



Appeal Decision

Site visit made on 21 August 2019

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 9 September 2019

Appeal Ref: APP/U1430/W/18/3218644

**Silverhill Pump House Business Unit, Bodiam Road, Silverhill, Hurst Green
TN19 7QD**

- 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 Hartmires Investments Ltd against the decision of Rother District Council.
 - The application Ref RR/2018/1683/P, dated 19 June 2018, was refused by notice dated 17 October 2018.
 - The development proposed is change of use and enlargement of existing, former water storage pump facility to form a single new residential dwelling (C3 Use Class) with associated external landscaping works, parking provision and access improvements.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. After the Local Planning Authority's (LPAs) decision, the appellant prepared a revised plan (drawing 434-100-C) which identifies two parking spaces to the south of the proposed dwelling. I also note the amended plan shows additional width for the hedging to the south of the dwelling adjacent to the public footpath. On receipt of this revised plan the LPA advises that the local highway authority no longer contests reasons for refusal numbers 4 and 5 on the LPA decision notice relating to turning within the site and on-site parking provision. I have taken this into account in determining the main issues for this appeal.

Main Issues

3. There are two main issues:
 - (i) Whether the proposal would be sustainably located; and
 - (ii) The effect of the proposed development on the character and appearance of the High Weald Area of Outstanding Natural Beauty.

Reasons

Sustainability of Location

4. The appeal site is a modest triangular parcel of land, mainly planted to maturing deciduous woodland and containing a 1960s circular concrete water reservoir, the upper part of which protrudes above ground level. There is a scattering of just a few houses a short distance to the south-west on Bodiam Road. These do not form any tangible settlement or rural community. The

'Stage Field', a grass field with public access, is immediately to the east of the appeal site. It does not add to a sense of community or settlement at the appeal location. The appeal site is firmly within the countryside.

5. The nearest settlements are the hamlet of Silver Hill and the larger village of Hurst Green. Silver Hill is within reasonable walking distance but it offers little in the way of services and facilities. The public highway to Silver Hill has no footway or lighting, includes stretches where there is little or no room to safely step off the highway, is sinuous and in large parts subject to the national speed limit. The appellant submits it is a lightly trafficked road but my observations, which can only provide a snapshot, are that it carries an appreciable volume of traffic connecting from the A21 to Bodiam, even outside of peak periods. It is an undesirable route for walking and would deter all but the most confident of cyclists. At Silver Hill the main A21 road provides a connection over approximately 1 kilometre to the larger village of Hurst Green. There is a continuous footway along this road but the volume of traffic along the A21 makes this a particularly unpleasant experience for both pedestrians and cyclists.
6. Taking all this into account, the nearby smattering of dwellings means the proposed house would not be strictly socially isolated. Due to its location it would, however, result in significant social and environmental harm in terms of its wider disconnection from any appreciable settlement or services and consequential heavy reliance on the private car.
7. The appellant emphasises the previously-developed nature of the site and the benefit of re-using an existing building. However, both the development plan and national planning policy seek to locate housing in rural areas where it will enhance and maintain the vitality of rural communities. That would not be the case here and by virtue of not being in a settlement the support of paragraph 118(c) of the National Planning Policy Framework (NPPF) would not apply. I address character in more detail under the second main issue below but make the general observation that despite some superficial unkemptness the appeal site retains its inherent rural character. Accordingly, any limited benefit from re-using a relatively modest and unimposing rural building would be significantly outweighed by the harm from future occupants residing in a secluded, private car reliant location.
8. I am cognisant that the lawful use of the building comes under storage and distribution (Use Class B8) and through permitted rights it could be used for office uses (Use Class B1). The former reservoir is relatively modest and of unusual and inefficient circular layout, with most of the volume of the building below ground, without natural light. The building also has unattractive access. I find the appellant's theoretical analysis¹ of the intensity of employment activity and associated traffic movements at the site difficult to realise within the constraints of the site. Nonetheless, I accept that this fall-back would generate more vehicular movements than the appeal proposal, but I am not persuaded, for the constraining factors of the building and access, that it would be substantially more. Nor would the appeal proposal result in the benefit of supporting the rural economy of the High Weald that would arise from the fall-back position, which would need to be weighed against the impact of traffic

¹ In contrast to the submitted Reigate and Banstead decision at Nutley Dean where benefit was given to the removal of existing and quantifiable commercial traffic including an appreciable number of HGVs. The same does not apply here to a building which has never actively been used for employment purposes.

