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## Appeal Decision

Hearing (Virtual) held on 13 March 2024

Site visit made on 14 March 2024

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15<sup>th</sup> April 2024

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Appeal Ref: APP/C1435/W/23/3331659

Land north of B2204, The Green, Ninfield TN33 9JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr Simon Cocks of Greymoor Homes against the decision of Wealden District Council.
  - The application Ref is WD/2022/2689/MAO.
  - The development proposed is erection of up to 72no. dwellings (including affordable and 'specialist' housing), together with new vehicular and pedestrian access, associated car parking, landscaping and infrastructure.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A planning obligation has been submitted which includes mechanisms which seek to provide affordable housing, custom and self build housing, green infrastructure, a bus service contribution, a travel plan and highways works. I will return to these matters later in this decision.

### Main Issues

3. The main issues are whether the site is a suitable location for housing with particular regard to the effect of the proposed development on the character and appearance of the area and development plan policy.

### Reasons

*Whether the site is a suitable location for housing*

#### *Character and Appearance*

4. The appeal site is an open green field. On one side are the rear boundaries of houses fronting The Green, the B2204 Catsfield Road runs along one side with a garage and few houses opposite. In all other areas the site is surrounded by open countryside and woodland. Although it is not within a National Landscape, nevertheless, the undeveloped natural appearance of the site makes a positive contribution to the surrounding rural character. There is a clear, albeit somewhat distant, view to the site from part of the Public Right of Way Ninfield 21, with the existing village buildings behind.
5. Catsfield Road is a rural, green lane. In the vicinity of the appeal site, Catsfield Road is characterised by steep banks with trees and hedges on both sides

which make a valuable contribution to this rural character. On the west side there are a limited number of driveways. There is also an industrial building to the south of the appeal site. However, due to their rural surroundings these appear as sporadic development along a traditional green country lane. There is 30mph signage, however this is located before reaching the built form of the village and as such is not indicative of the extent of the settlement of Ninfield. As such, beyond the roundabout and garage, the character of Catsfield Road is more closely associated with the rural surroundings than Ninfield village.

6. Ninfield has historically been characterised by development fronting the main road. However, developments such as Downs View and Combe Shaw, as well as more recent developments including Manchester Road<sup>1</sup> and Ingrams Farm<sup>2</sup> do not follow this linear form. As such, Ninfield presently includes development set back from the main roads.
7. The proposed development would introduce a vehicle access along Catsfield Road. The access would require some regrading and visibility splays which would involve the removal of trees and hedgerow, although wildflowers could be planted in this location. There would therefore be a clear and extended break in the traditional boundary to provide this residential road. The proposed houses would be set back from the road, however their rooftops would be visible, albeit as there is no footpath along Catsfield Road any views would be transitory and glimpsed.
8. A proving plan demonstrates how 72 units could be achieved on this site, albeit that the scheme is in outline, and therefore matters relating to scale and layout would be reserved. This plan demonstrates that 72 houses could be achieved with the provision of suitable open space and spacing around dwellings which is similar to other development nearby.
9. On the western side of the development, houses could be set back behind 10m gardens and 18m planting. Nevertheless, particularly when trees are not in leaf, the residential character would be likely to be perceived in these transitory views along Catsfield Road.
10. Some lighting would be required to this development. A condition could limit external light levels in public areas which would minimise light spillage in accordance with policy EN29 of the LP. However, it would be unreasonable to control lighting within individual homes. Consequently, and noting the location of the houses away from the existing roads, there would nevertheless be some glow from properties and low level lighting and this would contribute to the urban character of the proposed development.
11. The plans indicate that boundary trees and hedgerows could be mostly retained and planting could be provided which, along with the position of dwellings, would help to screen the development. The submitted photomontages show these views when trees are in leaf. However, roof slopes and domestic gardens are likely to be visible from the surrounding housing, when trees are not in leaf and in some wider views. Furthermore the access road would be clearly visible in public views.
12. The proposed development would introduce housing development to this site with the associated roads, parking, domestic gardens and comings and goings.

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<sup>1</sup> LPA ref: WD/2017/0038/MAO

<sup>2</sup> LPA ref: WD/2014/2359/MAO

This would remove the open, green characteristics described above and there would be serious harm to the positive rural characteristics of the site in this regard. As set out above, although screening would reduce these impacts in some views, nevertheless these effects would be perceived. Furthermore, the introduction of the access road, regrading and required open visibility splays would be a clearly urban feature which would harmfully disrupt the rural character of Catsfield Road and would result in the clear extension of urban development away from the village along this rural road. Consequently, overall, the proposed development would result in substantial harm to the character and appearance of the area.

