

Appeal Decision

Site visit made on 27 February 2017

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: 22 March 2017

Appeal Ref: APP/C1435/W/16/3162531

Meadow Croft, Cousley Wood Road, Wadhurst TN5 6EF

- 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 Patrick Connon against the decision of Wealden District Council.
 - The application Ref WD/2016/0934/F, dated 17 April 2016, was refused by notice dated 21 September 2016.
 - The development proposed is demolition of 1no house and replacement with 2no houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council accepts that it is currently unable to demonstrate a five year supply of deliverable housing sites in the District. Policies in the Core Strategy¹ and the Local Plan² which relate to the supply of housing are therefore out-of-date when considered in relation to paragraph 49 of the National Planning Policy Framework (the Framework). 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 as a whole. Nevertheless, I have had regard to the Core Strategy and Local Plan policies 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

3. The Council's single reason for refusal related to the location of the development. However, in view of the proximity of a veteran oak tree to the proposal, I was concerned about its effects on future occupants of the dwelling on Plot B and the character and appearance of the area. I therefore sought further comments from the parties on these matters and consider the main issues in this appeal to be:
 - a) whether or not the site would be suitable for an additional home having regard to its location outside the settlement boundary of Wadhurst;

¹ Wealden District (Incorporating part of the South Downs National Park) Core Strategy Local Plan

² Wealden Local Plan

- b) whether or not the proposal would provide satisfactory living conditions for future occupants of the house on Plot B;
- c) the effect of the proposal on the character and appearance of the High Weald Area of Outstanding Natural Beauty (AONB), including its effect on trees.

Reasons

Location of development

- 4. The appeal site lies in the High Weald AONB and within a short stretch of ribbon development on the south-eastern side of Cousley Wood Road. It lies outside the village boundary of Wadhurst and for planning purposes is therefore in the countryside. It is currently occupied by a detached two-storey dwelling of traditional design, Meadow Croft. This dwelling is sited closer to the road than the adjacent chalet bungalow on its south-western side, Senlac. These two existing dwellings are separated by garages sited on either side of the shared boundary. To the north-east of the site is Days Cottage, a Grade II Listed Building. This modest, partly timber-clad dwelling is orientated at right angles to the road and faces the appeal site. However, it is separated from the common boundary by a good-sized mature garden.
- 5. The site is on a rural road which is subject to a 40mph speed limit. There is a footpath that leads into the village, but it is not continuous on one side of the road. To reach the nearest shop would involve crossing the road more than once and the route is not flat, so a walk to it would require moderate effort and would probably take a good 20 minutes. I accept that in fine weather and during the summer months, local residents could choose to walk or cycle to this local store, even if to do so would take significantly longer than going by car. However, it seems much more likely to me that residents would resort to using a car in inclement weather and on dark evenings, especially as the footpath is unlit for much of its length.
- 6. The more extensive facilities and services of Wadhurst are significantly further from the site. In my view, the time that would be taken to walk to and from the village, alongside a road carrying a reasonable volume of fast moving traffic, is likely to be a significant disincentive to do so. It is a distance over which it would be impractical to carry heavy loads of shopping. I note that there is a weekday, hourly bus service which would be available to future residents, although the bus stop is several minutes' walk away. Whilst occupants of the proposed dwellings could make use of these alternative modes of transport, it is much more likely that they would choose to use a car as it would provide an easier and more convenient way of getting around.
- 7. Paragraph 55 of the Framework advises that new isolated homes in the countryside should be avoided, unless there are special circumstances. It also states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. The area surrounding the appeal site has a predominantly rural character and development becomes increasingly sporadic along Cousley Wood Road, particularly on its south-eastern side. Whilst the site could not be described as remote, it is beyond the development boundary and some 1.8km from the village centre. It is therefore not conveniently located in terms of its accessibility to a range of facilities and services and, in this respect, is isolated. The additional economic and social

activities associated with the occupants of a single dwelling are, at best, going to make a marginal contribution to maintaining the vitality of the village of Wadhurst.

