
Appeal Decision

Site visit made on 5 December 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 11th December 2017

Appeal Ref: APP/D3830/W/17/3180609

Land adj to Meadow Wood, Brook Street, Cuckfield, West Sussex

- 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 Nuala Hampshire against the decision of Mid Sussex District Council.
 - The application Ref DM/16/4520, dated 27 October 2016, was refused by notice dated 31 May 2017.
 - The development proposed is erection of 3 detached dwellings and associated works.
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Decision

1. I dismiss the appeal.

Main Issues

2. These are;
 - The effect of the proposal on the character and appearance of the Brook Street area, within the High Weald Area of Outstanding Natural Beauty.
 - Whether there are other material considerations and the weight to be afforded them.

Reasons

Policy

3. The Development Plan includes the Mid Sussex Local Plan and the Ansty, Staplefield and Brook Street Neighbourhood Plan. Policy C1 of the Local Plan classifies areas outside built-up boundaries as a Countryside Area of Development Restraint and lists the limited types of development to be permitted. The Area of Outstanding Natural Beauty is the subject of Policy C4 and development will not be permitted unless it needs to be in the countryside, or is essential for local social and economic needs, or is in the national interest. Policy H2 sets out requirements for a mix of housing types and the efficient use of land and Policy B1 requires a high standard of design, layout and landscaping. Requirements on sustainability and traffic generation for new developments are in Policy T4, with sites being sited within the boundaries of built-up areas and seeking to minimise the increase in private car trips.
4. Neighbourhood Plan Policy AS1 seeks to focus new housing to the development boundary of Ansty with other proposals only if meeting identified local need and subject to specific policies and criteria. The prevention of coalescence is the subject of Policy AS2, seeking to avoid erosion of the perception of

openness between named places which include Cuckfield and Brook Street. Policy AS3 concerns development within the High Weald Area of Outstanding Natural Beauty, where the natural beauty is to be conserved and enhanced and the objectives of the management plan are to be met.

5. There is emerging policy in the District Plan, and the thrust of existing policies on the Area of Outstanding Natural Beauty would be continued. However, due to the stage reached and the modifications to be agreed, as well as this continuation of existing policy, limited weight need be attached to that document.
6. The National Planning Policy Framework contains the Government's policies for achieving sustainable development, with the three dimensions of such development being set out at paragraph 7, and the core planning principles stated at paragraph 17. Great weight should be given to conserving landscape and scenic beauty as set out at paragraph 115 and that is stated to include Areas of Outstanding Natural Beauty.

Character and Appearance

7. The site is outside of any built-up boundary and is in a Countryside Area of Development Restraint as defined in Policy C1. Whilst not truly isolated in the terms of paragraph 55 of the Framework as determined in the recent case of Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin), the exceptions in that paragraph are not relied on, and in any event there are national and local policies that seek to protect the countryside and the Area of Outstanding Natural Beauty in particular, and so nothing turns on this finding.
8. Also of relevance to the policy consideration is that Policy C1 of the 2004 Local Plan refers to protecting countryside for its own sake, whereas the more recent Framework refers as part of the core planning principles to recognising the intrinsic character and beauty of the countryside, clearly requiring a judgement as to those qualities. The site is however within an Area of Outstanding Natural Beauty, where consideration of those qualities has led to the designation.
9. The site is accessible off the west side of the B2036 Brook Street as that road leaves the northern parts of Cuckfield to travel towards Brook Street itself. It might appear to be within the area that Policy AS2 refers to as a gap between Cuckfield and Brook Street, but it is noted that the arrow on the Neighbourhood Plan proposals map is on the east side only of the road, whilst that denoting the Ansty and Cuckfield gap is on both sides of that road, and that between Ansty and Burgess Hill covers the relevant road and land either side. The roadside perception of the site is presently of an informal gated entry and a track winding away to the west, with the former stables and hardstanding not being seen due to the intervening house at St Margaret's.
10. The proposal would make use of the existing access onto the highway, with a cluster of 3 houses and garaging around a courtyard set well into the site behind St Margaret's. The aesthetic is that of a farmstead set around a farmyard, and there is reference to a Farmhouse and Barns. Their gardens would be arranged outside the cluster with a boundary treatment before the remaining red-line site area is given over to two buffer areas, one to the north,

east and west of a biodiverse meadow and the other to the south being an extension of ancient woodland. The design of the buildings and the internal landscaping of the courtyard would be attractive in themselves, although the Council take issue with the cluster being out of keeping with the character of the loose knit development along Brook Street.

