
Appeal Decisions

Site visit made on 23 August 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2019

Appeal A - Ref: APP/M2270/W/18/3215454

Tibbs Court Farm, Tibbs Court Lane, Brenchley, Tonbridge, TN12 7AH

- 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 Millwood Designer Homes Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref 18/01387/FULL, dated 11 May 2018, was refused by notice dated 15 August 2018.
 - The development proposed is redevelopment of existing storage buildings to provide 9 dwellings, and conversion of two other buildings to provide offices.
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Appeal B - Ref: APP/M2270/W/19/3229821

Tibbs Court Farm, Tibbs Court Lane, Brenchley, Tonbridge, TN12 7AH

- 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 Millwood Designer Homes Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref 18/03977/FULL, dated 21 December 2018, was refused by notice dated 10 April 2019.
 - The development proposed is conversion of two existing buildings to office use and redevelopment of remainder of site to provide 9 dwellings (revised scheme).
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Decisions

1. Appeal A: The appeal is dismissed.

Appeal B: The appeal is dismissed.

Main Issues

2. The main issues are:

(a) the effect of the proposals on the character and appearance of the area including on an Area of Outstanding Natural Beauty (AONB),

(b) whether the proposals would provide an acceptable yield of dwellings for the size of the site,

(c) whether the proposal in Appeal A would provide adequate visibility at the access to the development, and

(d) the requirement in Appeal B for contributions towards community facilities.

Background

3. Both appeal proposals involve the redevelopment of the central part of the site to provide 9 dwellings and the conversion of 2 frontage buildings for office use, the closure of the existing vehicular access between the frontage buildings and the formation of a single vehicular access to the north-west of this on to Tibbs Court Lane to serve the whole development. The position of the proposed access is the same in both appeals, but the layout of the houses differs. The appellant has submitted a Unilateral Undertaking to address the Council's concerns in respect of contributions towards community facilities in Appeal B.

Reasons

Character and appearance / AONB

4. The two buildings to be retained occupy a relatively small part of the appeal site. To the rear of these is an expansive hard surfaced area covering most of the site's width behind which are several large grey corrugated storage buildings. Land levels rise gently to the rear of the site where there is an open grassed area separating the storage buildings from an extensive apple orchard. The appeal site includes part of the orchard.
5. The site has frontages on to Cryals Road and Tibbs Court Lane which form a junction where the roads meet in front of the two smaller buildings to be retained. The immediately surrounding area forms a hamlet of dwellings of varying sizes. To the west of the appeal site is Tibbs House, a detached house in substantial grounds. Opposite this on the southern side of Cryals Road and sited close to the road is Tibbs Court Oast, a large dwelling finished in weatherboards with a double oast; the property has a large garden with a pond. To the east of this and facing the appeal site are Tibbs Court Cottages, a pair of semi-detached houses with smaller gardens. There is another pair of semi-detached dwellings beyond the road junction.
6. The wider area is rural in nature characterised by fields with trees to their edges and fronting country lanes. The site and surrounding area are in the High Weald Area of Outstanding Natural Beauty (AONB). Given this context and its relative isolation from neighbouring settlements, the appeal site is not ideally suited to residential development. National and local planning policies favour more sustainable locations for new housing.
7. However, this needs to be set against other factors. The site is previously developed land. A modest employment use would be retained at the front of the site. The use of the remaining area for large scale storage and distribution by lorries is not well suited to this isolated location accessed along narrow lanes. The expansive hard surfaced area and large storage buildings are conspicuous in the street scene, do not complement the character of the local area. Their removal would also be a benefit to the AONB. The National Planning Policy Framework (the Framework) at Paragraph 59 has an aim to significantly boost the supply of homes. This is a particular expedient in Tunbridge Wells as the Council cannot demonstrate a five year supply of housing land.
8. Having regard to all these factors, I concur with the Council that the principle of housing on the majority of this site to be acceptable. The detail of any residential development proposal however needs to be considered in relation to relevant policy constraints.

