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## Appeal Decision

Site visit made on 21 May 2019

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

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

**Decision date: 17<sup>th</sup> June 2019**

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**Appeal Ref: APP/U1430/W/18/3210776**

**Shellfield, New England Lane, Rye**

- 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 Gary Ferrier of Lucas Design and Construction against the decision of Rother District Council.
  - The application Ref RR/2017/1450/P, originally dated 20 June 2017, was refused by notice dated 5 June 2018.
  - The development proposed was originally described as "demolition of existing dwelling and erection of 24no new houses (4no 2 bed, 10n 3 bed, 5no 4 bed and 5no 5 bed houses) and associated external works".
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The proposal was originally submitted as an outline application for the erection of 24 houses with only landscaping as a reserved matter. During the application process, the proposal was amended initially in February 2018 to an outline application for 24 houses with all matters reserved apart from access and layout, and then again in April 2018 to an outline application for "demolition of existing dwelling and erection of up to 24 new houses and associated external works" with all matters reserved apart from access.
3. Public consultation took place for both amendments according to the Council's records. Therefore, I have considered the proposal on the basis of the April 2018 amended description. I have had regard to all plans submitted with the proposal, but have treated all elements shown as indicative apart from those which relate to access.

### Main Issues

4. The main issues are (a) the effect of the proposed development on the character and appearance of the area and (b) whether the proposed development would provide acceptable access to services and facilities.

### Reasons

#### *Character and appearance*

5. The appeal site is situated on the A268 Rye Road in-between New England Lane and Saltcote Lane. It contains the detached property known as Shellfield and its spacious garden, which take up just under half of the total site area.

The remaining and largest part of the site is currently an overgrown field that runs as far east as a public footpath between New England Lane and Saltcote Lane. The site is enclosed by tall mature vegetation on the north, east and west boundaries, although a few gaps exist. The southern boundary has much less vegetation, which means that views of properties on Saltcote Lane are readily available from within the site.

6. The site is on the edge of Rye where the adjoining village of Playden begins. Approaching the site from the south on the A268, there are later 20<sup>th</sup> century cul-de-sac housing developments on either side at Fair Meadow and Mill Road which are visible from the road. This form of development continues on the west side of the A268 at Hilltop Drive opposite the site, although this involved the redevelopment of a former hospital site. The housing on these side roads is suburban in character and appearance, but plots sizes are reasonable.
7. To the north of the site on the same side of the A268, residential development is more spacious with detached properties on larger plots. Opposite these properties are a number of buildings that make up the Rye and Winchelsea Memorial Hospital and where a daycare centre is now being built. Along New England Lane, development is similarly spacious with open countryside to the north and north-east.
8. Given the proximity of existing buildings and the enclosure by vegetation, the site is not a significant part of the adjoining countryside. However, it acts as a transition space between denser suburban housing to the south and west and more spacious and semi-rural housing to the north and east. The thick boundary vegetation provides a break in built development along the A268 and a small gap between Rye and Playden. Boundary vegetation greatly encloses a narrow and sunken stretch of New England Lane and also buffers the public footpath to the east. Views across the site from north, east and west are limited by this vegetation, but this would depend on the time of year. From the south, the site is more apparent in views between properties on Saltcote Lane. Even with limited public visibility and no formal designation, the site makes a positive contribution to the character and appearance of the area as part of the landscape setting between Playden and Rye.
9. The proposed development would have an access in a similar position to the existing access for Shellfield. The grass island at the end of New England Lane is a minor feature in the street scene and its loss to accommodate the access would cause limited harm to the character and appearance of the area. The indicative site layout drawing PL002 (April 2018) shows a spine road leading from the access with housing either side. Notwithstanding the description of development, I have to consider up to 24 houses being located within this site. Although the Council can control layout and other elements at the reserved matters stage, it is possible that the maximum amount would be sought.
10. The proposal would not encroach into the wider countryside and the site appears large enough in theory to accommodate up to 24 houses. However, the indicative drawing PL002 shows a dense form of development with a number of properties on small and narrow plots compared to typical plot sizes in adjoining streets including Fair Meadow and Mill Road. It is difficult to envisage that such a layout could be avoided with up to 24 houses based on earlier iterations of the site layout drawing. The removal of trees around the access and along the southern boundary nearest to Shellfield as indicated by

the plans would open up the site and likely reveal the built form of houses along Saltcote Lane and around the New England Lane junction. Even where existing trees are retained, the absence of foliage in the winter would increase the visibility of development from New England Lane and the public footpath.