11. The arrangement of development near the site is of a sporadic ribbon along the road leading away from the road junction at Whiteman's Green, but it is clear that there is development in depth and a more regular frontage development from the road junction to Whiteman's Close. Beyond St Margaret's there is an open countryside character and appearance to the road, where an appeal for 9 dwellings was dismissed in February 2016 (Ref; APP/D3830/W/15/3133210). On the east side of the road, apparently within the area protected under Policy AS2, the countryside character and appearance is established from nearer Whiteman's Green and persists longer towards Brook Street.
12. The appellant has commissioned a Landscape and Visual Impact Assessment, and other than an incorrect site reference on the footpath map at Figure 8, all of the relevant viewpoints appear to have been assessed in accordance with the recognised methodology. Of the 7 viewpoints considered, possible changes to the view are identified at viewpoint 1, at the site entrance off the B2036 Brook Street, and viewpoint 7, 1.75km to the north, where it is stated that there may be views of the ridgelines of the Sussex Barn and Farmhouse. The other 5 viewpoints do not appear to have a view of the development in any event.
13. The assessment of viewpoint 7 as 'negligible adverse' and 'not significant' is concurred with in this Decision, and there is scope for filtering the view further. The conclusion with regard to viewpoint 1 of a 'negligible beneficial' magnitude of impact, with the commentary *'the impacted view to the development will be a barely perceptible change looking along the driveway with new hard landscape treatments and improved management of the existing planting'* is however, not agreed with.
14. The present entry is of a gate and a track, with close-growing vegetation, giving the appearance of a rural field entry, with the view very much constrained by trees and the slight curve of the line, albeit some of the vegetation is overgrown and some of the trees are ornamental varieties in adjoining gardens. Accepting that a more regular use and clearance regime could alter this appearance, the existing apparent use of the site, and the likely level of use of the entry would retain much of the rural character.
15. It is clear from drawing 160310-01A, and more particularly the swept-path analysis TK01B, both in the Transport Statement, that there would be a substantial widening of the bell-mouth at the road entry together with the establishment of visibility splays, and drawing 16/167/100C notes this to be to a width of 4.8 m for a distance into the site. Even allowing for some possible clearance now, and for a landscaping scheme with the proposed development, the change would be from a significantly understated rural feature, to a substantial vehicle entry, signalling the presence of backland development and establishing a semi-urban character and appearance.
16. In coming to this conclusion it is accepted that no footway is proposed, and there is no reason why a shared surface should not be applicable; that there would be no view of built form such as the houses or paraphernalia in the

curtilages; and that as put forward in the Landscape and Visual Impact Assessment, the receptors for this view into the site from the footway on Brook Street would be limited, due to the main road.

17. Nevertheless, the entry would be seen and obvious, in the view of passing pedestrians and motorists and due to the need for sightlines, there is a limit to how much of the harm to the rural character and appearance of the area can be mitigated by planting. As a result, rather than being a beneficial impact, albeit described as negligible, the view of the entry and driveway would be a significantly adverse change, and the proposed new hard landscape treatments and management of the existing planting would introduce an urban character and appearance to the present loose-knit and sporadic form of development along the road, tending to extend the appearance of built development deeper into the countryside.
18. The finding of the other parts of the Landscape and Visual Impact Assessment viewpoint analysis have been accepted, but the lack of a public view is not an overriding consideration, and paragraph 115 of the Framework makes clear that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.
19. The development proposed would bring about some benefits in the removal of the stables and the hardstanding associated with it, and would provide the impetus for improvements to tree cover and biodiversity. But, whilst not attractive in themselves, the stables and concrete have a limited adverse effect on the landscape of the land, being set low and between the vegetation associated with St Margaret's and that to the west of the lowered area, and the open nature of the field, on which the cluster would be developed, displays a simple agricultural or pasture character and appearance entirely appropriate to the countryside and the Area of Outstanding Natural Beauty.
20. To conclude on this issue, the proposal would not accord with policies which seek to direct the location of development and would cause harm to the countryside and the Area of Outstanding Natural Beauty, contrary to the aims of Policies C1, C4, B1, AS1 and AS3. With regard to Policy AS2, whilst apparently not in a designated gap, the proposal would erode the perception of leaving the more developed frontages of Cuckfield and Whiteman's Green. The proposal would fail to accord with national policy on the protection of the intrinsic character and beauty of the countryside and Areas of Outstanding Natural Beauty in particular.

