



Appeal Decision

Site visit made on 6 August 2019

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th August 2019

Appeal Ref: APP/U1430/W/18/3218828

Windy Ridge, Swainham Lane, Green Street, St Leonards-on-Sea TN38 8ED

- 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 David Mcconnel against the decision of Rother District Council.
 - The application Ref RR/2018/1957/P, dated 20 July 2018, was refused by notice dated 20 September 2018.
 - The development proposed is removal of storage buildings and the erection of a single storey 3 bed dwelling house with double garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address on the application form refers to the site as Land adjoining Southmead, Swainham Lane. However, the submitted plans refer to the site as Windy Ridge, Swainham Lane. This is also the address used by the council and given on the appeal form and so I have used this address in the banner heading above.
3. While not referred to in the Council's report on the application, the council's statement advises that saved Policy DS5 of the Rother District Local Plan (2006) (RDLP) is also pertinent to the proposal. The appellant has had an opportunity to comment on this and agrees that the policy is relevant, and I have therefore taken account of it in my reasoning below.

Main Issues

4. The main issues are (i) the effect of the proposed development on the character and appearance of the countryside and (ii) whether or not the proposed development would provide a suitable location for housing, having regard to the accessibility of services and facilities.

Reasons

Character and Appearance

5. The site is part of a small loose cluster of buildings along Swainham Lane. These include existing dwellings and a former piggeries building at Horseshoe Farm to the west of the site where at the time of my visit, building works were ongoing. The informal arrangement of diverse buildings with substantial space and mature trees and vegetation around them gives an open and rural

character to this countryside location. Land levels generally fall away to the south and east of the site giving it an elevated position over the surrounding landscape. Immediately to the north of the site, levels increase slightly before falling away, and while the site is on a ridge it is not therefore readily visible from the north.

6. The appeal site itself accommodates 2 single-storey buildings comprising distinct elements, set within an area of hardstanding towards the front of the site with open but overgrown land to the rear. The main parties advise that these buildings have been in use for domestic storage, but I saw on my site visit that they currently appear dilapidated and are in parts open to the elements. At the time of my site visit, a trailer was also present on the site positioned between the buildings.
7. In common with much of Swainham Lane, vegetation partly screens the frontage of the site to views from the road. However, the existing buildings are set to either side of the site, and at the point of the access there are clear views onto the site and between these buildings towards open countryside to the south.
8. The site is not within a defined development boundary and is within the countryside. Policies OSS1, OSS2, OSS3, OSS4, RA2, RA3, EN1 and EN3 of the Rother Local Plan Core Strategy 2014 (RLPCS) together provide that within the countryside, the overarching strategy is to strictly limit new development to that which supports local agricultural, economic or tourism needs and maintains or improves the rural character. Development is generally restricted to that for which a countryside location is necessary or appropriate; to promoting sustainable land-based industries; and to sensitive diversification, primarily for employment uses.
9. Amongst other things, these policies together establish that development will be considered in the context of the character and qualities of the landscape and should be of an appropriate scale. Proposals should contribute positively to the character of the site and surroundings including taking opportunities to improve areas of poor visual character. The intrinsic value, locally distinctive rural character, landscape features, built heritage and the natural and ecological resources of the countryside should be conserved, as should nationally designated and locally distinctive landscapes and landscape features including tranquil and remote areas and the dark night sky.
10. The site is also within the Crowhurst and Hastings strategic gap where saved Policy DS5 of the RDLP states that development will be carefully controlled and that only in exceptional circumstances will development therein be permitted. Any development must be unobtrusive and not detract from the openness of the area.
11. The site is close to, albeit outside, the High Weald Area of Outstanding Natural Beauty (AONB), the boundary to which is to the north of Swainham Lane. RLPCS Policy EN1 states that the distinctive identified landscape character, ecological features and settlement pattern of the AONB will be protected and where possible enhanced. This is in line with the requirement under Section 85 of the Countryside and Rights of Way Act 2000 for relevant authorities to have regard to the purposes of conserving and enhancing the natural beauty of AONBs when performing their functions. The Planning Practice Guidance

clarifies that this duty to 'have regard' extends to land outside the boundary of an AONB.

