
Appeal Decision

Site visit made on 19 December 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 4th January 2017

Appeal Ref: APP/M2270/W/16/3156623

Honeymead, Brenchley Road, Brenchley, Tonbridge TN12 7PB

- 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 Mr and Mrs Lee against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/504027/FULL, dated 10 May 2016, was refused by notice dated 19 July 2016.
 - The development proposed is demolition of existing domestic garages and the erection of a contemporary three bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing domestic garages and the erection of a contemporary three bedroom dwelling at Honeymead, Brenchley Road, Brenchley, Tonbridge TN12 7PB, in accordance with the application Ref: 16/504027/FULL, dated 10 May 2016, subject to the conditions set out in the attached Schedule of Conditions.

Preliminary Matters

2. The Council accepts that it is currently unable to demonstrate a five-year supply of deliverable housing sites in the Borough. Policies in the Core Strategy¹ and the Local Plan² which relate to the supply of housing are therefore out-of-date when considered in relation to paragraph 49 of the National Planning Policy Framework (the Framework).
3. Consequently, in accordance with paragraph 14 of the Framework, planning 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. Nevertheless, I have had regard to policies in the Core Strategy and Local Plan that are relevant to this case insofar as they are consistent with the Framework, as required by paragraph 215. I have therefore attributed them weight as set out in my conclusions on the main issues.

Main Issue

4. The main issue is whether the site is appropriate for a residential dwelling in view of its location outside the Limits of Built Development of Brenchley.

¹ Tunbridge Wells Borough Local Development Framework - Core Strategy Development Plan Document

² Tunbridge Wells Borough Local Plan

Reasons

5. The appeal site is a large plot which is currently the side garden of Honeymead, a substantial detached dwelling on the northern side of Brenchley Road. It is part of loose-knit, ribbon development that extends west from the centre of Brenchley, an attractive village with a wealth of historic buildings and an ancient church. The density of development in the vicinity of the appeal site is less than that within the centre of the village, being characterised by a variety of dwellings dating from different periods predominantly set in spacious plots. As the appeal site lies approximately 550m outside the Limit to Built Development (LBD) of the village, for planning purposes it is in the countryside.
6. However, between Honeymead and the centre of the village there are a significant number of community facilities including a school, dental surgery, recreation ground, community hall, sports pitches, a café and a vehicle repair garage. There is also a bus stop immediately outside the site. All these facilities, and the village centre, can be reached using the footpaths along Brenchley Road. The range of facilities that are available between the site and the village centre provides this area with a strong sense that it is physically and functionally connected with the village, notwithstanding its location outside the LBD. In view of the site's proximity to this range of facilities on the approach to the village centre, I do not consider the site can be considered to be isolated in relation to paragraph 55 of the Framework. On the contrary, it seems to me that it is well related to the village.
7. I appreciate that an application for an identical development was dismissed on appeal only just over a year ago.³ In his decision the Inspector was supportive of the Council's objective for housing in villages to maintain the focus on the centre of those villages. He also was supportive of a plan-led approach to any release of sites, rather than permitting development to proceed in an ad-hoc manner in which limited numbers of additional dwellings would not add in any meaningful way to the borough's housing supply. He also had regard for the target of 360 dwellings being delivered over the plan period (up to 2026) in the villages and rural areas, knowing that this would represent a reduction in the proportion delivered in those areas between 2003 and 2008.
8. Although I have no reason to dissent from his analysis, the borough's housing land supply situation has now changed. The Council is no longer able to demonstrate an adequate supply and therefore the balance shifts in favour of permitting development. Whilst the Framework seeks to avoid new isolated homes in the countryside, it also advises that housing should be located where it will enhance or maintain the vitality of rural communities. It seems to me that that the accessibility of the appeal site to a wide range of village facilities is therefore a significant factor in the scheme's favour. Unlike many sites outside defined village boundaries, here there is a realistic possibility that occupants would choose to walk to meet at least some of their day-to-day needs, since many of them would be within a 5-10 minute walk.
9. Whilst I share the previous Inspector's concerns about the possibility of a cumulative effect of permitting development on a series of infill sites, no particular examples have been drawn to my attention in connection with this appeal. In any event, the Council would retain the right to assess any future

³ APP/M2270/W/15/3007589

proposals on their individual merits, taking account of all material considerations that may be relevant at the time. I therefore do not consider that to be a reason for rejecting the current scheme, given the pressing need to deliver more housing.

10. Although the appeal site is in the countryside, it is within part of the garden of Honeymead, which includes several dilapidated outbuildings and a derelict tennis court. Whilst the site is within an area of loose-knit development, given its location outside the LBD, I do not accept the Council's contention that it is within a 'built-up area'. I consider it to be previously developed land as defined by the Framework. This follows the Court's decision⁴ that the exclusion of residential gardens from the definition of previously developed land does not extend to private gardens that are not located in built-up areas.
11. The Framework does not preclude development of such sites. The determining factors in this case are firstly, whether a housing development in this location would enhance or maintain the vitality of the rural community and secondly, whether or not a development can be achieved without harm to the local environment. The previous Inspector considered this second matter in some detail and concluded that the proposal would not result in material harm to the character and appearance of the area or the High Weald Area of Outstanding Natural Beauty. The Council has not contested this conclusion and I see no reason to take a different view.
12. Taking all these factors into account, I conclude that the site would be suitable for a residential dwelling, notwithstanding its location outside the LBD of Brenchley. Although the proposal would be contrary to Core Policy 14 of the Core Strategy and Policy LBD1 of the Local Plan, these policies are out-of-date in relation to housing supply. Conflict with them therefore carries reduced weight in my overall assessment of the proposal.