8. For these various reasons I conclude that the location of the proposal, beyond the village boundary of Wadhurst, would not be a suitable location for an additional dwelling. It would be contrary to saved Policies GD2, DC17 and EN2 of the Local Plan and Policy SP07 of the Core Strategy. These policies seek to focus new housing development within existing settlements and restrict development in the countryside in order to promote, amongst other things, greater use of sustainable modes of transport. As these policies cannot be considered up-to-date in the absence of a five-year housing land supply, conflict with them carries limited weight in my overall assessment of the appeal proposal. Nevertheless, the proposal would not accord with the Framework's aim of locating housing in rural areas where it would enhance and maintain the vitality of rural communities.

Living conditions

9. The proposed dwelling on Plot B would be beneath the crown of a veteran oak tree which is growing near the southern corner of the site. In order to retain the tree in a safe condition, the arboriculture report advises that it would require judicious management to avoid potential catastrophic structural failure. I understand that removal of some branches is required in the interests of the health and safety of the tree, irrespective of whether or not the scheme was allowed. Further long-term management of the tree would be particularly important to avoid the possibility of damage to the house arising from the tree's longer-term health problems. However, no details of the extent of such tree works were provided with the appeal.
10. Even with a reduction in the canopy, this substantial tree would be very close to the proposed dwelling, dominating its plot and appearing overbearing from the rear elevation. Given the orientation of the dwelling there would be some overshadowing of the back of the house and its small rear garden. This combination of factors would cause the house to appear dark and enclosed. In my view this would adversely affect the living conditions of future occupants. It would also significantly restrict the usability of the rear garden both as an area in which to sit outside and for cultivation. It therefore seems to me that the size, spread and proximity of the tree to the house, would make it more likely that future occupants would seek to have the tree removed. This would not only eliminate the risk of falling branches damaging the house, but would also open up the area at the back of the dwelling, making the rear facing rooms and garden much more pleasant places to be.
11. For these reasons I conclude that the proposed arrangement, with the retention of the veteran oak, would result in unsatisfactory living conditions for future occupants of the proposed dwelling on Plot B. This would be contrary to saved Policy EN27 of the Local Plan which, amongst other things, seeks to ensure future occupants of development have adequate provision of daylight, sunlight and garden space. It would also fail to accord with the Framework's core principle of always seeking a high standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

12. The proposed layout would be a staggered arrangement with the dwelling on Plot A closer to the street and the dwelling on Plot B set further back on the site. This would ensure that each would relate appropriately with the adjacent dwelling and the pair could be integrated effectively with the street scene. This would be assisted by the retention of most of the roadside boundary hedge. Views of the rear of the development from the surrounding countryside would be limited by vegetation at the rear of the site.
13. However, the proposed dwelling would be sited within the area of the root spread of the veteran oak tree. The arboricultural report recommends the use of special engineering solutions to ensure that roots of the tree are not damaged during construction. These works could provide some improvement to the tree's rooting environment, although there appears to be some doubt about how successful this approach would be in the longer term. The report also identified features of decay within the tree and the need for a veteran tree management plan which would reduce the crown height and radial branch spread over a 10-15 year period. However, in the absence of details of these various works, I am not persuaded that the tree's long-term health could be sustained.
14. In my view this tree makes a valuable contribution to the street scene in this part of Cousley Wood Road. It forms part of the backdrop to the wider landscape of the AONB, especially when travelling in a north-easterly direction. Notwithstanding the protection measures proposed during construction and the long term management of this tree, it seems to me that the proposed development would introduce significant risks to its retention, particularly in the longer term. This would be detrimental to the appearance of the AONB and contrary to paragraph 118 of the Framework, which seeks to protect veteran trees found outside ancient woodland.
15. There is also a Scots Pine on the northern part of the site. It is identified as a tree of moderate amenity value. Its proximity to the street makes it more prominent in the immediate street scene than the oak. It would be removed in order to facilitate the development. The loss of this tree combined with the introduction of more built form on the site would give the site a more suburban appearance. However, I agree that although its loss would have moderate local effect, it would have limited impact on the wider landscape of the AONB. This aspect of the proposal would therefore be acceptable.
16. Nevertheless, for the reasons given above, I conclude that the proposal would be harmful to the character and appearance of the AONB, contrary to saved Policy EN6 of the Local Plan. As this policy is consistent with the Framework's objective of conserving the landscape and scenic beauty of AONBs, this is a matter to which I give significant weight.

