



Appeal Decision

Site visit made on 17 September 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th October 2019

Appeal Ref: APP/U1430/W/19/3232711

Denton House, Hastings Road, Battle, TN33 0TG

- 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 L Barnes and Ms L Stapley against the decision of Rother District Council.
 - The application Ref: RR/2018/3029/P dated 28 November 2018, was refused by notice dated 4 February 2019.
 - The development proposed is a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council submitted its Development and Site Allocations Plan (DaSA) for public examination in January 2019. From the evidence before me the DaSA is still at the Examination stage. Paragraph 48 of the Framework explains that weight may be given to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections and the degree of consistency of the relevant policies in the emerging plan to the Framework.
3. The DaSA has reached an advanced stage in its preparation and emerging Policies DEN1 and DEN2, which the Council cite in its reason for refusal, are consistent with the Framework. However, the Council has not advised me whether or not there are any unresolved objections to these policies. This further reduces the less than full weight I can give to these emerging policies in my determination of this appeal.
4. Reference is made within the appellants' evidence to the Battle Neighbourhood Plan. I am aware that since the refusal of planning permission for the proposed development further public consultation has been undertaken on background documents to this Plan, including an assessment of potential housing sites. However, no draft Plan has yet been published for public consultation and I only give very little weight to these consultation documents.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area with particular regard to the location of the appeal site within the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

6. The appeal site is located in an area of sporadic development to the south-west of a line of ribbon development along Hastings Road to the south-east of Battle. The site is accessed by a private lane off Hastings Road that leads to Loose Farm and serves a number of other dwellings and a Care Home. Past the property opposite the appeal site, Greenacres, there are extensive and attractive views from the lane to the south-west over predominantly agricultural land.
7. The appeal site currently comprises part of the curtilage of Denton House, a large detached dwelling on a generous plot between the rear gardens of Nos. 78 – 90 Hastings Road and a pair of semi-detached cottages. The front boundary of Denton House is marked by a picket fence with hedge behind, with access to the property via a pair of gates. The rear garden of Denton House is lawned with fruit trees and bounded by a combination of close boarded and post and rail fencing.
8. The proposed development is the erection of a bungalow between the garage / games room attached to Denton House and the rear gardens of Nos. 78 and 80 Hastings Road, with a new access off the private lane. The site currently accommodates a lawn to the front separated by wooden gates from a greenhouse and large outbuilding, with fruit trees and lawn to the rear.
9. The appeal site and vicinity are located within the High Weald AONB, which washes over Battle. Paragraph 172 of the National Planning Policy Framework (the Framework) requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONB.
10. The pattern of development along Hastings Road in the vicinity of the appeal site is generally consistent, with the majority of dwellings fronting the road in regularly shaped plots of generally similar length and width. This contrasts markedly with the sporadic and irregular pattern of development along the lane to Loose Farm, including the appeal site. Whilst the development along this road has a more developed character than that of the open countryside of the AONB, there is a clear distinction between the linear ribbon development along Hastings Road and the irregular development along the private lane.
11. This distinction in character and appearance is reflected in the line of the development boundary for Battle as identified in the Rother District Local Plan (2006) (RDLP). This runs along the rear boundaries of the properties on the south-west side of Hastings Road and thus Denton House and the appeal site lie outside the boundary, notwithstanding the appellants' point that the proposed development would not extend further south than the settlement boundary or other properties to the south east.
12. Policy OSS2 of the Rother Local Plan Core Strategy (2014) (RLPCS) states that development boundaries around settlements will continue to differentiate between the areas where most forms of development will be acceptable and where they would not. The DaSA identifies Battle as being a settlement with a development boundary in a Neighbourhood Plan (Figure 14) but notes that until such time as Plans are in place, the development boundaries of the RDLP continue to be saved.