13. Therefore, the proposed development would be harmful to the character and appearance of the area. As such it would be contrary to policies EN8, EN12, EN14 and EN27 of the Wealden Local Plan (1998) (LP). Together these seek to retain trees and hedgerow which make a valuable contribution to the character of a landscape or settlement, conserve the agricultural character of the landscape, set criteria for layout and design including that the design should respect the character of adjoining development and promote local distinctiveness.
14. Policy TR13 of the LP mainly relates to the safety and convenience of pedestrian routes, and Policy WCS12 of the Core Strategy Local Plan (2013) (CS) seeks to prevent a net loss of biodiversity, policy WCS13 of the CS resists the loss of recreational open space and areas of particular importance or potential for wildlife. Therefore the policies set out above are more relevant to this main issue.

*Development Plan Policy*

15. The majority of the site is outside the settlement boundaries and therefore in the countryside for the purposes of the development plan. Policy GD2 and DC17 of the LP generally resist housing development in these locations and therefore the development is contrary to these policies.
16. Policy WCS6 sets out the Rural Area Strategy which seeks the provision of housing within development boundaries and indicates a proposed scale of additional housing of 50 new dwellings within Ninfield. The supporting text explains that outside these rural settlements, development will be restricted to specified countryside uses.
17. The recent developments at Ingrams Farm and Manchester Road will provide around 135 units in Ninfield. These have been implemented but are not fully occupied. Permission has also been granted for 65 dwellings at Land off Bexhill Road<sup>3</sup>. The proposed development would provide 72 further units and this would notably exceed the number of units suggested to be appropriate to Ninfield.
18. Ninfield has services and facilities that would meet some day to day needs and future residents would help to support these facilities, although occupants would need to travel to access some services. There is a bus service that, although anecdotally is unreliable, would provide an alternative to the car to access some services. Improvements would also be secured via the planning obligation. The proposed development would also contribute towards local

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<sup>3</sup> LPA ref: WD/2021/2454/MAO

infrastructure including health and education through the Community Infrastructure Levy. Whilst I do not have evidence that these contributions would be towards specific provision in Ninfield, this tariff based approach would secure appropriate contributions for community infrastructure across the borough and there are no objections to the proposed development from the NHS nor the education authority. With regard to utilities such as drainage and water supply, the undertakers that would provide such utilities do not object to the development. Therefore, in the absence of compelling evidence to the contrary, I am satisfied that the proposal would be acceptable in this regard. As such, in combination with any site specific requirements which would be covered by a planning obligation, the scale of the proposed development would not have a harmful effect on infrastructure.

19. Nevertheless, the appeal site is outside the settlement boundaries and therefore, notwithstanding the above, it is contrary to Policy WCS6 of the LP in this regard.
20. The proposed development is not small scale affordable residential development and therefore Policy WCS9 of the LP is not relevant to this scheme.
21. Therefore, the proposed development would not be a suitable site for housing with regard to the development plan. As such, it would be contrary to policies GD2, DC17 and WCS6 of the LP, the aims of which are set out above.
22. However, I do not find conflict with policy EN2 which mainly seeks to ensure developments generating significant travel movements are located efficiently in relation to existing development and public transport.

#### Other Matters

##### *Affordable and Specialist Housing*

23. Policy AFH1 of the Affordable Housing Delivery Local Plan 2016 requires that for a development of this size 35% of the number of dwellings should be affordable housing. With 40% social rented, 40% affordable rent and 20% intermediate tenure. There is also a requirement that 25% of affordable housing units should be first homes. There is a recognised need for the proposed housing.
24. The National Planning Policy Framework (Framework) seeks to address the needs of groups with specific housing requirements including older people and people with disabilities. There is also support in the Planning Practice Guidance (PPG) for the provision of accessible and adaptable housing. Policy SPO13 of the CS seeks high quality development which make a real contribution to addressing the needs of the ageing population amongst other things. Albeit there is no development plan policy which would secure a particular number of units to be accessible or adaptable.
25. **Both the Appellant's Planning Needs Assessment and the Council's Local Housing Needs Assessment (LHNA)** acknowledge that there is an ongoing and unmet need for both housing for older people and disabled people in Wealden and in the case of the former, in Ninfield. There is also identification of this need in nearby Rother. The PPG recognises that accessible and adaptable housing can meet the housing needs for some older people. Also, providing suitable accommodation for older people can free up family homes. And the

**Council's Housing consultee states that there are around 90** applicants on the housing register with mobility issues.

26. The planning obligation would secure 35% of the dwellings as affordable housing. With 25% First Homes, 23% Affordable Rented Units, 40% Social Rented Units, and 12% Shared Ownership Units. The provision of affordable housing would comply with the policy requirements and whilst the indicative list of sizes and tenures would broadly correspond with the needs of those on the housing register, these are not secured. Nevertheless, the provision of affordable housing would be a benefit of the proposed development.
27. A condition has been suggested by the appellant which would secure that all homes would meet M4(2) standards and 3 bungalows would be M4(3a) adaptable standard. Also, that the proposed development would be in accordance with the submitted Design Code. In addition, this sets out that of the 3 M4(3a) single storey houses, one would be affordable. Also that a minimum of 20% of the dwellings would be single storey houses and designed for elderly residents. The units are not proposed to be age restricted. These details fall outside the scope of the matters under consideration at this stage of the outline application. However a condition to clarify what should be submitted at reserved matters stage could be appropriate.
28. The appeal scheme would therefore provide accessible and adaptable units. These properties would be likely to be attractive to disabled and older people. However, there is no mechanism before me to secure that the market housing could only be occupied by these groups. As such the immediate contribution of these properties towards these existing needs is uncertain. Nevertheless, the provision of accessible and adaptable housing is likely to make some contribution to providing housing for older people. Whilst areas with better access to services may be a preferable location for the provision of such housing, given the undersupply, this provision nevertheless attracts a positive benefit.
29. Therefore the provision of affordable housing, and accessible and adaptable housing is a positive benefit of this scheme.