9. Paragraph 172 of the Framework states "*Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues*". It continues, "*The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest*". A footnote explains that whether a proposal is a "*major development*" is a matter for the decision taker; having regard to the substantial reduction in the scale of development in both proposals and the related opportunity to replace hard surfaced areas with landscaping, the Council have determined that neither appeal proposal would be a "*major development*", and therefore that the "*exceptional circumstances*" test would not apply. There remains however, a need to examine both appeal proposals in relation to "*conserving and enhancing landscape and scenic beauty in the AONB*".
10. Policy CP4 of the Tunbridge Wells Borough Local Development Framework Core Strategy (2010) (CS) reflects this and seeks to conserve and enhance the High Weald AONB. Policy CP14 of the CS generally restricts new development to within the Limits to Built Development, outside of which a policy of restraint operates to protect and maintain the landscape character and quality of the countryside.
11. The High Weald AONB Management Plan (2014) takes a character-led approach setting out long term policy objectives and short term targets for conserving and enhancing natural beauty. In relation to settlement it lists issues of concern including erosion of character as a consequence of development (including large new and replacement properties) which fails to respect AONB character in terms of scale, form, design or materials, and is unrelated to local needs. It advocates having regard to historic settlement form together with sustainability considerations in the planning process, in order to inform development options and enhance design quality.
12. The Farmsteads Assessment Guidance Supplementary Planning Document (2016) (SPD) notes clusters of buildings close to a farmhouse as a key characteristic of the Wealden countryside. It advocates that change and new development should be based upon an understanding historic settlement character and significance.
13. I have little evidence on the historic development or significance of Tibbs Court Farm. The two older buildings that remain, and would be retained in both appeal proposals, are sited not far from other buildings, some of which are also sited close to the road. They make a positive contribution to the appearance of the small cluster of buildings in this hamlet. The large storage buildings would appear to have replaced any other former farm buildings such that other than the frontage buildings, the site does not now resemble the format of a farmstead. The removal of these storage buildings would undoubtedly be a benefit to the character and appearance of the area, but it is nonetheless important to have regard to the form and layout of replacement buildings.
14. In Appeal A, there would be variation in the appearance of individual dwellings with some utilising materials and design details that could be reflective of agricultural buildings. The appellant claims that the layout assumes a farm

complex with original buildings converted into individual dwellings and infilled with a small number of new dwellings. However, the layout more resembles an informal residential estate with even spacing between predominantly large detached houses. The regularity and prominence of detached garages, forecourts and turning areas would result in a suburban appearance to the development. The eastern half of the development would be conspicuous from Tibbs Court Road and would appear more as a mixed residential estate rather than based upon a farmstead as advocated in local planning policy.

15. The landscape benefit arising from removal of the large storage buildings would be outweighed by the harm arising from the layout of the proposal in Appeal A. The proposal would not respect the character and appearance of the area or the AONB. It would be at variance with the character of farmsteads and settlements in the AONB which are set as a guide to new development. The Framework attaches great weight to the enhancement of AONBs and notwithstanding the proposal's benefits, it would not achieve this enhancement. The proposal in Appeal A would thereby be contrary to Policy CP4 of the CS and to Paragraph 172 of the Framework.
16. In Appeal B, the pond would be relocated to the northern side of the access enabling construction of a modest 'farmhouse' located close to the frontage. This would complement the scale of the retained buildings and result in an attractive appearance in the street scene. The layout of housing in the western half of the site would be more tightly clustered than that in Appeal A, and more reflective of a farmstead approach to development. It would also contain a mix of housing and curtilage sizes that would better reflect the character of the immediately surrounding area than in Appeal A.
17. However, whereas the western side of the site would be relatively screened by retained vegetation and existing buildings, development on the eastern side of the site would be open to view from Tibbs Court Lane and conspicuous when entering the site along the new access. The layout of the site here would still retain a suburban character. The two large houses on plots 2 and 3 would have extensive areas of hardstanding in front of them for turning cars. Their garages would be sited forward of the houses and would appear prominent and isolated. The building providing parking for plots 3 and 7 would be an unduly large and dominant feature in relation to parking provision; whilst its siting forms part of the enclosure to the western cluster of buildings, its central location within the site would make the building particularly noticeable. The extent of buildings and hard surfaced areas would diminish the scope for landscape measures to enhance the appearance of the site and the AONB.
18. The layout of the proposal in Appeal B would not satisfactorily address the harm identified in Appeal A. The shortcomings of the layout and the visibility of the development would detract from the character and appearance of the area and of the AONB. The great weight to be applied to the enhancement of the AONB would outweigh benefits arising from removal of the storage buildings. The proposal in Appeal B would thereby be contrary to Policy CP4 of the CS and to Paragraph 172 of the Framework.