13. Policy RA3 of the RLPCS restricts the allowing of new dwellings in the countryside, which I note is defined in paragraph 12.47 of the RLPCS as including scattered development outside the main confines of villages, to extremely limited circumstances. From the evidence before me, none of the circumstances cited in the policy apply to the proposed development.
14. The appellants contend that the appeal site is a logical infill plot and I accept that there is existing development in close proximity to the site, except to the south-east. However, there is no allowance within Policies OSS2 or RA3 of the RLPCS for infilling outside the development boundary and the appellants do not cite any development plan policies in support of infilling.
15. Furthermore, by filling the existing gap between the appeal property and the rear boundaries of Nos. 78 and 80 Hastings Road, the proposed development would partially consolidate the existing dispersed development along the lane to Loose Farm at odds with the prevailing character. Moreover, the bungalow would be sited in close proximity to both its side boundary and the garage / games room of Denton House. Such a relationship in the context of the spacious pattern of development along the road would appear cramped and incongruous, notwithstanding the lengths of the rear gardens of the properties on Hastings Road.
16. The appellants refer to examples of small lanes running eastwards and westwards from Hastings Road, with concentrations of dwellings around the junctures, and to a number of other examples of other development to the rear of the frontage development on Hastings Road. The appellants suggest that the proposed development would follow this 'evolution of the settlement pattern'. I do not have details of these other developments and, in any event, it is an established planning principle that each application should be determined on its own merits. Furthermore, the RLPCS sets out the Council's strategy for managing the evolution of the settlement pattern, which should be adhered to in order to provide a greater degree of certainty through the planned system and to protect assets of acknowledged importance such as the AONB.
17. The development would necessitate the partial removal of the frontage hedge which would allow views of the proposed bungalow and driveway, notwithstanding that it would be single storey. I acknowledge that the lane is privately-owned and thus does not provide general public access. However, the lane provides access to a number of dwellings and a Care Home and is thus used by the occupiers of and visitors to these properties. The proposed development would therefore be visible to people not associated with it or Denton House.
18. Policies OSS3 (vi), OSS4 (iii), RA2 (viii) and RA3 (v) of the RLPCS protect the character and appearance of an area. The appellants contend that the development would have no discernible impact on local character or the wider AONB and its special landscape character. There are existing outbuildings on the site, and it has a domestic appearance and I accept that the development would not extend built development further into the open countryside of the AONB.
19. However, the proposed development would be more substantial and visible than the existing outbuildings and result in additional domestic activity such as the parking of vehicles. Due to this intensification of built development and the

visual impact of the development and the associated additional domestication I consider that the proposed development would be harmful to the character and appearance of the area and that it would neither conserve nor enhance the landscape and scenic beauty of the High Weald AONB.

20. Policy EN1 (i) of the RLPCS seeks to protect and wherever possible enhance the distinctive landscape character and settlement pattern of the High Weald AONB. The fact that the AONB designation includes land within the development boundary does not undermine this approach. Objective S2 of the High Weald AONB Management Plan 2019-2024 is to protect the historic pattern and character of settlement. The Plan specifically identifies the erosion of AONB character through suburbanisation, including pressure for residential intensification unrelated to land management outside towns and villages, as one of the five top issues in relation to settlements.
21. Policy DEN1 of the DaSA seeks to maintain and reinforce landscape character and Policy DEN2 of the DaSA requires that all development within the AONB conserves and seeks to enhance its landscape and scenic beauty having particular regard to its character components as set out in the High Weald AONB Management Plan. These components include the settlement pattern of the AONB.
22. For the above reasons I conclude that the proposed development would conflict with Policies OSS3 (vi), OSS4 (iii), RA2 (viii), RA3 (v) and EN1 (i) of the RLPCS, Policies DEN1 and DEN2 of the emerging DaSA and paragraph 172 of the Framework. The harm that would be caused to the High Weald AONB is a matter to which I afford great weight.

