



Appeal Decision

Site visit made on 6 January 2015

by David Prentis BA BPI MRTPI

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

Decision date: 12 January 2015

Appeal Ref: APP/C1435/A/14/2228090

Land North of Peelings Lane, Westham, East Sussex BN24 5AB

- 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 Trinity Homes UK Limited against the decision of Wealden District Council.
 - The application Ref WD/2014/1025/MAJ, dated 16 May 2014, was refused by notice dated 24 September 2014.
 - The proposal is new development to provide 8 No. 2 bedroom houses, 6 No. 3 bedroom houses and 4 No. 1 bedroom flats with associated vehicular and pedestrian access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The Council's second reason for refusal related to the capacity of waste water treatment infrastructure. Following the submission of the appeal the Council reviewed its position on this matter and subsequently confirmed that there is sufficient capacity to serve the proposed development. Consequently it did not pursue the second reason for refusal.

Main issue

3. The main issue is whether the proposal is acceptable in principle having regard to the development plan and other material considerations.

Reasons

4. The development plan includes the Core Strategy Local Plan 2013 (CSLP) and the saved policies of the Wealden Local Plan 1998 (WLP). Policy WCS14 of the CSLP sets out a presumption in favour of sustainable development, reflecting the National Planning Policy Framework (the Framework). This states that applications that accord with the policies in the CSLP will be approved unless material considerations indicate otherwise. Policy WCS9 states that, in exceptional circumstances, permission may be granted for small scale affordable residential development in rural areas outside development boundaries in order to meet an identified local housing need among those people unable to compete in the normal housing market. This is known as rural exception affordable housing (REAH). The policy goes on to set out a number of criteria against which proposals for REAH are to be assessed. These relate to

- access to services and facilities, the scale of the proposed development and whether it would be isolated or intrusive in the landscape.
5. WLP Policies GD2 and DC17 seek to resist development, including housing, outside development boundaries unless in accordance with other policies in the plan. For the purposes of this appeal the relevant 'other policies' of the WLP have been superseded by the CSLP. However, the development plan is to be read as a whole so a development proposal which was found to accord with CSLP Policy WCS9 would also accord with WLP Policies GD2 and DC17.
 6. The appeal site is outside the development boundary and the scheme is promoted on the basis that it would provide REAH in accordance with Policy WCS9. It is therefore necessary to assess the scheme against the criteria set out in that policy.
 7. The site is on the edge of Westham, a settlement which has some local services and facilities. There is also a station providing access by train to the much greater range of services and facilities available in Eastbourne and Bexhill. The CSLP does not set any numerical limit on the scale of REAH development. This matter has to be judged in relation to the scale of the settlement in question, which in this case is Westham. I consider that the proposed development of 18 dwellings would be a relatively small addition compared with the scale of the existing settlement. Being located on the edge of the settlement, the proposal could not be described as isolated. In my view the proposal accords with the criteria of Policy WCS9 which deal with these matters. I turn next to the issue of landscape impact.
 8. The appeal site is located to the north of an extensive area of suburban housing bounded by Peelings Lane. Immediately to the west of the site is a recently constructed development of affordable housing at Ketcham Close. The site itself comprises an open field sloping gently down from Peelings Lane to a ditch which runs along the northern site boundary. The field is of irregular shape, tapering from east to west. There are adjoining open fields to the north and east of the site. The land rises gently to the north of the ditch, forming a shallow valley feature.
 9. The character of Peelings Lane changes markedly in the vicinity of the appeal site. To the west of the site, where Ketcham Close faces Peelings Lane, it has a generally suburban character. East of Ketcham Close it is much more rural in character. It is a single track road with verges and a hedgerow on the northern side. The open nature of the appeal site affords views over the fields to the north. Although there are houses to the south these are mostly accessed from Romans Way. Moreover there is an intervening drainage ditch and an area of trees and vegetation between the backs of the Romans Way properties and Peelings Lane. Further east, there are some houses on the southern side of the lane. Nevertheless, the vegetated banks on either side of the lane and the mature trees on the northern side give this section of the lane a predominantly rural feel.
 10. The pattern of development in the locality is closely aligned with the topography. The housing areas to the south of Peelings Lane and at Ketcham Close are at a level raised above the shallow valley either side of the drainage ditch. I consider that when the topography, vegetation and development pattern are considered as a whole, Peelings Lane forms a distinct visual edge to the built up area.