12. The proposed development would replace the 2 existing storage buildings on the site with a single-storey house and associated detached garage. The parties are in agreement that there would be an increase in the footprint of development on the site of around 13sqm. There would be a small increase over the maximum height of the existing buildings. However, while minor, these buildings are stepped with sections which are lower than this highest portion. Together, the greater height and the extended footprint of the dwelling and garage would increase the bulk of development on the site.
13. I note that other dwellings on Swainham Lane are varied and in many cases two-storey structures, and I do not consider that the scale or appearance of the proposed single-storey bungalow would appear incongruously large in comparison. In addition, I observed ancillary outbuildings to a number of other properties and so the proposed detached garage would not be an exceptional feature in this part of the landscape.
14. However, the more central positioning of the dwelling and its width extending across most of the site would close the current gap between the existing buildings and the views through the site. Together with the increased scale and bulk of development, and the detached garage which would spread built form towards the front of the site, this would result in a significant loss of openness within a designated strategic gap.
15. While the set back of the dwelling from Swainham Lane would reduce its prominence and the appellant proposes that the existing vegetation screening to the boundaries of the site could be reinforced, the development and resulting loss of openness would nevertheless be appreciable when viewed from Swainham Lane and the access. This harm would not be offset by the setting in of built form from the flank site boundaries.
16. I acknowledge that the development would be located on a site that is already developed and that existing dilapidated buildings would be replaced. The proposed design would also reflect traditional barn structures using materials appropriate to the rural setting, and the roof of the dwelling references the existing development.
17. However, while the existing buildings are in poor condition, their limited scale and unobtrusive nature are appropriate within the rural setting. In contrast, the proposed development would be of a clearly domestic appearance and in this regard would lead to an unacceptable urbanising impact on the site. This effect would be further emphasised by use of the currently open rear part of the site as residential garden thereby introducing a more formal residential appearance, and likely associated domestic paraphernalia including the detached garage.
18. The dwelling would also accommodate significant areas of glazing, particularly to the south and east elevations. This glazing would look onto open countryside with potential for reflections highlighting the dwelling's presence. Despite the single storey nature of the proposed dwelling and the existence of other residential development nearby, artificial light emanating from this glazing would also be likely to adversely impact on dark night skies given the open nature of the landscape and elevated location of the development.

Notwithstanding screening to the site boundaries, the development would not maintain the intrinsic value and character of the countryside.

19. Given the screening which is provided by vegetation both to the frontage of the site and the north side of this part of Swainham Lane, the development would not cause harm to the special qualities or natural beauty of the adjacent AONB. However, it is outside of a recognised development boundary and has an elevated position in views towards the AONB north of the site within a strategic gap designated to maintain openness.
20. I conclude that the urbanising effect of the development and its impact on openness would cause significant harm to the intrinsic qualities and rural character of the countryside and to the landscape in this elevated location. As such, it would be contrary to RLPCS Policies OSS1, OSS2, OSS3, RA2, RA3 (v), EN1 and EN3; and saved Policy DS5 of the RDLP. RLPCS Policy RA3 (iii) is also referred to in the Council's reason for refusal. This relates to circumstances in which the creation of new dwellings in the countryside may be allowed, and I turn to consider this below.

Suitability of the Location

21. Given nearby dwellings which are in close proximity to the appeal site, the development would not result in an isolated dwelling which paragraph 79 of the National Planning Policy Framework seeks to avoid. However, it is outside of and located some distance from the closest defined development boundary to Crowhurst Village. It is not therefore a location where new development is generally supported by RLPCS Policy OSS2.
22. Crowhurst does not offer a full range of services to meet day-to-day needs of residents with limited facilities including a primary school, public house and railway station. While the station may provide connection to other locations with additional services, access to these from the appeal site is via Swainham Lane, a narrow rural road with no footpaths or street lighting; and Crowhurst Road which carries two-way traffic but which similarly does not benefit from footpaths or street lighting. While Swainham Lane appears lightly trafficked, the attractiveness of this as a route for pedestrians and cyclists would be further limited as a consequence of the changing land levels which generally rise between Crowhurst and the appeal site.
23. Given the above, I consider that the future occupiers of the dwelling would be likely to rely largely on the private motor vehicle resulting in adverse environmental effects. To this extent, there would be conflict with the environmental aims of paragraphs 8 and 102 of the Framework which seek accessible services to meet needs and highlight a requirement to actively manage patterns of growth to support objectives including promoting opportunities for walking, cycling and public transport use.
24. RLPCS Policy RA3 (iii) states that within the countryside, the creation of new dwellings will be allowed in extremely limited circumstances. These circumstances are stated to include dwellings to support farming and other land-based industries, the conversion of traditional historic farm buildings, the one-to-one replacement of an existing dwelling of similar landscape impact, or as a 'rural exception site' to meet an identified local affordable housing need.