Other Considerations

23. It is common ground between the main parties that the Council is currently unable to demonstrate a 5-year supply of deliverable housing sites. At approximately only 3.9 years as at October 2018, this is a significant shortfall. Although the DaSA is substantially advanced in its preparation and some progress appears to be being made on the Battle Neighbourhood Plan, which the Council expects to allocate housing sites, it is apparent that the shortfall is unlikely to be met in the near future. Nevertheless, although the shortfall in housing supply renders the relevant policies which are most important for determining this appeal out-of-date, this does not mean that they carry no weight.
24. Under paragraph 11 d) of the Framework planning permission should be granted unless, as set out in clause i of 11 d), the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. These policies include those relating to AONB as indicated in footnote 6 to the paragraph and I have already concluded that harm would be caused to such a designated area.
25. I accept the Government's objective of significantly boosting the supply of housing as set out in the Framework, the Framework's encouragement of the efficient use of land and the ability for the development to be delivered quickly. However, the provision of an additional dwelling would only make a very modest contribution to the supply of housing, albeit that this would be a positive benefit.

26. I acknowledge the appellants' personal circumstances and their desire to remain in the area in which they have lived for many years and that the proposed dwelling would be accessible. Although these personal circumstances will change over time, I recognise that the development would provide an accessible dwelling for future occupiers, thus helping to address the need for such dwellings which the appellants contend is identified in the Council's Strategic Housing Market Assessment. I note the support for the proposed development from the occupiers of neighbouring and nearby dwellings, but I also note the objection from Battle Town Council.
27. I note the references to the former use of the appeal property as a market garden and former greenhouses on the site. I have no details of this use or of the size and position of the greenhouses or any other buildings associated with the market garden. The Council refutes the appellants' claim that the site has a remnant building of the previous market garden business, contending instead that the buildings and structures on the site post-date this previous use. In any event, the definition of previously developed land in the Glossary to the Framework excludes land that is or was last occupied by agricultural buildings. Agriculture is defined in Section 336 of the Town and Country Planning Act 1990 as including horticulture and fruit growing.
28. The appellants draw my attention to the inclusion of the land opposite the appeal property in the assessment of potential housing sites for allocation in the Battle Neighbourhood Plan. However, although that site assessment has been subject to public consultation at this stage this is simply an assessment rather than a proposed allocation in the Neighbourhood Plan. Therefore, as I explain in my Procedural Matter above, I can only give this very little weight as part of the determination of this appeal.
29. The appellants have provided a copy of a previous appeal decision relating to a proposed dwelling to replace a redundant barn outside the development boundary and within the AONB¹. The Inspector allowed the appeal, notwithstanding finding conflict with Policies OSS2 and RA3, concluding that the proposed development would not be harmful to the AONB. However, I do not have the full details of the scheme before that Inspector and I have concluded that the development before me would be harmful to the AONB, which distinguishes the two appeals. The Council contends that there are a number of other appeal decisions that support their position but have not provided me with any details of these.
30. The appellants have also referred to two relatively recent grants of planning permission by the Council for developments outside the development boundary and within the AONB. I do not have the full details of these developments and, in any event, it is an established planning principle that each application should be determined on its own merits.
31. I note that the Council does not dispute the appellants' contention that the site is in a sustainable location with regard to access to facilities and services and public transport.

¹ APP/U1430/W/18/3201084

Planning Balance

32. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, in reaching my decision I have had regard to the policies of the development plan and other considerations. These include the Council's inability to demonstrate a 5-year supply of deliverable housing sites, the contribution of the proposed development to the Council's housing supply, the personal circumstances of the appellants, the appellants' willingness to incorporate biodiversity, renewable energy and water efficiency measures in the development and the support expressed for the proposal.
33. However, weighing against these benefits is the significant harm that would be caused to the character and appearance of the area and the High Weald AONB as identified above. This harm renders the proposed development in conflict with the policies of the development plan and the policies of the Framework protecting AONB. I consider that this harm would significantly and demonstrably outweigh the identified benefits / other considerations that weigh in favour of the proposal when assessed against the Framework which includes the conservation and enhancement of the landscape and scenic beauty of the AONB. Consequently, the proposal would not deliver a sustainable form of development.

Conclusion

34. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Martin Small

INSPECTOR