11. With up to 24 houses, the development would erode the spacious qualities of surrounding development and would be more cramped even than housing on the side roads to the west and south. Gaps in planting would make this more obvious, but even with greater screening the development would be overly dense and out of keeping with the landscape setting between Playden and Rye. Therefore, given these negative effects, I find that the site is not capable of accommodating up to 24 houses.
12. Concluding on the main issue, the development would have a harmful effect on the character and appearance of the area. Therefore, it would not accord with CS Policies OSS3(i), OSS4(iii), RA2(viii), RA3(v) and ENV1(v). These policies require development to be of an appropriate scale, consider the context of an area, respect and not detract from the character and appearance of the locality, and protect the rural fringes of settlements.

#### *Accessibility to services and facilities*

13. The range of services and facilities in the immediate surrounding area is quite limited, comprising chiefly the parish church, a medical centre at the hospital and a public house just to the south of Saltcote Lane. The vast majority of services and facilities are located to the south, within or adjoining Rye town centre, including the train station, schools and shops. From the site, they are accessed via one of two routes using either the A268 or a footpath that connects Fair Meadow to Deadman's Lane and The Grove.
14. At my site visit, I walked along both routes. While the distances are not excessive, there is a long and steady climb along pavements next to the A268 from the town centre to the site. The gradient may fall within acceptable design guidance limits, but the length of the climb is notable. The footpath route between Fair Meadow and Deadman's Lane (the most direct route to the schools on The Grove) is steep and has no street lighting. Walking or cycling into Rye along either route would be fairly quick and easy, but the return to the site would be much slower and harder. As such, these transport options would not be particularly attractive to future occupants.
15. There are bus stops on the A268 which provide an alternative transport option, but services are not particularly frequent. According to the appellant's evidence, the most regular bus routes are only once every 2 hours on Mondays to Saturdays, supplemented by other routes with only a handful of services during the day. For a site on the edge of a town, the options for sustainable transport modes would be limited. This is reinforced by census data for the local area which indicates that less than a third of existing residents use non-car modes of transport for work purposes. Therefore, occupants of up to 24 houses would be rather distant from many day to day services and facilities and would be more reliant on the private car to access them.
16. The appellant has referred to the Wellington Avenue development on the south-west edge of Rye, which I saw during my site visit. Located a similar distance from the town centre, the approach to the development by the main road (the B2089) is a similar long and steady climb. However, the development

itself is located on lower ground to the road with a new footpath along level ground that links through to the flatter part of the B2089 into the town centre. As such, it is a more attractive route for pedestrians and cyclists. Therefore, the appeal site compares less favourably in terms of accessibility.

17. Concluding on this main issue, the development would not provide acceptable access to services and facilities. Therefore, it would not accord with CS Policy OSS3(ii) which requires consideration of the access to existing infrastructure and services. There would also be conflict with NPPF paragraph 8 which seeks accessible services and the prudent use of natural resources.

#### *Planning balance*

18. There is no dispute between the main parties that the Council cannot demonstrate a 5 year housing land supply. The Council's committee report refers to a supply of 3.2 years at October 2017 and the appellant's statement refers to an updated position of 3.44 years at June 2018. The lack of supply triggers the presumption in favour of sustainable development test set out in NPPF paragraph 11(d). This states that where policies most important for determining the proposal are out of date, permission should be granted unless (i) the application of policies in the NPPF that protect areas of assets of particular importance provide a clear reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. In the absence of any applicable policies in 11(d)(i), I have assessed the proposal against 11(d)(ii) only.
19. In terms of benefits, the proposal would deliver up to 24 houses to boost local supply. The exact weight to afford to this provision would depend on the precise number, but up to 24 would make a reasonable contribution bearing in mind the lack of 5 year supply. There would also be a policy compliant provision of affordable housing for 40% of the total houses (rounded down to a whole number) and an off-site affordable housing contribution. This would be secured by a completed and executed unilateral undertaking. The development would support local services and facilities during the construction phase and also once occupied. Based on the potential number of dwellings, reasonable weight can be afforded to the benefits of the proposal.
20. In terms of the adverse effects, the proposal would conflict with the development plan in terms of the accessibility of services and facilities and the effect on the character and appearance of the area. A development of up to 24 houses would have a notable effect in terms of the density and the access to services and facilities. The lack of a 5 year housing land supply moderates this to some extent, but I still afford significant weight to the adverse impacts.
21. Therefore, the adverse impacts would significantly and demonstrably outweigh the benefits. Sustainability is based on a number of factors, but the presumption in favour of sustainable development would not apply in this instance which indicates that planning permission should not be granted.

#### **Other Matters**

22. Interested parties have raised several other matters but, given my findings on the main issues, it has not been necessary to consider them in any detail.

**Conclusion**

23. For the above reasons, the appeal is dismissed.

*Tom Gilbert-Wooldridge*

INSPECTOR

Richborough Estates