Other Matters

Heritage

17. The adjacent dwelling, Days Cottage, is a Listed Building. I therefore have a duty to have special regard to the desirability of preserving a listed building and its setting. The proposal would reduce the substantial existing gap between the buildings on this part of Cousley Wood Road. However, sufficient

separation would be retained to sustain an adequate sense of spaciousness around Days Cottage. I therefore concur with the Council's conclusion that the setting of the building would not be adversely affected by the proposal.

Ashdown Forest

18. The appeal site is within 15km of Ashdown Forest, which is designated as a Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI), which are areas of international nature conservation importance. The Council has therefore screened the proposals under the provisions of the Habitats Regulations 2010. It has concluded that a contribution to the Strategic Access Management and Monitoring Strategy (SAMMS) would mitigate any adverse effect on the protected sites. The contribution could be secured through a CIL contribution if the development had been acceptable in all other respects.
19. In the event that a subsequent application for exemption or relief from the CIL payment was successful, it is suggested that these mitigation measures could be secured by conditions. However, I have some concerns about the use of conditions in view of the Planning Practice Guidance's (PPG's) advice in relation to negatively worded conditions. The PPG advises that such conditions should only be used in exceptional circumstances and in the case of more complex and strategically important development. However, in view of my conclusions on the main issues, this matter is not a determining factor in this case and, therefore, does not need to be considered further.

Development elsewhere

20. Both parties have referred to the scheme at Wadhurst College where outline permission has been granted for a development of 26 residential units, Ref: WC/2013/1737/MAO. I note that this scheme was justified as an exception to the policies restricting development in the countryside and beyond the village boundary because of the special circumstances in the case. These related to the preservation of two Listed Buildings on the site and other works which the Council considered would improve the appearance of the site and its overall impact on the character and quality of the AONB. That scheme is therefore not comparable with the scheme before me, which I have determined on its individual planning merits.

Planning Balance and Conclusions

21. The proposal would provide one additional dwelling. This would make a minimal contribution to the District's housing needs and is therefore a social benefit that attracts little weight in the overall balance. I acknowledge that it is possible to walk on a footpath between the site and the nearest convenience store and from there to walk further into the village of Wadhurst. However, I consider the site is not conveniently located and anyone living there would feel isolated without regular access to a car. Furthermore, I have found that the additional house would be overshadowed by a veteran tree, resulting in unsatisfactory living conditions for future occupants. These factors would outweigh the small social benefit arising from the provision of an extra dwelling.
22. The economic benefits of the scheme would primarily be related to the employment created during the construction period. However, they would be

short-term and therefore carry only limited weight in the overall assessment. Any additional expenditure in the local shops arising from one additional house would be small and of little consequence. Financial incentives, such as the New Homes Bonus attract little weight in the overall planning balance.

23. Moving on to consider environmental matters, I have found that the proposal could increase the risk that a veteran tree would be lost in the longer term. I am therefore not persuaded that there would be any environmental benefits arising from the scheme; on the contrary it would conflict with the Framework's objective of giving great weight to conserving the landscape and scenic beauty of Areas of Outstanding Natural Beauty. This is a matter to which I attach significant weight.
24. The lack of a five-year land supply is a matter to which I attach significant weight. However, as the proposal would conflict with the environmental objectives of the Framework and have no social benefits, I consider that the adverse impacts of the scheme would significantly and demonstrably outweigh the limited economic benefits, when assessed against the policies in the Framework as a whole. The proposal would therefore not be a sustainable development and would fail to accord with the aims of the Framework, Policy WCS14 of the Core Strategy and saved Policy EN1 of the Local Plan.
25. There are therefore no material considerations that outweigh the conflict with the development plan, for which reason I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR