



Appeal Decision

Site visit made on 9 February 2021

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/U1430/W/20/3271590

Shellfield, New England Lane, Rye, East Sussex TN31 7NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission in principle.
 - The appeal is made by Mr Keith Macdonald against the decision of Rother District Council.
 - The application Ref RR/2020/339/PIP, dated 25 February 2020, was refused by notice dated 9 June 2020.
 - The development proposed is erection of 9 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal is for a Permission in Principle (PIP). In accordance with the Planning Practice Guidance (the Guidance) and the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (the Order), this is an alternative way of obtaining planning permission for housing-led development, which separates the consideration of matters of principle for the proposed development (first stage) from the technical detail (second stage).
3. The Guidance states that the scope of a PIP application is limited to location, land-use and the amount of development, and that other matters should be considered at the technical details consent stage. It confirms that local authorities cannot list the information they require for applications for permission in principle in the same way they can for applications for planning permission.
4. The Guidance also confirms that, following a grant of a PIP, the site must receive a grant of Technical Details Consent (TDC) before development can proceed, and that other statutory requirements may apply at this stage, such as those relating to protected species.
5. For the avoidance of doubt, the appeal proposal is at the first stage. In respect of residential development, an applicant can apply for a PIP for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application. In this instance, permission in principle has been sought for a minimum of one and a maximum of 9 no. dwellings on the appeal site. I have determined the appeal on that basis, having regard to the requirements of the above referenced Order and the Guidance.

Main Issue

6. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

Location and proposed land use

7. The appeal site is situated on the A268 Rye Road in-between New England Lane and Saltcote Lane, on the edge of Rye where the adjoining village of Playden begins. 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. For the purposes of planning policy, the site, therefore, lies within the countryside.
8. Policy RA2 of the Rother Local Plan Core Strategy (the CS) sets out the overarching strategy for the countryside, which is to support rural businesses and strictly limit new development to that which support local agriculture, economic or tourists needs and maintains or improves rural character. Policy RA3(iii) states that the creation of new dwellings in the countryside will only be permitted in extremely limited circumstances; (a) to support a farming or other land-based industry; (b) it is the conversion of a traditional historic farm building in accordance with policy RA4; (c) the one-to-one replacement of an existing dwelling; and (d) as a rural exception site to meet identified local affordable housing need. None of the exceptional circumstances set by the CS policies is met by this scheme. As such, the proposal is contrary, concerning the land use proposed, to Policy PC1, OSS1, RA2 and RA3 (iii) of the CS.
9. Policy OSS2 of the CS requires new development to be focused within defined settlement boundaries, principally on already committed and allocated sites, together with other sites where proposals accord with relevant Local Plan policies. In the countryside (that is, outside of defined settlement development boundaries), the CS identifies that development shall be normally limited to that which accords with specific Local Plan policies or that for which a countryside location is demonstrated to be necessary. The scheme would not comply with any of these criteria.
10. Policy OSS3 states that the suitability of a location should have regard to the need for access to employment opportunities. Policy TR3 states that new development should minimise the need to travel and support good access to employment, services, and community facilities.
11. The range of services and facilities in the immediate surrounding area is quite limited. 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. In order to access these facilities and services it would be necessary to use either the A268 or a footpath that connects Fair Meadow to Deadman's Lane and The Grove.
12. The most direct route to nearby schools would be to use the footpath between Fair Meadow and Deadman's Lane, this route has no street lighting and has a steep gradient. There is an alternative route using the footpath along the A268.

However, this is also very steep on the return to the site. Accordingly, whilst it would not be impossible to walk into Rye, the gradient and lack of infrastructure would render the journey on foot unappealing for those with children, the elderly, or those with physical constraints.

13. There are bus stops on the A268. I note the appellant's representations that there is approximately a bus every 50 minutes. However, the bus service does not appear to carry on past 7 o'clock in the evening or run regularly on Sundays. Furthermore, a number of buses that use the route are for school children and community groups. As such I consider there to be a limited service, and residents would generally need to rely on a private vehicle to access services and facilities in the immediate and wider area.
14. The appeal site is near to a Hospital and Care Home Facility. Whilst patients may walk to the facility this does not automatically lead me to conclude that the facility is therefore in a sustainable location. On the basis of the evidence relating to the care facility it is not possible to make a meaningful comparison between the care facility and the appeal site. In any event, I have considered the suitability of the development site with regards to accessibility on its own merits.
15. I find that the proposal would not be located in a suitable location due to its inadequate level of accessibility to primary services and facilities. The proposal would, therefore, fail to comply with Policies PC1, RA2, RA3 (iii), OSS2, OSS3 (x), TR3 of the CS, Policy DIM2 of the CS and Policy DIM2 of the Rother Development and Site Allocations and the National Planning Policy Framework, which when read together seek to ensure development takes place within the defined settlement boundaries, supports good access to facilities, and that development should be focused on locations which offer a genuine choice of transport modes.

Amount of development

16. The indicative site layout drawing PL002 shows an access road leading past the existing dwelling to serve the proposed houses which would be situated either side, facing into the site. Whilst the technical details stage may seek a lower level of development, the scheme before me is for 9 houses being located within this site. The dwellings closer to New England Lane would be orientated to face different direction due to the layout of the access. However, the layout would necessitate a somewhat regimented row of dwellings to the rear of those properties along Saltcote Lane. This would be contrary to the sporadic grain of development in the surrounding area, which would be exacerbated by the single access style formation.
17. Whilst the proposal would not encroach into the wider countryside, I consider that the layout as proposed would create a more urban form of development that would fail to sit comfortably within the wider grain of development that appears to be a more naturally evolved environment.
18. Accordingly, I find that the amount of development proposed could not be accommodated on the site without harming the character of the area. Therefore, the scheme would fail to comply with Policies OSS4(v), EN1(v) and EN3 of the CS and Policy DEN1 of the Rother Development and Site Allocations and the objectives of Paragraph 126 of the National Planning Policy Framework.

Planning Balance

19. The government is seeking to significantly boost the supply of housing. As the Council is unable to demonstrate a five-year supply of deliverable housing sites (paragraph 11d) of the Framework is engaged and planning permission should be granted unless the adverse impacts of so doing would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.
20. The proposal would provide the social and economic benefits arising from the construction of additional homes. However, I have found that the future occupiers would be largely dependent on private cars to access facilities and services. Furthermore, the Framework states that good design is a key aspect of sustainable development and advocates the creation of a high-quality built environment. In this case, I have concluded that the proposal would fail to provide a range of modes of transport and would fail to achieve a good standard of design. It would therefore not accord with the Framework's objective of achieving a well-designed place.
21. I consider that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits of the proposal for up to 9 dwellings on the site, when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore does not apply.

Conclusion

22. The proposal conflicts with the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
23. For the reasons above I conclude that the appeal should be dismissed.

J Ayres

INSPECTOR