



Appeal Decision

Site visit made on 8 October 2018

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2018

Appeal Ref: APP/U1430/W/18/3196415

Land at Darvel Down, Darvel Down, Netherfield, East Sussex TN33 9QF

- 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 Elliott Bance of Asprey Homes (Southern) Ltd & Amicus Horizon against the decision of Rother District Council.
 - The application Ref RR/2017/941/P, dated 7 April 2017, was refused by notice dated 23 August 2017.
 - The development proposed is described as the 'erection of up to 30 dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the decision notice as this reflects the reduction in the proposed number of homes made during the Council's assessment of the planning application. The indicative drawings were not been updated to reflect this change.
3. The planning application was submitted in outline with all matters of detail reserved for future consideration save for access. Consequently, I have considered the drawings as being an illustration of how the proposal could ultimately be configured. The appellant has suggested that the proposal is for *up to* 30 homes and therefore the final number could be fewer. However, as the upper figure is set at 30 it is this that I have considered as any permission would sanction this quantum of development.

Main Issues

4. The main issues in this appeal are: 1) The effect of the appeal scheme on the character and appearance of the area, including whether it would conserve or enhance the High Weald Area of Outstanding Natural Beauty (AONB); and 2) Whether the site access would be safe for large vehicles and result in the unacceptable loss of on street parking.

Reasons

Character, appearance and the AONB

5. The appeal site encompasses a small pastoral field adjoining the settlement boundary of Netherfield, a small linear village that expanded north in the middle of the 20th Century when Darvel Down was constructed. The Darvel

Down estate does not flow from the historic grain of development in the village because it has an estate layout and is developed in depth away from Netherfield Road and the B2096.

6. The properties within Darvel Down are set around informal open spaces, within discernible building lines and behind front gardens. Boundary hedges to the front of the properties often separate private and public space and the residents benefit from large rear gardens. This has resulted in a low overall density and a generally spacious character that allows it to sit reasonably comfortably within the rural village setting. The appeal site provides a bucolic backdrop to Darvel Down and helps to frame the verdant character of the estate and village.
7. The High Weald Area of Outstanding Natural Beauty Management Plan 2014-2019 sets out a 'statement of significance' that defines the natural beauty of the AONB. It identifies five key components to the character of the landscape including small, irregularly shaped fields that are often bounded by (and form a mosaic with) hedgerows and small woodlands. The appeal site is described by the Council's landscape advisor as an enclosure field but it nevertheless fits comfortably within the description of key components, being an unevenly shaped small field with thick hedgerows and mature trees on three sides. The appeal site is viewed as part of a network (or mosaic) of hedges, fields and woodlands that stretch to the west. Thus, the open, undeveloped appearance of the appeal site adds to the character of the AONB landscape and the setting and rural backdrop of both Darvel Down and the village more generally.
8. The appeal scheme is for the erection of up to 30 homes with an access from Darvel Down. This would be a built incursion into the countryside that would inherently change the character of the appeal site from a small undeveloped field into a housing estate. Thus, it would severely dilute and thus harm the appeal site's contribution to the network of fields around the village and this would detract from the quality of the AONB landscape. The appellant's Landscape and Visual Impact assessment demonstrates that the urbanising visual impact would be softened to an extent by the visually enclosed nature of the appeal site and the presence of surrounding development, but these factors would not extinguish it. The AONB Management Plan has the objective of maintaining the pattern of small irregularly shaped fields and identifies their loss as a threat to the landscape. As such, the appeal scheme would not sit comfortably with the aims of the management plan.
9. Moreover, the proposed access would result in an imposing protected Oak tree being felled. The tree is of fair structural condition and moderate quality¹. It contributes to the street scene of Darvel Down and the landscape character of the area (as part of a mature hedgerow). Thus, the loss of this tree would harm the visual amenity of the area. The appellant has suggested that it may be possible to retain the tree subject to further investigations, which could be secured through the imposition of a planning condition. However, the access is a matter before me and therefore the impact on the tree must be known at this stage to enable an informed judgement to be made. As such, I have taken a precautionary approach and considered the scheme on the basis that the tree would be removed. This weighs against the proposal.