- generation. As such I attach negligible weight to the potential environmental gain (with reference to paragraph 102 of NPPF) of fewer vehicle movements if the building were ever to accommodate an employment use.
9. The appellant has drawn my attention to a recent appeal decision in Reigate and Banstead involving dwellings on an employment use at a location where there would be a degree of reliance on the private car. I have limited information or context for this decision to determine how comparable it is to the circumstances before me. I note one material difference is that the Nutley Dean site had some level of bus service provision, in contrast to the appeal site. This limits the weight I can give to it and in any event each appeal must be determined on its own merits. I am mindful that the NPPF at paragraph 103 makes a general statement that "opportunities to maximise sustainable transport solutions will vary between urban and rural areas". This implies, however, that there is at least some baseline of sustainable transport available, be it walking, cycling or public transport to be made the most of. That is not the case here.
 10. I therefore conclude that the appeal proposal would be unsustainably located. It would be contrary to Rother Local Plan Core Strategy 2014 (RLPCS) Policy RA3(iii) in that it would not meet any of the four criteria for new dwellings in the countryside. It would not comprise the sustainable development of rural housing set out at NPPF paragraph 78. Whilst NPPF paragraph 79 countenances new isolated homes in the countryside including the re-use of redundant or disused buildings the appeal proposal would not enhance its immediate setting, for reasons set out in more detail under main issue 2 below. By virtue of its location it would not accord with the important objective of transitioning to a low carbon future as set out in RLPCS Policy OS3 and paragraph 8 of the NPPF. Nor, by virtue of not minimising the need to travel and not being able to maximise any meaningful sustainable transport solutions it would fail to accord with RLPCS Policy TR3 and paragraph 103 of the NPPF.
 11. The appellant submits that Policy RA3 is not a closed list such that by virtue of not having sufficient housing land supply and the previously-developed nature of the site, the scheme can be considered to accord with this policy. I consider Policy RA3 to be sufficiently clear on the local circumstances for new dwellings in the countryside and they do not countenance the sort of development proposed through this appeal. The submissions of the appellant are better related to whether the tilted balance at paragraph 11(d) of the NPPF is engaged and I refer to the conclusions section of this decision.

Character and Appearance

12. The appeal site is situated in the High Weald Area of Outstanding Natural Beauty (AONB). The application was accompanied by a Landscape and Visual Impact Assessment (LVIA). The LVIA has identified representative viewpoints and I find that in most medium and long-range views across the Wealds countryside the appeal proposal would have no visual impact. The focus is therefore more the immediate environs and viewpoints (LVIA viewpoints 1-4) both in terms of the intimate fabric of the landscape at the appeal location and for visual receptors using the directly adjacent public footpath.
13. Taking landscape first, the AONB is characterised by a mosaic of small fields, patches of woodland and scattered farmsteads that stem almost unchanged from medieval times. The wider appeal site is a triangular, small parcel of land

- atop of the ridge that fits into the mosaic and pattern of the High Weald landscape. Due to its position being set back from the highway via a narrow track and intervening trees the site is not strongly part of the very small scattering of development fronting onto Bodiam Road. The adjoining grassland of the public open space at the 'Stage Field' does not alter the overriding rural character at the appeal location which is defined by the undulating historic landscape pattern of fields and woodlands of the Weald and a clear sense of tranquillity. The appeal site is characteristically part of the AONB landscape.
14. This character is experienced from the public footpath that extends north from Bodiam Road, directly around the appeal proposal, and then beyond as it descends towards Silverhill Wood. The AONB Management Plan 2014-19 describes the High Weald as an area best explored through the myriad of interconnecting paths and tracks (page 5). The management plan also states that the significance of the AONB is, amongst other things, the scenic beauty of its landscape, sense of tranquillity, the intimacy of the human scale of the landscape and the ability for people to get out into the countryside through the various public rights of way (page 26).
 15. I recognise that the existing building cannot reasonably be said to add to the scenic beauty of the countryside as a 1960s concrete construction, a situation exacerbated by its somewhat tired appearance. That said, the countryside is host to many examples of man's previous attempts to cultivate the land. Consequently, it is not uncommon to come across neglected structures, abandoned buildings and relics of previous infrastructure. The countryside is not immaculate. Furthermore, and despite being painted a bright green hue, it is a simple utilitarian building of modest above ground scale that does not strongly influence or affect the sparse, rural character of the host parcel of land through which the footpath passes through or the strong sense of tranquillity.
 16. The appellant frequently describes the building in terms of a "brutalist" appearance but that rather overstates what is a functional, uncomplicated structure. The building occupies only a very small fraction of what is otherwise an undeveloped site with an appreciable coverage of maturing deciduous woodland, scrub and grassland enclosed by mature hedgerows. These verdant qualities are particularly experienced by users of the public footpath moving slowly and directly through the appeal site. Overall, I find the existing building does not significantly detract from the rural character of the locality.
 17. The appellant submits that re-use of the building and the proposed landscaping would enhance the local landscape and beneficially improve the character and appearance of the locality. The appeal proposal would introduce relatively modest additions to the above ground footprint of the building in the proposed rectilinear form of the lobby/reception addition. This would result in a distinctly disorderly juxtaposition with the smooth curves of the original structure. Due to its position on the west and south of the existing building, the cluttered and domesticated appearance of the lobby extension would be highly perceptible from the adjoining footpath notwithstanding the proposed 1.2 metre wire boundary fence and any hedging.
 18. Further alterations to the existing simple shell of the building including numerous additional window and skylight openings would significantly alter the plain, utilitarian appearance of the existing building. These various openings, almost completely around the 360° circumference of the building, would

introduce not only a conspicuous domesticated appearance at odds with the rural setting, but also the potential for light spillage at night, further eroding the very rural character at the appeal location.

