



Appeal Decision

Site visit made on 20 May 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2019

Appeal Ref: APP/C1435/W/18/3216496

Northover Barn, Meres Lane, Cross in Hand, TN21 0UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Nicola Webber against Wealden District Council.
 - The application Ref WD/2018/1554/F is dated 31 May 2018.
 - The development proposed is described as demolition of existing buildings and erection of three no. dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Nicola Webber against Wealden District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Since the appeal was lodged the National Planning Policy Framework (the Framework) was revised in February 2019 and the Housing Delivery Test (HDT) was published. The parties have been consulted on both of these and any comments have been taken into account in my decision.
4. The Council has referred to policies in its emerging Wealden Local Plan (2019), which is at an early stage of preparation and therefore may still change. Therefore, the policies carry little weight in the determination of this appeal.

Main Issues

5. The Council, in its submitted evidence, states that it has concerns in respect of the development's location, its effect on the High Weald Area of Outstanding Natural Beauty (AONB) and on the integrity of the Ashdown Forest Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). These have defined the main issues, which are:
 - whether the site is a suitable location for housing in the context of local policies and national guidance; and,
 - the effect of the development on the character and appearance of the AONB; and,
 - the effect of the development on the integrity of the (SAC).

Reasons

Location

6. The appeal site was originally part of Northover Farm and comprises a number of old farm buildings. It is located along Meres Lane which is a narrow rural country road, along which there is a dispersed pattern of residential dwellings and other agricultural or equine related uses. It is within the AONB and is outside any settlement boundary as identified in the Local Plan¹. The Council's CS Policies GD2 and saved Policy DC17 seek to resist development outside of development boundaries and in this respect are consistent with the National Planning Policy Framework (2019) (the Framework).
7. The development would partially demolish the previously used, single storey agricultural buildings on the site and construct three new detached dwellings with associated parking and outdoor living space.
8. The village of Five Ashes is approximately one mile away and offers a range of facilities. There is a wider range of services and day to day facilities at Mayfield, approximately 2.5 miles away. The appellant has provided evidence to show that these villages could be accessed by public transport from bus stops located on the main road. The village of Mayfield is also accessible by local footpaths. However, given the appeal site's location and the lack of footpaths along the narrow lane to the main road, walking to the bus stops, particularly in inclement weather would be discouraged. Further the lack of cycleways or lighting would discourage the use of a cycle to access the local facilities. As a result, it is likely that the future occupiers of the proposed new dwellings would be reliant on a private vehicle for day to day needs.
9. Moreover, Paragraph 79 a)-e) of the Framework seeks to avoid the development of isolated homes in the countryside, unless one or more of the circumstances set out in a) to e) would apply. In this appeal, none of the circumstances apply and therefore the development would be contrary to the Framework.
10. On this main issue, I conclude that the development would be contrary to saved policy DC17 and GD2 of the CS and the Framework. These taken together, seek to resist development in the countryside.

Character and appearance

11. The Framework attaches great weight to conserving and enhancing the landscape and natural beauty of AONB's which have the highest status of protection in relation to these issues.
12. The existing single storey, timber buildings formerly used for agricultural purposes are consistent with development normally found in rural locations and as a result have limited visual impact on their surroundings. However, the layout and design of the development proposed would significantly alter the character and appearance of the appeal site. Whilst the appellant states that the existing natural screening limits the impact of the site on the AONB, the additional planting proposed would take time to establish itself and in the

¹ Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan (2013) (CS).

meantime the development would be prominent and have an adverse impact on the surrounding landscape. Whilst I note that the appellant consulted neighbours, the proposed two storey residential dwellings, garages and associated domestic paraphernalia would be in direct contrast to the existing low-level development on the site, to the extent that it would be detrimental to the intrinsic landscape and natural beauty of the AONB. Overall, the design and layout would not weigh in favour of the development proposal.

13. I conclude that the development proposed would have a significant detrimental effect on the High Weald AONB and would be contrary to saved policy EN6 of the CS, which when read together seek to conserve and enhance the natural beauty and character of the AONB.

Effect on the Ashdown Forest SAC

14. The Ashdown Forest is designated as a SAC, a Special Protection Area (SPA) and SSSI. The Council has concerns regards the effect of the proposal either alone or in combination with other projects on the integrity of the SAC, with regard to atmospheric pollution/nitrogen deposition resulting from an increase in vehicle trips on roads near to it or through it.
15. Based on the evidence submitted by the appellant, the development would have the potential to generate significantly fewer vehicle trips each day. Whilst this is contested by the Council, based on modelling undertaken for its LP to which I attach little weight, the development would result in benefits to the local air quality and this adds weight in favour of the development proposed. I note that the appellant's willingness to make a contribution towards any recreational impact on the SAC through a contribution to the Strategic Access Management and Monitoring Strategy for the Ashdown Forest Special Protection Area. However, as there is no obligation before me, the lack of an acceptable mitigation measure would result in the development proposed having a likely significant adverse effect on the integrity of the SAC.
16. In accordance with the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations), I would be required to carry out an appropriate assessment to address any effect of the development proposed on the SAC and SPA, if the appeal were to be allowed. However, as I have found harm with regard to location and the effect on the AONB, as well as the lack of an obligation, there is no need for me to undertake an appropriate assessment.

Other Matters

17. Since the appeal was lodged, the Council has granted a Lawful Development Certificate (LDC) in relation to part of the site. The appellant has stated that the LDC means the development could be considered as permitted development under prior approval of the General Permitted Development Order (2015), but as this would need to be the subject of a separate prior approval application, it does not form part of this Section 78 appeal and therefore it has not altered my decision.
18. The appellant has referred to other developments permitted in the near vicinity, but as no details have been provided and as each application must be judged on its merits, it has not altered my decision. I note that there have been no objections from neighbours in the vicinity.

Planning Balance

19. The Council does not dispute that it is not able to demonstrate that it has a five-year supply of housing land. In such situations Paragraph 11 d) of the Framework states that where the most important policies for determining the application are out of date, there should be a presumption in favour of development, unless it meets the tests set out in that paragraph.
20. With respect to the economic, social and environmental benefits, three dwellings would make a modest contribution towards the Council's housing supply and there would be some limited economic and social benefits. The development proposed would result in some environmental benefits and would make use of previously developed land, to which I attach modest weight.
21. However, even if I were to conclude that the Council is not able to demonstrate a five-year supply of housing land and therefore its policies are out of date the adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.

Conclusions

22. For the reasons given above, the appeal is dismissed.

Paul Wookey

INSPECTOR