11. The appeal scheme would result in a loss of the landscape character of the appeal site through the introduction of roads and housing in what is currently an open field. To my mind it would also have a wider visual impact, particularly as seen from Peelings Lane and from the public footpath which crosses the western end of the site. The new houses would be to the north of the existing visual edge formed by Peelings Lane, extending the built up area into a currently undeveloped tract of countryside. Due to the irregular shape of the site the houses in the north east corner, furthest from the lane, would be particularly prominent in the wider landscape. The appellant argues that the sloping nature of the site would be of benefit in that it would reduce the visual impact of the scheme. I do not share that view. Although the houses would be at a lower level than Peelings Lane, they would still be clearly visible from it. Moreover, as seen from the footpath, the new houses would extend down the slope into a lower lying area in the valley floor which is currently undeveloped.
12. The appellant draws attention to the recent development at Ketcham Close which is said to have been permitted under the same policies as those applying to this appeal. However, I do not consider that the two schemes are comparable. The appeal scheme covers a larger area and extends considerably further from Peelings Lane.
13. The scheme would be relatively low density and the layout would have sufficient space to provide areas of planting and open space and to retain or replace existing landscape features. Whilst the design and landscaping would provide some mitigation of the visual impact of the scheme, it would not overcome my concerns. Having regard to all the above matters, I consider that the proposal would be intrusive within the landscape and would not therefore accord with CSLP Policy WCS9.
14. Policy WCS9 is predicated on there being an identified local housing need. In this case the principle of REAH on this site was supported by the Council's housing and planning officers on the basis of their assessment of the local need for affordable housing. However, the principle of REAH was questioned in several of the written representations from local residents. The CSLP includes two strategic housing development areas at Stone Cross which will together provide around 650 dwellings¹, a proportion of which would be affordable. Some of these now have planning permission. Given the proximity of Stone Cross, local residents question whether there is a justification for releasing a site outside the development boundary for REAH at Westham. These concerns were discussed in the officer's report where it was suggested that affordable housing at the strategic sites would meet district wide needs rather than specifically local needs.
15. Whilst I have no reason to doubt the Council's assessment of the need for affordable housing, I also understand the concerns of local residents on this point. It seems to me that any local need for affordable housing will also be part of the district wide need and that there must therefore be potential for at least some of that need to be met at the strategic sites. Given the scale of the allocations at Stone Cross, and their proximity to Westham, this is a factor which in my view reduces the weight to be attached to the need for REAH at the appeal site.

¹ Allocations SD6 and SD7 in Policy WCS4

16. On the other hand, whatever view is taken of the specific need for REAH at Westham, the provision of housing at the appeal site would have social and economic benefits which must be weighed in the balance. The Framework emphasises the general importance of boosting the supply of housing. However, whilst I take account of the general benefits to housing delivery, and the benefits of providing REAH at Westham, my overall assessment is that in this case these factors do not outweigh the clear conflict with the development plan that I have identified.
17. To conclude on the main issue, the proposal is not acceptable because it would be intrusive in the landscape and would thereby conflict with CSLP Policy WCS9. Due to that conflict the proposal gains no support from Policy WCS14. It would also conflict with WLP Policies GD2 and DC17. There is no evidence to suggest that the CSLP is out-of-date and I have not identified any material considerations which indicate that the appeal should be determined other than in accordance with the relevant policies of the development plan.