19. The scale and proximity of the proposed excavated recesses and retaining gabion walls on the western side of the building, whilst below ground level would be, nonetheless, perceptible to users of the adjacent footpath bringing human domestic activity particularly close to what is currently a tranquil, rural path. This would further harm the rural character of this part of the AONB. I also note that users of the path would have to directly pass along the domesticated driveway arrangement. Despite the proposed intervening hedge to the south of the dwelling, parked and manoeuvring vehicles and human activity to the front of the dwelling would be in very close proximity to adjacent users of the path. Whilst paths in the AONB may run along the boundaries of residential properties, that may well be a longstanding situation reflecting traditional patterns of scattered development. The situation at the appeal location is that a current countryside path, typical of the myriad of paths connecting into the Weald landscape, would be predominantly experienced as being within an uncomfortable proximity to the domestic character and activities of the proposed dwelling in an otherwise tranquil location.
20. The proposed landscaping includes hedging along the footpath and the LVIA is based on a 1.8 metre tall indigenous hedge, which from the detailed landscaping plan includes numerous native deciduous species. This would take time to establish and given the proximity of the path to the building and excavated recesses topped with glass balustrades, the appeal proposal would remain highly perceptible to users of the path over time. Even when the hedge has reached its desired height, its deciduous nature for many months of the year would offer no effective screening from viewpoints 1 and 2. The sense of tranquillity would be tangibly eroded.
21. Whilst the site is to be considered previously-developed, with a lawful B8 use (and through permitted rights could change to B1 office), the appeal proposal through its cumulative degree of alterations and excavations would result in a discernible change and intensification on the site. The result would be a domesticated and suburbanising development in a rural landscape of high sensitivity which would be readily experienced by users of the footpath. Consequently, the appeal proposal would not maintain or enhance a landscape of national importance.
22. I therefore conclude that the proposed development would significantly harm the character and appearance of the AONB. This would be contrary to RLPCS Policies RA3(v), EN1(i) and OSS4(iii) which require, amongst other things, that development protects and where possible enhances the distinctive identified landscape character and settlement pattern of the High Weald AONB and more generally respects the character and appearance of the locality. It would also conflict with paragraph 172 of the NPPF which states that great weight should be given to landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues.

Other Matters

23. The existing structure has a lawful B8 use and through permitted rights a B1 office use could be generated. Policy RLPCS Policy EC3 only permits the loss of existing employment sites where it can be demonstrated there is no reasonable

prospect of its continued use. As the building has not been in employment use and would require significant investment and alteration to function as either commercial storage or office, I find there would be no harm to the local economy from the appeal proposal. I therefore find the appeal proposal would not be contrary to the objectives of RLPCS Policy EC3 or emerging policies DEC3 and DCO1 in the submitted Development and Site Allocations Local Plan.

24. As part of the appeal process the appellant has submitted details of a recently approved scheme at Forewood Reservoir, Peppering Eye, Catsfield which is also in Rother District. The appellants information has been supplemented by the LPA who have provided the officer's report and plans. The information before me would appear to indicate material differences related to the heritage significance of the reservoir buildings at Catfield and the benefit of that scheme preserving a recognised heritage asset for which there was national policy support (then paragraph 55 of NPPF2012 and now paragraph 79(b) of NPPF2019). This limits the applicability of the Catfield scheme to the appeal proposal before me.

Conclusions

25. There is little to dispute that the LPA cannot demonstrate a five-year supply of deliverable housing land. On the LPAs latest figure of 3.9 years there remains a significant shortfall in supply in meeting local housing need.
26. In the absence of a deliverable supply (footnote 7 of paragraph 11d) the development plan policies most important for determining the appeal proposal are out of date. The tilted balance in favour of the grant of planning permission at paragraph 11(d) of NPPF is, however, conditional on satisfying the first limb in respect of whether there are policies in the NPPF that protect areas of particular importance which provide a clear reason for refusing the development proposed. AONBs are such a protected area (footnote 6 of paragraph 11(d)) and as identified above there would be significant harm to the character and appearance of the AONB and therefore a clear conflict with NPPF paragraph 172 which seeks to limit and manage the extent of development in these nationally sensitive landscapes. As such the second limb in paragraph 11(d)(ii) is not triggered.
27. Consequently, the proposal would not amount to sustainable development for which there is a presumption for at paragraph 11(d) of the NPPF, as replicated in RLPCS Policy PC1. I have taken into account the limited benefits of the appeal proposal in providing a deliverable single dwelling on previously developed land, that would generate moderately less vehicle movements than a potential lawful employment use. However, these benefits are significantly and demonstrably outweighed by the environmental and social harm resulting to the character of the AONB and from the very poor sustainability the location. Whilst the locational policies most important to this proposal are out of date, they nonetheless have a high degree of consistency with the NPPF and I therefore ascribe significant weight to the conflict with them. Having had regard to all that is before me, there are no other material considerations that warrant a decision other than that the appeal should be dismissed.

David Spencer

Inspector.