#### *Other Matters*

30. A condition is suggested which would seek to achieve the enhancement of the site for biodiversity purposes. However, given the lack of detail at this stage any benefits in this regard would be modest.
31. The proposed development would provide 1.77 hectares of publicly accessible **open space. Areas of youth, adult and children's play space are required to** mitigate the effects of the development and provide these facilities for future occupiers. However the quantum proposed would exceed that required by policy and would be likely to be used by nearby residents, not just the occupiers of the proposed development. As such, this would be a benefit of the development.

#### Planning Obligation

32. The planning obligation includes contributions towards bus services. I am provided with sufficient evidence in this case that this meets the tests and the amount is fairly related in scale and kind to the development proposed. Alongside the pedestrian crossing and improvements to bus stops the

obligation would also secure the implementation of the vehicle and pedestrian access via an S278 Agreement. In addition, a travel plan is required. These would be necessary and reasonable in order to encourage the use of sustainable transport modes, and ensure highway safety. A travel plan monitoring fee is also required. Given the reviews required this would be proportionate and reasonable in this case.

33. The proposed development would include green infrastructure including youth and adult play space, casual and informal **children's** play space and equipped **children's** play space. The planning obligation secures the specification and future management of the on site green infrastructure which is necessary to mitigate the effects of the development as set out above.
34. The Planning Obligation would secure 5% of the plots as self build housing which would **contribute to the Authority's statutory duty** to meet this demand and is a positive benefit of the scheme. Albeit whilst there is a local need for 5 plots, the evidence before me suggests that there is not an unmet need across the borough. The affordable and first homes housing is also secured in the obligation and this is necessary and proportionate for the reasons set out above.
35. Nevertheless, other than the open space and self build and affordable housing discussed above, these provisions are required to mitigate the effects of the development. As such their overall effect would be neutral.

#### Planning Balance

36. The Council cannot demonstrate either a 4 or 5 year supply of deliverable housing sites, and the main parties agree that, for the purposes of this appeal, the Council can demonstrate a 3.83 year supply. Therefore paragraph 11(d) of the Framework is engaged which requires that planning permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies within the Framework taken as a whole. Policies EN1 of the LP and WCS14 of the CS broadly follow this approach. Therefore, the policies that are the most important for the determination of the application are deemed to be out of date. However, this does not mean they do not apply and overall, the proposal conflicts with the development plan as a whole.
37. There is an under delivery of housing and affordable housing in Wealden. The proposed development would provide up to 72 new homes which would be accessible or adaptable and, 35% of which would be affordable housing. This would **contribute to the government's** target to significantly boost the supply of homes and to address the needs of groups with specific housing requirements. The proposed development would also bring the associated economic benefits of up to 72 dwellings, such as construction expenditure and jobs and spend in the local area from future occupants. It is also put to me that the development would be energy efficient and I have considered the benefits set out above of biodiversity, open space provision and self build housing. Due to the scale of the appeal scheme the proposed development would result in a moderate contribution towards these matters. Nevertheless, together these are important considerations and I afford significant weight to them.
38. However the proposed development would be outside the settlement boundary and, moreover, would result in substantial and permanent harm to the



character and appearance of the area. The proposed development would therefore not create a high quality, beautiful and sustainable place which is fundamental to what the planning process should achieve. Therefore, overall, the proposed development would result in substantial harm.

39. Consequently, the harm I have identified would have a serious harmful effect on the character and appearance of the area, which would lead me to conclude that these substantial adverse effects attract greater weight that significantly and demonstrably outweighs the benefits set out above. Therefore, the presumption in favour of sustainable development would not apply in this case.

#### Conclusion

40. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

*H Miles*

INSPECTOR

Richborough

## APPEARANCES

### FOR THE APPELLANT:

R Clutten  
J Collins  
R Crosdil  
K Mann  
S Reeves  
M Taylor  
S Wadsworth

### FOR THE LOCAL PLANNING AUTHORITY:

K Roberts  
M Taylor

### INTERESTED PARTIES:

K Crittall  
M Fairweather  
J Langley  
J Scarff  
K Williamson

### DOCUMENTS:

CD5/A Adopted Wealden Local Plan 1998 – Saved Policies  
CD7/B Ninfield Neighbourhood Development Plan – Draft (including Appendix F)  
CD1/K Photomontages (verified views)  
Text for suggested conditions for Design Code and Specialist Housing