The Habitats Regulations

18. The appeal site is within 240m of the Pevensey Levels RAMSAR site, which is also a candidate Special Area for Conservation (cSAC). Pevensey Levels is thus an internationally protected site. It is one of the largest and least fragmented lowland wet grassland systems in south east England. Its RAMSAR status is based on the outstanding assemblage of wetland plants and invertebrates supported by the site. The Habitats Regulations² restrict the grant of planning permission for a plan or project which is likely to have a significant effect on a European site by requiring that an appropriate assessment is made of the implications for that site in view of its conservation objectives. Within the UK Pevensey Levels is also protected as a National Nature Reserve and a Site of Special Scientific Interest.
19. The appeal site is in the hydrological catchment of the Pevensey Levels. The ecological report submitted by the appellant identifies potential impacts from loss of surface water run-off, contamination of surface water run-off and uncontrolled or additional public access to the RAMSAR site. The report suggests that a sustainable urban drainage system (SUDS) would ensure that surface water run-off is retained and returned to ground where possible. This reasoning is inconsistent with the submitted drainage strategy which states that the ground conditions are not suitable for infiltration methods of drainage and that, due to the ground conditions and available space on site, some SUDS techniques are precluded. Moreover, the assessment within the ecological report does not explicitly address the effect of the appeal scheme in combination with other plans and projects as required by the Habitats Regulations. I note that Natural England has commented that there would not be a likely significant effect on the RAMSAR site and cSAC subject to a condition for SUDS to be incorporated. However, on the evidence before me it is not clear whether or not the SUDS techniques anticipated by Natural England would be achievable on this site.
20. For these reasons, I do not consider that the available evidence is sufficient for me to conclude on whether or not there is likely to be a significant effect on the RAMSAR site and cSAC. If I were minded to allow the appeal I would not be in

² The Conservation of Habitats and Species Regulations 2010

a position to discharge my duties under the Habitats Regulations³. However, for the reasons given above, I am not minded to allow the appeal so it is not necessary for me to comment further on this matter.

Other matters

21. The Parish Council and local residents have raised a number of concerns, some of which have been covered above. Other matters raised include highway safety, flood risk, impacts on wildlife, capacity of local infrastructure, overlooking and loss of privacy.
22. A transport assessment was submitted with the application, the results of which have been accepted by the highway authority. Whilst I note that Peelings Lane is a single track road, the scheme includes widening the lane up to the site access so that two vehicles could pass. Visibility splays and pedestrian links have also been shown on the plans and these matters could be secured by conditions. There is no evidence that the amount of traffic generated by the proposed development would cause material harm to traffic conditions in the wider transport network.
23. A flood risk assessment has been submitted which indicates that the site is at low risk of flooding. Neither the Council nor the Environment Agency has any objection on grounds of flood risk. Whilst I note that the development at Ketcham Close has suffered from some surface water drainage issues, the surface water drainage arrangements at the appeal site could be controlled by the Council by way of an appropriate condition.
24. The ecological report submitted with the application assesses the habitats within the site and the potential for the presence of protected species. Although the methodology has been criticised by residents, the report and its findings have been accepted by the Council. I consider that the layout has sufficient space for the main features of ecological importance within the site to be retained or re-established following development. Appropriate measures for mitigation during construction and habitat enhancement post development could be secured by conditions.
25. Whilst I take account of concerns relating to pressures on local infrastructure, the CSLP makes provision for an appropriate scale of REAH at rural settlements. I have commented above that the appeal scheme would not be out of scale with the existing settlement and therefore do not consider that this matter weighs significantly against the appeal. The proposed houses would be at a sufficient distance from existing dwellings that no harmful overlooking or loss of privacy would occur.

Conclusion

26. I have considered all other matters raised but have found nothing to alter my conclusion on the main issue. For the reasons given above, the appeal should not be allowed.

David Prentis

Inspector

³ Nor would I be able to fully assess the impact on the other designations referred to above.