¹ As per the appellant's Arboricultural Survey

10. A proposal for 30 homes would result in a density of around 30 dwellings per hectare (dph). In many locations, particularly in urban and suburban situations, this would not be a particularly intense form of development. However, it would be considerably denser than both the Darvel Down housing estate and the village more generally. This would result in an awkward juxtaposition between old and new. As a consequence, the appeal scheme would appear somewhat detached from the rest of the village and thus a discordant adjunct rather than a harmonious and integrated addition. The comments within the Council's SHLAA² suggest that a high quality development in a strong landscape setting could enhance the local landscape but this is unlikely to be the case given the number of homes proposed.
11. The indicative drawings only serve to confirm my concerns as they show a suburban, almost urban, configuration with tightly arranged houses, front gardens given over to parking and, importantly, limited space throughout the development for soft landscaping. Consequently, the appellant has failed to demonstrate that 30 homes could be successfully accommodated within the appeal site. Instead, the appeal scheme would have the character and appearance of a tightly packed enclave of housing out of character with the spacious prevailing grain and rural makeup of development in the village. This would harm the character and appearance of the area. Moreover, a comparatively dense and overly suburban housing estate would appear out of place with, and harmful to, the landscape of the AONB.
12. The density of the proposal has taken inspiration from other small housing developments nearby including Middle Close and a pocket of housing to the east. However, these developments serve to illustrate my concerns because they are tightly packed with limited space for soft landscaping. As such, they stand apart from the immediate context. A density of 30dph has also been proposed in an attempt to make an efficient use of land. However, an efficient use of land is one that provides the maximum number of homes with proper regard to local constraints and character. In this instance the rural character of the village and the verdant appearance of the surrounding landscape indicate that a scheme of 30 homes would be overly intense and cramped.
13. The Council have suggested that the intensity of development may have to increase further due to the presence of archaeology and gypsum mines. The Council could not have come to a proper decision on the acceptability of the number of homes proposed without further information on this point. Thus, the reservations of the planning committee are understandable. However, within the appeal submissions the appellant has confirmed that further investigations have taken place and that neither archaeology nor historic mining would place a constraint on development within the appeal site. I have no reason to disagree.
14. Nevertheless, my overall conclusion on this point is that the appeal scheme would harm the character and appearance of the area and the landscape of the AONB, which it would fail to conserve or enhance. It would therefore be at odds with Policies OSS4, EN2, EN3, RA1 and RA2 of the Rother Local Plan Core Strategy 2014 (CS). These policies seek to secure development that respects and does not detract from the character of the area, provides a high quality response to local context and conserves landscape character. There is nothing

² Strategic Housing Land Availability Assessment

to suggest these policies are inconsistent with the revised National Planning Policy Framework.

The adequacy of the site access and availability of on street parking

15. The road to the immediate north of the appeal site is subject to a 30 miles per hour speed limit and therefore the visibility splay requirements within Manual for Streets 2 are 43 metres in each direction at a point 2.4 metres back from the edge of the road. The appeal scheme drawings demonstrate that this can be achieved and therefore the drivers of large vehicles entering or exiting the appeal site would have adequate visibility in both directions.
16. On-street parking probably occurs frequently within Darvel Down in the vicinity of the appeal site, particularly during school pick-up and drop-off times. This could hamper the ability of larger vehicles, such as refuse lorries, to manoeuvre by providing an obstruction. However, the vehicle tracking drawings provided by the appellant demonstrates that this would be resolved if on-street parking was prevented in front of Nos 17, 19 and 21 Darvel Down through the use of double yellow lines. With this mitigation in place (and enforced) large vehicles would be able to enter and exit the appeal site safely and without obstruction.
17. The implication of the above mitigation would be a reduction in on-street parking capacity. The evidence from interested parties suggests that pressure for on street parking is high in Darvel Down. However, most of the properties in the vicinity of the appeal site's entrance benefit from off street parking so the loss of the on-street parking would not have a significant impact upon the amenity of these residents.
18. Notwithstanding this, the area that would no longer be available for on street parking would be modest and therefore any displacement would be small in scale. I observed during my site visit that there are ample opportunities for on-street parking elsewhere within Darvel Down. My observations were a snap shot in time but little of substance has been submitted, such as parking surveys, to suggest they were untypical. I therefore conclude that the appeal scheme would provide safe access for large vehicles and would have an acceptable effect upon the availability of on-street parking. Thus, a conflict with Policies OSS4, CO6, TR3 and TR4 of the CS would not occur.