The yield of dwellings

19. The Council considers that there could reasonably be an increase in the overall number of units and inclusion of affordable housing on site without significantly increasing the level of built development. This would reflect exhortations in the

Framework to make effective use of land and to greatly increase the number of homes. However, this needs to be balanced by consideration of the impact on the character of the area and on the AONB. Moreover, there is not an express policy requirement for the provision of affordable housing at the site.

20. The inclusion of some larger dwellings with larger gardens in the overall mix would be in keeping with the pattern of development locally and would provide opportunity for more extensive landscape measures on these plots to enhance the appearance of the site as a whole and the landscape and scenic beauty of the AONB. Additional dwellings would necessitate a requirement for more parking, turning and hard surfaced areas, an issue of concern in the layout of both appeal proposals. Future occupiers of the site are likely to be heavily reliant on the use of private cars for service provision given the site's relative isolation; there is not therefore an imperative from a sustainability viewpoint to increase the number of units.
21. In my judgement, the provision of 9 houses with the mix proposed in both appeals, would produce an acceptable yield of dwellings given the site's constraints and particularly its location within an AONB. The appeal proposals would not therefore be contrary to Paragraphs 67-76, 122 and 123 of the Framework that relate to identifying and delivering land for housing and achieving appropriate densities.

Highway safety

22. Closure of the existing access between the retained frontage buildings and provision of a new access as proposed in both appeals would result in some benefits to highway safety. However, whilst the appellant contends in Appeal A that there would be satisfactory visibility at the new access given traffic speeds recorded in a survey and the curvature of the road, visibility to the north could be compromised by the proximity of the house to plot 9. The splay would include part of the curtilage to this plot adjacent to the highway and this could be compromised through the provision of fencing, planting or other domestic paraphernalia next to the house to protect privacy. Given the overall size of the site and length of frontage it would seem feasible to design out this failing.
23. The proposal in Appeal A would not provide adequate visibility at the access. It would thereby conflict with Policy TP4 of the Tunbridge Wells Borough Local Plan (2006) that requires proposals to provide a safely located access where adequate visibility exists or could be created.

Community facilities

24. The appellant has submitted a Unilateral Undertaking in relation to contributions towards community facilities, the subject of the Council's third refusal reason on Appeal B. This undertakes to make payments towards libraries and secondary education. I am satisfied that the undertaking is necessary to mitigate impacts arising from the proposal, that the undertaking is complete and in accordance with the requirements of the CIL Regulations 2010. However, I am dismissing the appeal on other grounds.

Other matters

25. I have noted the benefits arising cited in representations in favour of the proposals from local residents. However, these benefits do not outweigh the harm arising to the character and appearance of the area and to the AONB.

26. Paragraph 11 of the Framework states that when a local planning authority cannot demonstrate a five year supply of deliverable housing sites that there should be a presumption in favour of sustainable development and granting permission. However, footnote 6 confirms that conflict with Framework policies relating to AONBs provides a clear reason for refusing development proposals in these circumstances.

Conclusion

27. For the reasons given, and having regard to all other matters raised, both appeals are dismissed.

Rory MacLeod

INSPECTOR