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## Appeal Decision

Site visit made on 20 August 2019

**by P Wookey BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> September 2019**

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**Appeal Ref: APP/D3830/W/19/3224413**

**Vine Yard, North Lane, West Hoathly, RH19 4PP**

- 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 Barbara Genda against the decision of Mid Sussex District Council.
  - The application Ref DM/18/2334, dated 4 June 2018, was refused by notice dated 13 September 2018.
  - The development proposed is described as the construction of a new, detached dwelling with associated hard and soft landscaping works.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development on:
  - The High Weald Area of Outstanding Natural Beauty (AONB); and,
  - The character of the West Hoathly Conservation Area (CA); and the
  - Ashdown Forest Special Protection Area (SPA) and Special Conservation Area (SAC).

### Reasons

#### *AONB*

3. The appeal site is located within the village of West Hoathly, which forms part of the High Weald AONB. The development proposed would erect a new, one and a half storey detached dwelling designed in a traditional style, in the rear garden of Vine Yard. The appeal site is set well back from North Lane from which access would be taken, via a lane which runs alongside Vine Yard. The appeal site is characterised by mature tree lined boundaries on three sides and on the remaining boundary, where the site slopes downwards, it has an open countryside aspect across a valley.
  4. The Council is concerned that the rearward position of the proposed new dwelling would result in sporadic development which would not follow the village's characteristic linear form of development which fronts onto North Lane. As a result, it would be out of character and would represent a form of urban encroachment into the rear garden which backs directly onto open countryside and have an adverse effect on the character of the AONB.
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5. The appellant states that the screening effect of the trees and the siting of the proposed new dwelling would minimise any perceived impact on views across the valley from a southerly aspect and there are limited public vantage points across the valley, from which the appeal site can be viewed. Further, the appellant states that the village has a sporadic, rather than linear form of development and therefore the development proposed, with its backland location, would be in keeping with its surroundings.
6. Based on my site visit observations, the village in the immediate vicinity of the appeal site, has a characteristic linear form of development and whilst there are lanes leading to development, these mainly lead to older buildings ancillary to properties fronting onto North Lane or provide access to properties which are at right angles to the road frontage. Consequently, the development proposed would be out of character with the pattern of development in its immediate surroundings and would introduce a new building at the rear of the building line along North Lane and landscape which currently has an open and verdant appearance.
7. Whilst I acknowledge that most of the appeal site is well screened, part of the site does have an open countryside aspect and even though it might only be glimpsed from a limited range of public view points, it would nevertheless alter significantly the intrinsic natural beauty of the landscape in this location. The combined effect of the disruptive backland development and its intrusion in the landscape, would have a significant adverse effect on the character of the AONB to which the National Planning Policy Framework (2019) (the Framework) attaches great weight to conserving and enhancing the natural beauty of the AONB
8. I conclude that the development proposed would have a significant adverse effect on the AONB and as a result would be contrary to policies DP16 and DP 26 of the Mid Sussex District Plan (2018) (MSDP) and the Framework, which when read together seek to ensure that new development conserves or enhances the natural beauty of the AONB and should be designed in such a way that reflects the distinctive character of towns and villages, while being sensitive to the countryside.

#### *Conservation Area*

9. The appeal site is located partly within and partly out of the boundary of the West Hoathly CA, although within the setting of the CA and as such I am required to carry out my duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
10. The CA is based on North Lane and Church Hill, with Queens Square at its centre where the two roads meet and where the Grade 1 St Margaret's Church is located. Informally grouped around this medieval core are a number of buildings dating from the 14th to 16th Century.
11. In the vicinity of the appeal site, North Lane forms a sweeping bend along which are a number of cottages dating from the 17th and 18th Century and properties are loosely grouped but still follow the medieval street plan. Properties are either sited on the back edge of the road or at right angles to the road. The West Hoathly CA Appraisal states that one of its important characteristics is its relationship to the countryside with many houses having mature gardens backing onto it. These factors, among others, contribute to the

significance of the CA as a designated heritage asset. Given that the appeal site maintains an important relationship with the open countryside to the rear of Vine Yard and with the existing and distinctive pattern of development along that part of North Lane in which it is located, it makes a positive contribution to the significance of the CA.