Other Matter

13. The occupant of the adjacent property, Laurel House, has raised concerns about the potential loss of privacy arising from the first floor windows on the western elevation of the proposed dwelling. However, the proposal will be built into the slope of the site and therefore its overall height in relation to existing ground levels would be more akin to that of a single storey dwelling. In view of this, the separation distance between the dwellings, together with the presence of vegetation which provides screening along the common boundary, I am satisfied that the proposal would not result in a significant loss of privacy for these neighbours.

Planning Balance

14. The location of the appeal site, outside the LBD of Brenchley, means that the proposal would not be in accordance with the development plan. Planning permission should therefore not be granted unless other material considerations indicate otherwise.
15. However, in this case I have found that the appeal site would be well related to a range of facilities available both in the village centre and along the road between the site and the village. I am therefore satisfied that future residents

⁴ Dartford Borough Council v Secretary of State for Communities and Local Government [2016] EWHC 635 (Admin)

would be able to meet at least some of their day-to-day needs within a 5-10 minute walk of the site. I therefore consider that the site is a sustainable location for a residential development and that the proposal would make a small contribution to the continuing vitality of Brenchley as a rural community. These factors weigh in the scheme's favour.

16. The proposal would provide a single dwelling. Whilst this would not make a significant contribution to the Borough's need for housing it would, nevertheless, be a social benefit arising from the scheme. There would be some employment created during construction. However, this economic benefit would be short-term, so it carries little weight in the overall balance. Future residents would bring a limited amount of additional expenditure into the village, another economic benefit, albeit a small one. There is also agreement between the main parties that the proposal would not give rise to any material harm to the local environment or the wider AONB.
17. In summary, I have found the site to be a sustainable location and there would be limited, but valuable, economic and social benefits arising from the scheme. Furthermore, the proposal would not give rise to any significant harm to the local environment. In the circumstances of this particular case, I am therefore not persuaded that allowing the appeal would undermine the spatial strategy of the development plan to focus development within the borough's LBDs. In addition, the lack of a five-year housing land supply is a matter to which I attach significant weight.
18. Taking all these factors into account, I consider that there are no adverse impacts associated with the development that would significantly or demonstrably outweigh the modest benefits, when assessed against the policies in the Framework taken as a whole. Overall the proposal would be a sustainable development. I therefore find that there are material considerations in this case that outweigh the conflict with the development plan and conclude that the appeal should be allowed. I will therefore move on to consider conditions.

Conditions

19. In addition to the standard time limit, the Council has requested a number of conditions in the event that the appeal was allowed. I have considered these in the light of the tests set out in paragraph 206 of the Framework and imposed them where I consider them to be necessary and reasonable, incorporating amendments for the sake of clarity and precision.
20. A condition specifying the plans is necessary in the interests of certainty. A number of pre-commencement conditions are needed to ensure that the development is carried out without harm to the local environment and to ensure that trees to be retained on the site are adequately protected during the construction period. These conditions include agreeing schemes for drainage, landscaping, tree protection measures, approval of materials and details of site levels and finished floor levels. A condition ensuring timely implementation of the landscaping and its aftercare is also required in the interests of the appearance of the development.
21. Conditions relating to the provision of refuse storage facilities, provision and retention of parking spaces and the disposal of sewerage are required prior to occupation to ensure satisfactory functioning of the development.

22. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. However, in this case the building has been designed to be unobtrusive within the site and the wider landscape of the AONB and to protect the amenity of neighbours. I am therefore satisfied that removal of permitted development rights is justified in this case.

Conclusion

23. For the reasons set out above, and having regard to all other relevant matters raised, I conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans:
 - 14.125.L.01 – location and block plan
 - 14.125.P.01 – proposed site plan
 - 14.125.P.02 – proposed floor plans
 - 14.125.P.03 – proposed south and west elevations
 - 14.125.P.04 – proposed north and east elevations
 - 14.125.P.05 – proposed elevations and sections
 - 14.125.P.06 – proposed view
3. No development shall take place until plans and sections showing the existing and proposed site levels and finished floor levels have been submitted to and approved in writing by the local planning authority. Levels shall be expressed with reference to Ordnance Datum and relate to a fixed point within the public highway. The development shall be implemented in accordance with these approved details.
4. No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
5. No development shall take place until details of drainage works, designed to be in accordance with the principles of sustainable urban drainage, have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to occupation of the development hereby permitted.

6. No development shall take place until a landscape scheme has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and other landscape features on and immediately adjacent to the site and indicate whether they are to be retained or removed. It shall detail measures for protection of species to be retained, provide details of on-site replacement planting including a planting specification, a programme of implementation and a five year management plan. The landscape scheme shall specifically address the need to provide additional tree planting to screen the southern boundary of the site.
7. All planting, seeding or turfing comprised in the approved details of the landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or on completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
8. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
9. Prior to first occupation of the dwelling hereby permitted details of facilities for the storage of refuse and recyclable material shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved and retained thereafter as approved.
10. Prior to first occupation of the dwelling hereby permitted works for the disposal of sewage will have been provided to serve the development in accordance with details that have previously been submitted to and approved in writing by the local planning authority.
11. Prior to first occupation of the dwelling hereby permitted the area shown on Drawing No 14.125.P.01 as vehicle parking space shall be provided, surfaced and drained in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The parking area shall be retained thereafter as approved.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out within Classes A, B, E of Part 1 or Class A of Part 2 Schedule 2 of that Order without the prior approval of the local planning authority.

End of Schedule of Conditions