



Appeal Decision

Site visit made on 13 September 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 24 October 2019

Appeal Ref: APP/U1430/W/19/3229980

Land to the rear of Menadews, Workhouse Lane, Westfield TN35 4QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Malcolm Lawson against the decision of Rother District Council.
 - The application Ref: RR/2019/145/P, dated 22 January 2019, was refused by notice dated 16 May 2019.
 - The development proposed is the erection of a dwelling, garage and drive.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters except access reserved for future determination. I have considered the appeal on this basis and I have treated the submitted proposed site plan as indicative only apart from the access.
3. The emerging Development and Site Allocations Local Plan (DaSA) has been submitted for examination, however, as it is yet to be found sound and adopted, I therefore attach only limited weight to it.

Main Issues

4. The main issues are the effect of the proposal on:-
 - i) the character and appearance of the surrounding area which includes the High Weald Area of Outstanding Natural Beauty (AONB);
 - ii) the living conditions of the future occupants at Menadews with particular regard to noise and disturbance; and
 - iii) highway safety.

Reasons

Character and appearance

5. The appeal site lies outside of the defined village settlement boundary, albeit adjacent to it, and therefore lies within the countryside for the purposes of planning policy where development is limited to uses that are appropriate to the countryside.

6. However, in the absence of anything to suggest that the proposed dwellings would be consistent with countryside policies, the principle of development would clearly conflict with the spatial strategy for the district.
7. The appeal site is formed from part of a larger field of pasture land that lies to the rear of dwellings arranged in a linear ribbon pattern of development along Workhouse Lane. Dwellings along this side of the lane are varied in type, style and treatment and broadly follow a similar build line towards the front of their plots. Rear gardens are generally long and generously sized. The appeal site is positioned beyond these gardens and given its largely undeveloped appearance together with further fields and paddocks to its rear, the current appearance of the appeal site makes a positive contribution to the area's open and rural character. These are key characteristics associated with the AONB.
8. The appeal site shares a common boundary with a detached two storey dwelling, Menadews, which is a unique example of tandem development along this side of Workhouse Lane. Accordingly, given its inimitable presence I consider Menadews to be an anomaly within the existing pattern of development and uncharacteristic of the area. Thus, the introduction of a dwelling together with additional boundary treatments, hardstanding areas and domestic outdoor paraphernalia would represent a divergence from the prevailing building line and appear as an incongruous addition to the rural land on which it would lie.
9. The appeal site is largely hidden from public views from the highway due to the presence of existing dwellings and outbuildings. In addition, substantial mature vegetation exists along a number of boundaries. However, some partial views of the appeal site would still be possible, particularly during periods when vegetation is less dense, for instance, during winter months. I have taken account of the proposed additional landscaping to be detailed at a reserved matters stage, however, I find that the visual impact of the proposal would be substantial in views through or over vegetation and in views from neighbouring dwellings.
10. Although a single storey dwelling would have less impact, the proposal would harmfully erode the open characteristics and landscape value that this site provides. Furthermore, the appeal site's connection to surrounding fields, countryside and AONB means it has value in terms of its contribution to the overall landscape and scenic beauty of the area which would be eroded as a result of the proposal.
11. The appellant has drawn my attention to a two storey dwelling to the rear of the appeal site, Farmside. I have limited information relating to the particular circumstances of this development. Whilst this development is located at some distance beyond the settlement boundary, it ensued from an existing residential unit. Given that the appeal proposal relates to a new dwelling, the circumstances are therefore not directly comparable to the appeal proposal. A comparison is of limited relevance in this instance and each case must therefore be considered on its individual planning merits.
12. I have had regard to The Market Towns and Village/Landscape Assessment (MTVLA) (2009) and Policy RA1 of the Rother Local Plan Core Strategy (2014)(CS), which anticipate some exceptional development adjacent to the settlement boundary. In addition, whilst I accept that the Strategic Housing Land Availability Assessment (2013) applies to a wider area than the MTVLA, I

find that the appeal site accords with the description of land provided by the Landscape Assessment insofar as it is an important landscape buffer. Notwithstanding the provisions of the MTVLA and CS Policy RA1 and that the proposal is for a single dwelling, these do not provide justification for a new dwelling in this location.