12. The appellant states that the development proposed would conserve and enhance the character and appearance of the CA, by reason of its form, siting, design and use of materials and due to it being set well back from North Lane and well screened by mature trees. In addition, the appellant has referred to a number of permitted developments which would set a precedent for backland development within the CA and refers to Vine Cottage, which is adjacent to the appeal site, as one example of such development.
13. Based on my site visit observations, views of the development proposed would be limited to the rear of Vine Yard and the nearby Vine Cottage, with virtually no views of the appeal site from other parts of the CA or neighbouring properties along North Lane or the churchyard. However, whilst the views of the proposed new dwelling would be limited, this does not lessen the requirement to pay special attention to the desirability of preserving or enhancing the CA.
14. I am also not persuaded that the development proposed would be comparable or characteristic of the other recent permitted developments referred to by the appellant. These have mainly been conversions of existing, older buildings, such as Vine Cottage which were associated with properties fronting North Lane or other roads in the village or are new developments where the effect on the setting of the CA were considered by the council to be less harmful.
15. Consequently, these developments have had no significant disruptive effect on the existing pattern of development, but instead have adapted buildings which already formed part of the village and as a result would have no significant impact on the character of the CA. This would not be the case with the development proposed which would introduce a new building into the pattern of development along that part of North Lane which has retained much of its distinctive character and therefore would have a detrimental and harmful effect on the character of the CA.
16. Moreover, the development proposed would have an adverse impact on the existing relationship of the mature rear garden of Vine Yard and the open countryside to the rear, which is considered within the West Hoathly CA Appraisal to be an important characteristic of the CA as a whole.
17. In carrying out my duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and having regard to paragraph 196 of the Framework, I conclude that the public benefits of one new dwelling would not outweigh the less than significant harm identified to the CA as a whole. Consequently, the development proposed would have a significant harmful effect on the CA and would be contrary to Policy DP35 of the MSDP and Policy WHP9 of the West Hoathly Parish Neighbourhood Plan (2014) (WHPNP), which when read together seek to ensure that new development in CA's conserve, preserve or enhance the special characteristics which contribute to it through sensitive design and protection of gardens that form part of the special character of the area.

### *Effect on Ashdown Forest*

18. The appeal site lies within 7km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) and therefore under the Conservation of Habitats and Species Regulations 2017 (The 'Habitats Regulations') the effects of development on the important European site of nature conservation has to be undertaken by the competent authority on a precautionary basis.
19. The Council has screened the application for its potential effects on the SPA and SAC and indicated that there would be no likelihood of a significant effect due to atmospheric pollution on the SAC and based on the evidence before me I see no reason to consider otherwise. However, as the proposed development lies within 7kms of the SPA, it is established that mitigation would be required in respect of recreation effects arising from the proposed residential development. In this case the Strategic Access, Management and Monitoring Strategy (SAMMS) would require a contribution and a further Suitable Alternative Natural Greenspace (SANG) contribution would be required, if the appeal was allowed.
20. The Council has confirmed that a Unilateral Undertaking (UU) with respect to the SAMMS contribution had been completed prior to starting the appeal process, which has been submitted as evidence and I note the willingness of the appellant to make a SANG contribution.
21. However, as the appeal is being dismissed on the harmful effects of the development identified on the main issues with respect to the AONB and CA, I am not required to undertake an Appropriate Assessment of the effect of the development proposed any further, since permission for the development is not being granted. Moreover, there is no mechanism before me to secure the relevant SANG contribution, given a condition in this respect would be unlikely to be appropriate for a development of the scale and nature proposed, having regard to the Planning Practice Guidance. As a result, the development proposed would not provide adequate mitigation for the potential impact on the Ashdown Forest SPA and SAC and would be contrary to the Conservation and Habitats Regulations (2017), Policy DP17 of the MSDP and the Framework, which when read together seek, amongst other things to prevent adverse effects resulting from development on SPAs and SACs.

### **Other Matters**

22. The appellant has made reference to the lack of a site visit undertaken by the Council's Conservation Officer. However, I have no reason to disagree with the Council's response that the Officer would have prior knowledge of the area and any observations would be made on that basis. In any case, my duty is to determine the appeal on the basis of the evidence before me, including of my own site visit, and therefore my decision has remained unaltered.

### **Conclusions**

23. For the reasons set out above, the appeal is dismissed.

*Paul Wookey*

INSPECTOR