25. The proposed replacement of the existing storage use on the site would not fall within any of these exceptions. Notwithstanding this, while advising that they are extremely limited, the policy does not establish a closed list setting out the only potential circumstances where creation of a new dwelling would be allowed.
26. In this case, the development would replace the existing buildings. Although the appellant refers to regular vehicular trips associated with their use, I do not have any objective evidence before me to substantiate such a comment. I do, however, acknowledge that there is an existing use which would be likely to generate some associated traffic to and from the site.
27. In addition to the above, I have been provided with details of prior approvals given for the change of use of the existing buildings on the site to be converted to 2 one-bedroom dwellings under permitted development rights¹. The appellant advises that these will be implemented if this appeal fails. I have no reason to doubt the appellant's intentions and I have therefore considered the current proposal in light of this fallback position.
28. The proposed dwelling would have 3 bedrooms and may therefore accommodate a family compared to the 2 one-bedroom dwellings which would result from the fallback. However, it would be occupied by a single household with a resulting greater potential for shared trips, and overall comings and goings and car usage as well as access to services would be likely to be similar to, if not less than, levels associated with 2 independent households occupying the site.
29. In the above context, I conclude that there are exceptional circumstances (i.e. the clear fallback position) which would support the creation of a dwelling on the appeal site in accordance with RLPCS Policy RA3 (iii), and taking such circumstances into account I am satisfied that the proposal would provide a suitable location for housing and would not be unacceptable in terms of accessibility of services and facilities.

Planning Balance and Conclusion

30. The main parties agree that the Council is not able to demonstrate a 5 year supply of deliverable housing sites. The appellant refers to a housing land supply position of 3.44 years while the council refer to a housing land supply of 3.90 years.
31. I have not been provided with evidence to consider the scale of the shortfall in more detail and therefore I have determined this appeal on the basis of the worst-case housing land supply position as detailed above. The shortfall in housing land supply triggers the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework. This states that where the policies which are most important for determining the proposal are out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) 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.

¹ Refs RR/2018/389/PN3 and RR/2018/1635/PN3

32. Given my conclusion that the proposal would conserve the special qualities and natural beauty of the adjacent AONB, there are no specific policies in the Framework protecting areas or assets of particular importance which indicate that development should be restricted and I have considered the development in light of paragraph 11(d)(ii) of the Framework.
33. I have found that the proposal would be contrary to RLPCS Policies OSS1, OSS2, OSS3, RA2, RA3 (v), EN1 and EN3; and saved Policy DS5 of the RDLP. While these Policies take a more restrictive approach to development in the countryside, they are broadly consistent with the Framework in seeking to protect the intrinsic character and appearance of the countryside. As such, I afford the conflict with these policies significant weight in the overall planning balance.
34. In terms of benefits, the proposal would provide one additional dwelling towards local housing supply. I also note that the appellant advises that the proposal would be a self-build scheme and it would free up a family-sized house within the District. The additional dwelling would make a positive, albeit limited, contribution to the housing under-supply position.
35. While limited by the small scale of the development, there would also be some economic and social benefits associated with construction and occupation of the proposed dwelling, as well as support for local services through increased patronage, and local financial benefits through revenues associated with the dwelling. I have also taken into account the suggested energy efficient features and low carbon materials, and that the development would make use of a previously developed site. I give these factors some positive weight in the overall planning balance.
36. That the proposal would provide a suitable standard of accommodation and that it would not harm the amenity of neighbouring occupiers are neutral factors.
37. The appellant has also referred to the fallback position of permitted development rights which would allow creation of 2 one-bedroom dwellings on the site. I accept that exercise of these rights would establish residential use of the site by 2 households. This weighs in favour of allowing residential development on the site in land use principle terms.
38. However, the above development would be through conversion of the existing buildings. The resulting dwellings would not therefore increase the scale of development on the site or result in loss of openness through closure of spacing between the buildings. In addition, from the details before me, these would not include the same large extent of glazing as is proposed by the current development and which I have identified would be harmful to the character and qualities of the area. There may be additional boundary treatment provided to subdivide the site. However, I consider it unlikely that 2 one-bedroom dwellings would result in significantly more domestic paraphernalia overall than the proposed three-bedroom house given that this would be more likely to be occupied by a family with a greater prospect of demand for structures such as children's play equipment.
39. I consider that in relative terms the prior approval development would be less harmful to the character and appearance of the area and the intrinsic qualities of the countryside than the development proposed.

40. While I have found that the circumstances of the site are such that it would be a suitable location for housing having regard to the accessibility of services and facilities, even if the shortfall in the 5 year housing land supply is of the scale suggested by the appellant, the adverse impacts of the proposed development on the rural character of the area and the intrinsic qualities of the countryside would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole and indeed relevant development plan policies. Therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR