



Appeal Decisions

Site visit made on 9 July 2018

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2018

Appeal A: APP/P1425/W/17/3192298

The Royal Oak, Ditchling Road, Ditchling Common, Ditchling RH15 0SJ

- 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 Gold Property Developments Limited against the decision of Lewes District Council.
 - The application Ref LW/17/0788, dated 6 September 2017, was refused by notice dated 16 November 2017.
 - The development proposed is 3 dwellings associated access and landscaping.
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Appeal B: APP/P1425/W/17/3192318

The Royal Oak, Ditchling Road, Ditchling Common, Ditchling RH15 0SJ

- 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 Gold Property Developments Limited against the decision of Lewes District Council.
 - The application Ref LW/17/0789, dated 6 September 2017, was refused by notice dated 16 November 2017.
 - The development proposed is 4 dwellings with associated access and landscaping.
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Decisions

Appeal A: APP/P1425/W/17/3192298

1. The appeal is dismissed.

Appeal B: APP/P1425/W/17/3192318

2. The appeal is dismissed.

Procedural Matters

3. As set out above there are two appeals on this site for different forms of development. Whilst I have considered each proposal on its own merits, in order to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. An additional representation was received from the appellant following my site visit relating to the determination of a planning application on part of the appeal site¹. I considered it may be an important consideration and there would be no prejudice to any party from my consideration of this representation in determining the appeal. I have therefore had regard to it.

¹ LPA ref: LW/18/0200 approved by the Council on 18 July 2018.

5. During the course of this appeal the Ditchling, Street and Westmeston Neighbourhood Plan ('the NP') was adopted. I am required to determine this appeal on the basis of the development plan, including adopted neighbourhood plans and national policy which are in place at the time of my decision and accordingly I have determined the appeal on that basis.

Main Issues

6. In both appeals the Council objects on the grounds of the location being outside of any settlement boundary, the effect on the character and appearance of the area and highway safety. Accordingly, the main issues in both Appeals A and B are:
 - Whether the proposed development would be a suitable site for housing, having regard to adopted settlement strategy and the effect on the character and appearance of the area.
 - Highway safety.

Reasons

Suitable site

7. The Development Plan includes the saved policies of the Lewes District Local Plan 2003 ('LP') and the Lewes District Local Plan Part 1 – Joint Core Strategy 2016 ('CS'). Policy CT1 of the LP restricts development outside of the defined planning boundaries, except in certain circumstances.
8. The appeal site falls outside of any settlement boundary as defined in the LP and is in the countryside for planning purposes. The residential development proposed as part of the scheme does not fall within any of the exceptional categories of Policy CT1. Consequently, the proposal would not comply with the adopted settlement strategy and there would be some intrinsic conflict with Policy CT1. The retention and protection of the open character of the countryside is integral to that policy and given the Council have recently accepted residential development in this location it is a key consideration in this appeal.
9. There is a loose scattering of dwellings along Ditchling Road, a busy rural road with no continuous footway on the eastern side or street lighting. Despite the presence of a single storey garage structure, the area of the appeal site where plot 1 would be sited is open and allows for views of mature trees as a backdrop. It forms part of a rural wooded landscape where rural buildings and dwellings are interspersed between mature woodland, trees and planting which positively contributes to the rural character and appearance of the area.
10. I note the appellant's comments in relation to density but a design led approach requires a number of less calculated considerations and judgements. A proposal must be appropriate to the local context with regard to the principles of good design and as such, density is only one measure of acceptability insofar as character and appearance is concerned.
11. In both appeals the single storey garage structure would be replaced with a substantial detached dwelling. The 2 storey height would be combined with a considerable width, filling the majority of this corner part of the site and in such proximity to its side boundaries it would have a dominant visual presence

- on the approach from the north. This would be exacerbated by the use of 2 pitched roof gable projections on the front elevation. In both appeals the proposal would substantially diminish views of the mature trees which would be harmful to the openness of the appeal site and to the detriment of the contribution it currently makes to the character and appearance of the area.
12. In Appeal B there would be a similar effect on the approach from the south due to the introduction of a third dwelling. The resultant terrace would be overly wide and in such proximity to the side boundary with Ditchling Road the eye would be unacceptably drawn to the siting and height of the dwelling and the excessive width of the buildings as a whole. Again, existing views of mature trees and the sense spaciousness and openness would also be harmfully diminished. In both appeals these effects would not be mitigated by additional soft landscaping, which would be dependent on a number of factors to be successful and would take a significant amount of time to mature to have any useful mitigating effect.
 13. In reaching this view I have had regard to the former public house building being located close to the highway on the opposite side of the road. This was a historic building and the appeal site was an open car park containing an unobtrusive single storey garage building. The context and character of the locality will no doubt have changed given the residential development currently under construction but due to mature trees and shrubs the public house would not have revealed itself until immediately on the bend. In this case, the additional dwellings on the appeal site would be much more evident in both directions and from further away and would have greater and more harmful visual effects.
 14. I have also had regard to a recent application approved by the Council for the conversion and extension of the garage structure to a 2 bedroom bungalow. Although on the same site of the additional detached dwelling, it is single storey, set back further into the site and therefore has much lesser effects in terms of character and appearance. Although there are dwellings on the opposite side of the road these are also set back a greater distance from the highway and are much less conspicuous than the proposals before me would be. Consequently, such changes in circumstances do not alter my views.
 15. Overall, in both Appeal A and Appeal B the proposal would result in an intensification of built form to an extent that would appear unduly dominant and overly prominent. The proposals would result in an unacceptable suburbanisation of the appeal site that would harmfully erode its character and appearance and that of the locality. In such a context the proposals would not represent high quality of design and would not be an enhancement.
 16. For these reasons, in both Appeals A and B the proposal would not be a suitable site for housing in terms of adopted settlement strategy and would cause significant harm to the character and appearance of the area. Accordingly, in both appeals there would be conflict with Policy 11 of the CS, Policies CT1 and ST3 of the LP and Policy CONS2 of the NP. Amongst other things and when taken as a whole, these require proposals to conserve and enhance the high quality and character of the district's rural environment and that development should respect the character and appearance of neighbouring buildings and the local area.

Highway safety

17. The bend is sharp and the speed limit has been reduced to 40mph which appears to have led to a reduction in the number of accidents. However, 3 accidents have occurred since that limit was introduced on 1 January 2017. The removal of the public house and an improved forward visibility splay have occurred since these accidents and it may well be that this has further improved safety on this bend.
18. Nevertheless, my own observations at the visit suggest that whilst these measures may well assist there is an inherent hazard and a safety issue with drivers not knowing the severity of the bend. The site of plot 1 was also an area where planting was to be removed under previous proposals and replaced with planting that would restrain and not injure the occupiers of errant vehicles. In both appeals this would be replaced with a large, blank side elevation of a 2 storey dwelling. The position of plot 1 would introduce the potential for a much greater hazard and this would require mitigation against driver error. Some form of restraint or barrier is therefore necessary in both appeals.
19. In both appeals a Vehicle Restraint System ('VRS') is proposed and I have been provided with an indicative plan showing the extent of a barrier. However, this would not protect pedestrians on the approved footway due to its siting abutting the side elevation of plot 1. There also appear to be further issues relating to consideration of existing rights of way users, its design and the implementation of the barrier to an adoptable standard. On my reading and notwithstanding the suggested condition, further discussion and negotiation is clearly required and I have some reservations that the VRS proposed has been adequately considered and detailed sufficiently for me to be confident it could be implemented to the required adoptable standard and maintained as such.
20. Such a system would be on public highway land and the use of a Grampian style planning condition should only be considered where there is a clear prospect that the action in question will be performed within the time limit imposed by the permission. In this case and given the comments of the highway authority, I cannot be certain that there is a clear prospect that the requirements of such a condition could be achieved, noting that further road safety audits and technical submissions would be required. Such a condition would not therefore be appropriate and would fail the test of reasonableness and enforceability as set out in Paragraph 55 of the National Planning Policy Framework ('the Framework').
21. The proposals in both Appeal A and Appeal B would provide each of the dwellings with 2 spaces and in Appeal A there would be space available for 2 additional spaces between Plot 3 and the boundary with the highway. I acknowledge that the standards may have changed during consideration of the application but even if there was a shortfall as the Council suggests of 1 space in Appeal A and 2 spaces in Appeal B then a change to unallocated parking would appear to comply with the standards.
22. In both appeals an amended layout plan² has been submitted to which the Council and highway authority have considered in their statement and I have therefore had regard to it. In Appeal A an arrangement of 7 unallocated spaces

² 1682-101-04.

is shown and with care and caution the spaces would be useable. In Appeal B, a similar plan shows 8 unallocated spaces. I also note that in granting permission for the conversion of the garage no objections were raised to the number of additional traffic movements.

23. Suitable turning space is shown in both appeals and although the Council have some concerns regarding inconsiderate parking, the shortfalls would be minimal. Even if a small number of vehicles were parked inconsiderately it would not necessarily mean any vehicle entering the site would have to reverse back onto the highway. Overall I am satisfied vehicles would be able to leave the site in forward gear and that the parking provision would be appropriate. If I were to allow the appeal then securing the spaces as unallocated and the minor changes to the layout in Appeal A is something which could be addressed by conditions.
24. The Council have raised concerns regarding occupiers leaving Plot 1 and stepping onto the access but vehicle speeds would be low and the entrance to that unit is centrally located. There would be adequate time for any occupier to react to a vehicle entering the site and there would be no conflict in this regard. Living conditions in terms of headlight glare into Plot 1 and noise and engine vibrations would not be material and the former could be mitigated by future occupiers of plot 1 if necessary.
25. Nevertheless, the proposals in both Appeal A and Appeal B do not satisfactorily demonstrate to me that they would not result in harm to highway safety and that this harm could be satisfactorily mitigated. The proposals would therefore conflict with Policies CP13 of the CS and ST3 of the LP insofar as they require development to not alter an area in terms of hazards and the creation of safer roads.

Planning balance and conclusion

26. When the Council determined the application they were able to demonstrate a 5 year housing land supply. It has since been brought to my attention³ that the Council can no longer demonstrate a 5 or 3 year supply of housing land⁴. Consequently, Paragraph 11 d) ii of the Framework is engaged which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
27. An additional unit in Appeal A and 2 additional units in Appeal B would provide family sized homes on previously developed land and a very small contribution to supply in an area of acknowledged undersupply. In both appeals the proposals would assist in maintaining local services and facilities and there would also be some small economic gains including from short term construction jobs and future occupier's spending in the local economy. Given the size of the schemes these only weigh minimally in favour of it. The absence of harm in relation to other development management considerations is neutral in the planning balance.

³ Lewes district Five Year Housing Land Supply Position as at 1 April 2018 following request for comments on the revised Framework.

⁴ 4.99 years for the district as a whole and 4.92 for Lewes District Council and for the 3 year supply, 1.97 year for the district as a whole and 2 years for Lewes District Council.

28. Set against this there would be intrinsic harm in terms of the adopted settlement strategy. Although the weight to the conflict with Policy CT1 in terms of location is less than full given the housing land supply position and presence of neighbouring dwellings, I have also identified significant harm to the openness, character and appearance of this part of the countryside. The proposal would conflict with Policy 11 of the CS, Policy ST3 of the LP and Policy CONS2 of the NP and Policy CP13 insofar as highway safety is concerned. These are consistent with the Framework and I give considerable and greater weight to the adverse impacts I have identified and the subsequent conflicts with the policies.
29. Drawing my conclusions together, in both Appeal A and Appeal B the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, when taken as a whole. As such, the proposals would not be the sustainable development for which Paragraph 11 of the Framework indicates a presumption in favour.
30. For the reasons given above, in both appeals the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework do not indicate that decisions should be made other than in accordance with the development plan.
31. Having considered all other matters raised, I therefore conclude that both Appeal A and Appeal B should be dismissed.

Richard Aston

INSPECTOR