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## Appeal Decision

Site visit made on 29 November 2016

**by Nicola Davies BA DipTP MRTPI**

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

**Decision date: 08 December 2016**

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**Appeal Ref: APP/U1430/D/16/3157542**

**Garden House, Tillingham Lane, Peasmarsh, East Sussex TN31 6XH**

- 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 Mrs Helen Pickford against the decision of Rother District Council.
  - The application Ref RR/2016/1041/P, dated 14 April 2016, was refused by notice dated 9 June 2016.
  - The development proposed is creation of a tennis court and erection of surrounding fence.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the proposal upon the character and appearance of the area and the High Weald Area of Outstanding Natural Beauty (AONB).

### Reasons

3. The appeal site falls within the High Weald Area of Outstanding Natural Beauty (AONB). Policy EN1 of the Rother Local Plan Core Strategy (the Core Strategy) ensures its protection.
  4. Garden House forms part of a small cluster of detached dwellings located in the countryside. Whilst Pelsham House, to the north of Garden House, is set within large grounds and hosts a tennis court, the small number of other dwellings in this cluster are situated on more modest plots. The site is located in the countryside and is surrounded by open fields.
  5. I observed on site outbuildings, greenhouses and an enclosed walled garden are positioned close to the rear of the dwelling. A wall separates these from the remainder of the grounds that extend to grass areas further south that are crossed by concrete paths and hedges. The land slopes downward to the valley where the grounds meet with Tillingham Lane, noted by the Council to be an historic lane. The appeal site relates to a grassed area located adjacent Tillingham Lane some distance from the house. A tall hedge denotes the eastern boundary with trees beyond. The southern boundary adjoins Tillingham Lane where a timber gate is the only interruption to its continuity of the tall hedge that runs alongside the lane.
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6. Although the site is residential in nature this part of the grounds, although enclosed within the boundary of Garden House, comprises a spacious garden laid as lawn and retains a rural feel to its setting. The proposed tennis court would create a large area of hardsurfacing and would require land re-grading to achieve a level surface. It would be enclosed by a tall boundary fence. The proposed tennis court would substantially alter the character and appearance of the site by adding a further urbanising development in the grounds beyond the existing development relating to the dwelling and in an area where the grounds are open and remain unspoilt by domestic paraphernalia. This would be harmful to the open character and rural setting of the area that has been afforded special landscape protection.
7. I saw that the hedge along the lane, being deciduous, enables views of the site to be achieved through the hedge, although this would be less so when in leaf during spring and summer months. There are a small number of other trees next to this boundary but these do not offer any greater screening. Views of the appeal site can also be achieved at the gate, again through a row of deciduous trees within the grounds. I acknowledge that Tillingham Lane is a private road and not designated as a public right of way but this does not preclude public use of this country highway. Whilst the appeal site would not be readily visible from the bridleway close by, it would be visible from the adjacent lane. The harm identified above would therefore be visible in views from the adjacent this highway.
8. Although I have concluded the tennis courts would be visible to public view, mainly during winter months, the visibility of the appeal site and the proposed development is not the sole determining factor. The harm identified above to the character of the countryside would occur whether or not the development can be seen in wider views. The appellant's suggestion to plant additional hedging to screen the tennis court would, therefore, not overcome the harm identified above.
9. The existing tennis court relating to Pelsham House is located north of Garden House and relates more closely to the existing cluster of dwellings. I acknowledge the examples of tennis courts in gardens of large houses in the locality put forward by the appellant, a number of which are visible from public highways and are within the AONB. Whilst the appellant contends that these are positioned some distance from the host dwellings and illustrate mixed uses of the landscape within the AONB, I am not clear as to how long these tennis courts have been in situ and whether they have been subject to planning permission. I therefore must consider the proposal that is in front of me in the context of the current development plan policies having regard to the Framework. The appellant suggests that the proposed tennis court could be repositioned within the site but an alternative location would likely to be more visually prominent. This would be a different proposal and, therefore, would be subject to individual assessment.
10. The appellant considers the proposal would significantly enhance the amenity of the property by providing recreational facilities typical of a large house with substantial gardens similar to other large houses in the locality. It would contribute to the health of the occupiers and reduce travel to access tennis facilities in Rye thereby also contributing to reducing pollution and lower carbon emissions. Construction works would bring about economic benefits to the area. Whilst the proposal would bring about personal benefit to the applicant

and her family and some limited economic benefit, these benefits would not outweigh the permanent harm that I have identified above to the character and appearance of the area or the protection of the AONB.

11. The appellant has suggested that a hardsurface that could be used as a tennis court could be constructed under residential permitted development. Such permitted development would be a matter for the Council to advise upon taking on board any potential engineering works required to re-grade land levels.
12. For these reasons, I conclude that the proposal would have a harmful effect upon the character and appearance of the area and would not preserve the natural beauty of the landscape. The proposal conflicts with Policies OSS4 (iii), RA3 (v) and EN1 (i) of the Rother Local Plan Core Strategy, which seek to protect the landscape of the High Weald AONB and which requires development to respect and not detract from the character and appearance of the locality and to ensure that all development in the countryside will not adversely impact on the landscape character, amongst other matters. The proposal would also be contrary to paragraph 115 of the Framework that asserts great weight to the conserving of the landscape in AONBs which is afforded the highest status of protection.

### **Conclusions**

13. For the reasons given above, I conclude that the appeal should be dismissed.

*Nicola Davies*

INSPECTOR