Other Matters

19. The appeal site is located outside the settlement boundary of Netherfield and is within the countryside for the purposes of applying the policies in the development plan. Policy RA3 of the CS states that new housing in the countryside will be allowed in extremely limited circumstances that include, for example, rural workers dwellings. The appeal scheme would not be any of the types of development listed and would therefore be contrary to Policy RA3. The appeal site is identified in the Council's SHLAA as an amber site having potential for development. However, the SHLAA is a background technical paper that confers no formal status upon the site or allocates any particular quantum of development within it.
20. Nevertheless, Policy RA1 of the CS states that in order to meet housing needs and ensure the continued vitality of villages, 1,670 additional dwellings will be provided in villages over the Plan period. This is subject to refinement in

Neighbourhood Plans but the Battle Neighbourhood Plan is at its formative stages and therefore carries very limited weight. Netherfield is identified within Policy RA1 as having the potential to provide 48 new dwellings over the plan period in addition to existing net completions. To this end, the Council has already approved 25 homes at the appeal site³. The approved scheme is likely to be implemented if this appeal fails and therefore represents a 'fall-back' position that would urbanise the appeal site.

21. Nevertheless, five fewer homes would be a notable difference between the proposals. This is because the approved scheme, which would have fewer homes, has the potential for additional space within the development. A lower density should result in a more generously landscaped and verdant layout with a less cramped and car dominated composition. This would integrate better with the surroundings and have a softer impact on the landscape of the AONB. As such, the differences between the planning application approved by the Council and the appeal scheme before me should prove to be significant. Thus, the potential for the fall-back position to be implemented does not indicate that the appeal should be allowed.
22. The Council cannot currently demonstrate a 5-year housing land supply as required to by the Framework. The housing supply is 3.44 year. Paragraph 11d) of the Framework states that in such circumstances planning permission should be granted unless the application of policies within it that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
23. With the foregoing in mind, Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs and that the scale and extent of development in these areas should be limited. The appeal scheme would fail to conserve or enhance the AONB landscape for the reasons already given and therefore the policies in the Framework provide a clear reason for refusing the appeal scheme. As a consequence, it is unnecessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
24. Various concerns have been raised by interested parties including reservations regarding land ownership, wildlife and the accessibility of services, which I have noted. However, given my findings above it has not been necessary for me to address these matters further as the appeal has failed. I note that the proposal followed pre application discussions and the Council sought to increase the density of development beyond that originally proposed. However, for the already reasons given I consider a proposal for up to 30 homes would harm the character and appearance of the area and the views of the Council's Planning Officers does not altered this conclusion.

Planning Balance

25. The delivery of new homes would help boost the supply of housing at a point in time when the shortfall is significant. It would also help to address the housing requirement for Netherfield outlined in Policy RA1. However, when the approved fall-back position is factored in the net gain would only amount to five homes, which is a moderate increase.

³ Reference RR/2017/2308/P

26. The appeal scheme could support the retention of services and facilities in the local area and the future occupants of the appeal scheme could spend locally. However, evidence has not been submitted that outlines the practical local effect of this, for example there is nothing to suggest nearby services are failing for lack of patronage. Conversely, for its modest size the village appears well served by facilities and services. The proposal would also provide moderate but not insignificant support to the construction industry and twelve of the homes would be affordable housing⁴. Nevertheless, many of these benefits could be accrued by a development proposing a more appropriate number of homes.
27. The appeal scheme would not harm highway safety and the Council has not identified any other concerns. Moreover, the proposal would apparently mitigate its impact upon infrastructure through a CIL⁵ contribution. Nevertheless, the absence of harm is a neutral matter in the planning balance.
28. The benefits are notable but the proposal would harm the character and appearance of the area. In so doing it would harm the AONB landscape, a point that attracts great weight. As such, it would be at odds with local and national policy and therefore the adverse impacts of the proposal would outweigh its benefits.

Conclusion

29. The proposed development would not accord with the development plan taken as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR

⁴ A planning obligation to this end has been finalised and submitted

⁵ Community Infrastructure Levy