 of the Framework includes support for new housing where it would enhance or maintain the viability of rural communities. In this case, I consider that the additional residents resulting from the proposed development would help the viability of existing services within the village and their future retention.
35. Overall, the adverse impacts do not significantly and demonstrably outweigh the benefits. Consequently the proposal would represent sustainable development as defined in the Framework, and material considerations indicate that planning permission should be granted for the proposed development. It would therefore also accord with policy WCS14 of the CSLP.

### **Conditions**

36. I have attached conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with the relevant legislation. I have imposed a condition specifying the approved plans as this provides certainty. Details of proposed levels and any structures required to service the development are necessary in order in to ensure a satisfactory overall design of the development. A condition requiring the provision of vehicular turning space is necessary to safeguard highway safety. Car parking and cycle storage areas are necessary in order to provide for appropriate off-street parking whilst also encouraging alternative methods of transport through cycling.
37. A code of construction practice is necessary in order to minimise construction impacts upon the living conditions of neighbouring residents and local highway

- conditions as well as promoting sustainable waste management. I have amalgamated the requirements of the Council's suggested condition Nos. 6, 7, 8 and 11 into a single condition in this respect.
38. A surface water drainage scheme is required to reduce the risk of flooding and to protect the local environment. I have imposed a single surface water drainage condition rather than the three separate conditions suggested by the Council for preciseness and to avoid repetition. A foul water drainage condition is also required in order to safeguard the water environment and provide for a suitable standard of development. Details of external lighting are necessary in order to safeguard the character and appearance of the area, neighbouring living conditions and wildlife. Additional surveys and any necessary mitigation are needed to safeguard any local badger population.
39. A condition requiring measures for energy efficiency, renewable energy and sustainable construction is necessary in order to provide an energy efficient development and in the interests of the environment. However, I have not included a requirement for water efficiency measures as no evidence has been provided in terms of a clear and justified local need to exceed the general building regulations requirement in this respect. Details of refuse and recycling are necessary in order to help to provide an attractive residential environment and to promote sustainable waste management.
40. I have not imposed the Council's suggested condition regarding Ashdown Forest mitigation. As set out earlier, I have concerns regarding the acceptability of this condition in the light of the Planning Practice Guidance (PPG). A s106 agreement has been submitted which would more securely and transparently provide the required mitigation. The suggested hard and soft landscaping conditions are not necessary as landscaping details are required to be submitted as reserved matters. I have, however, specified that the landscaping details need to include tree retention and protection in the relevant reserved matters condition. Similarly, I have not imposed the suggested materials condition as this can be dealt with through the reserved matters approval for appearance. I have also made minor amendments to some of the suggested conditions to reflect the PPG.
41. Some conditions require details to be approved before any development takes place. This is necessary in the case of conditions 10 and 15 because these conditions may affect the design of the scheme. It is necessary in the case of conditions 7 and 12 as these conditions address potential impacts from construction. In the case of conditions 5 and 6, these require particular matters to be submitted as part of the reserved matters applications and influence the overall design of the scheme.

### **Conclusion**

42. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*David Cliff*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the appearance, landscaping (including details of existing trees and features to be retained and how they will be protected during construction), layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: DXM-01 Rev A (Site plan) and T103 (in respect of access details only).
- 5) Details of finished floor levels of the development in relation to existing and proposed site levels, together with details and finished overall heights of all retaining structures/bunding/walls/boundaries and levels of all accesses including pathways, driveways, steps and ramps shall be submitted alongside subsequent reserved matters applications and be approved in writing by the local planning authority. The development shall be carried out in accordance with such approved details.
- 6) Full details, including siting, of electricity sub-stations and any other incidental building or utilities structures required to service the proposed development shall be submitted with subsequent applications for reserved matters and be approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development shall take place until a Code of Construction Practice (CoCP) has been submitted to, and approved in writing by the local planning authority. The Statement shall detail good practice measures for all temporary buildings, plant, vehicles and stacks of materials associated with the development, site working to mitigate potential impacts from construction including:
  - i) Protection of retained features and surface water bodies on or adjacent to the site;
  - ii) Control of run off;
  - iii) Application of design controls for construction equipment and construction vehicles;
  - iv) Vehicle routing;
  - v) Wheel washing facilities;
  - vi) Sheeting of lorries during transportation of construction materials;
  - vii) Provision of water sprays;
  - viii) Mixing and batching on wet rather than dry aggregated materials;
  - ix) Minimum drop heights to be used for continuous and batch drop activities;



- x) Waste management details to reduce construction waste;
- xi) Delivery, demolition and construction working hours;
- xii) The parking of vehicles of site operatives and visitors;
- xiii) Loading and unloading of plant and materials;
- xiv) Storage of plant and materials used in constructing the development.

The approved CoCP shall be adhered to throughout the construction period for the development.

- 8) The development shall not be occupied until a vehicle turning space has been provided in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The turning space shall thereafter be retained and shall not be obstructed.
- 9) The development shall not be occupied until car and cycle parking areas have been provided in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The parking areas shall thereafter be retained for those uses.
- 10) No development shall take place until full details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be confirmed as being deliverable by an assessment of the site's potential for disposing of surface water by means of a sustainable drainage system. The submitted details shall include:
  - i) Full information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface water;
  - ii) A site investigation which incorporates ground water monitoring and soakage levels undertaken in accordance with BRE Digest 365 where it is proposed to construct any soakaway or infiltration features, undertaken in site specific test pits and that any such drainage device achieves a 1.0 metre vertical separation between the groundwater levels and the base of the feature;
  - iii) Detailed plans, layouts and sections of the proposed drainage system, hydraulic calculations, construction details of any non-standard features and a plan showing any necessary easements required to operate the system;
  - iv) A management and maintenance plan for the development which shall include the arrangements for the setting up of any necessary company/association to secure the operation of the scheme throughout its lifetime.

The scheme shall be implemented prior to the first occupation of the development and retained thereafter in accordance with the approved details.

- 11) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before occupation of the development. The development shall be carried out in accordance with the approved details.

- 12) Prior to the commencement of the development both (i) an updated survey for badgers should be undertaken and (ii) the findings of the survey and any additional mitigation measures necessary, along with a programme for their implementation, shall be submitted to and approved in writing by the local planning authority. Any such approved mitigation measures shall be carried out in accordance with the approved details.
- 13) Before construction of any foundations for the development hereby approved, details of 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. The development shall be carried out in accordance with the approved details and thereafter so retained.
- 14) Details of refuse and recycling storage to serve the development shall be submitted to and approved in writing by the local planning authority as part of the submitted reserved matters. The approved storage shall be provided prior to the first occupation of the development and thereafter retained.
- 15) The development hereby approved shall not be commenced until details of the proposed means of foul drainage have been submitted to and approved in writing by the local planning authority. The approved foul drainage works shall be completed prior to the occupation of the development.

Richborough Estates