Other Material Considerations and Planning Balance

21. There appears doubt over the findings of the Inspector in the 2016 Appeal north of St Margaret's over the accessibility of the site to services and the like. Other than a reference to the appellant's Transport and Sustainability Statement among other documents not leading him to change his conclusion, there is no assessment as to accessibility.
22. The Council have raised the matter of an unsustainable location as part of the reason for refusal in the present appeal, and allowing for the length of the access drive, the distances appear similar in the two cases, to Whiteman's Green or Cuckfield. There are shops for day-to-day needs at the former, and more facilities at the latter, with Haywards Heath providing further

opportunities for travel, employment and services. The distances to the nearest shop are reasonable although as with dwellings just in the built-up boundary to the south, there would be a likelihood of private transport being used at times. The appellant's comments about the likely number of receptors on the footway past the site appears to suggest limited use. Nevertheless, the occupiers need not be reliant on the private car for access to local services, the phrase used in the reason for refusal.

23. The Council refer to the Ashdown Forest Special Protection Area and Special Area of Conservation, and as the competent authority with respect to considerations under the Habitats Regulations, have carried out a screening exercise. The site is not within 7km of the Ashdown Forest and no mitigation is required, and the Council state that as the proposal represents a windfall, transport generation has been accounted for. From that it appears that there is no need to carry out a full assessment where the Inspector is the competent authority, other than to note that any assessment would not proceed past step 2 due to the proposal not affecting the Ashdown Forest. The reason for the Council raising this matter in this case is not clear, presumably some sites in the Council area are within 7km, and the Council considers the position unclear following the Wealden case referred to in their briefing note. This matter does not count against the proposal.
24. The Council accept that they are not able to demonstrate a 5 year supply of housing land as required by paragraph 47 of the Framework, and paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development, continuing that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In the Hopkins Homes case the Supreme Court found that policies for the supply of housing are likely to be policies relating to the provision of housing, and that they can be distinguished from other categories of policies such as those for the protection of the countryside.
25. Thus, as a matter of case law, the Development Plan policies which seek to protect the countryside and the Area of Outstanding Natural Beauty in particular should not be considered out-of-date. The designation of built-up boundaries and hence the Countryside Area of Development Restraint however do affect the supply of housing and paragraph 14 of the Framework should therefore be considered. This states that the presumption in favour of sustainable development means approving development proposals that accord with the Development Plan without delay, and where the Development Plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.
26. In fact being in an Area of Outstanding Natural Beauty means that the site is within one of the policy areas listed in footnote 9 where development should be restricted. This is an alternative to the phrase regarding the assessment of the impacts, but the forgoing reasoning has found that there are significant adverse impacts, and it is now determined that the benefits of 3 additional dwellings, the removal of the stables and hardstanding, and the biodiversity and arboricultural works, are significantly and demonstrably outweighed by the

harm. As a result, the presumption in favour of sustainable development does not apply.

Conclusions

27. The proposal would be outside built-up boundaries and is in an area of development restraint as defined in the Development Plan, as well as being in the High Weald Area of Outstanding Natural Beauty, which is granted the highest status of protection in relation to landscape and scenic beauty under national policy.
28. Whilst the Council is unable to demonstrate a 5 year supply of housing land, the proposal cannot benefit from the presumption in favour of sustainable development, due to both the adverse effects identified and by reason of being in an area where specific policies of the Framework indicate that development should be restricted; the Area of Outstanding Natural Beauty.
29. The harm identified to the roadside character and appearance and in the erosion of the countryside through introducing urban forms to the sporadic development along Brook Street lead to the conclusion that for the reasons given above the appeal should be dismissed.

S J Papworth

INSPECTOR