13. Accordingly, I conclude that the proposal would harmfully erode the character and appearance of the surrounding area and the High Weald AONB. Thus, the proposal would conflict with CS Policies OSS3(vi) OSS4(iii), RA2(viii), RA3 and EN1(i)and(v). Among other things, these policies seek to avoid development within the countryside and ensure a high quality design that respects and does not detract from the character and appearance of the area and landscape and qualities of the AONB.
14. Furthermore, the proposal would also conflict with emerging DaSA Policies DEN1 and DEN2 insofar as these policies require development to maintain landscape character and with particular regard to the AONB, conserve or seek to enhance landscape and scenic beauty.

Living Conditions

15. Access to the proposal would be taken from Workhouse Lane via the existing driveway that presently provides access to the existing dwelling, Menadews. The proposed access would wrap around the front, side and rear elevations of Menadews. A number of windows exist within these elevations, including, within the front elevation and at closest proximity to the access, those serving a kitchen and living area.
16. Whilst there is presently some potential for noise and disturbance from the use of the driveway by the existing occupants of Menadews and those accessing the field to its rear, there would likely be greater usage of the driveway to access the proposed parking area and garage, albeit I agree that the proposal for one additional dwelling would be likely to generate only a modest amount of additional traffic.
17. Existing vegetation along the side and rear boundaries to Menadews would partly screen the garden of Menadews and would lessen the visual impact of passing vehicles. However, the absence of any intervening boundary to the front elevation and the consequent close proximity of passing and manoeuvring vehicles, particularly to the rear garden and front elevation would be likely to give rise to a serious adverse effect by way of noise and disturbance to the occupiers of Menadews.
18. I have had regard to the appellants claim that a residential use would have the effect of reducing the number of trips to the appeal site. However, the appeal site forms only part of the wider field, which I am advised has been in use as a small holding. As such, whilst the area of land available for agricultural use is reduced in size, there is no evidence before me to confirm that this use of the remaining part of the field would cease, nor that the number of vehicle movements would be reduced.
19. I am mindful that the application was made in outline and I note the appellants comments that the garage could be relocated away from the rear boundary of Menadews, or deleted from the proposal entirely. However, this would not

mitigate the significant harm arising as a consequence of using the access driveway to the front and side elevation of Menadews.

20. Accordingly, I conclude that the proposal would result in a significantly unacceptable standard of living conditions for the occupants of Menadews. Therefore, the proposal would conflict with CS Policy OSS4(ii). Among other things this policy requires development not to unreasonably harm the amenities of adjoining properties.
21. The Council have referred to emerging DaSA Policy DHG9 within their reasons for refusal. This policy concerns extensions, alterations and outbuildings to existing dwellings. As the proposed development concerns a new dwelling, I do not consider this policy to be applicable to the appeal proposal and therefore I attach no weight to it.
22. *Highway safety*
23. Access to the appeal site would be taken via the existing driveway connecting to Workhouse Lane, a road subject to a 30mph speed restriction. At the time of my site visit I observed that Workhouse Lane was in fairly regular use. There was an evident demand for on-street parking within the vicinity. However, given that the highway is relatively straight, sightlines of drivers using the highway are relatively good. As such, I do not agree that the travelling speed of vehicles passing along this stretch of the road is reduced to any significant extent.
24. Whilst views from the access looking down Workhouse Lane are presently relatively clear given the low nature of the boundary treatment and vegetation within the front garden of the neighbouring dwelling, Hollyoak, there is no guarantee that this situation will remain unchanged.
25. To the other side of the access, looking uphill, the boundary of the neighbouring property consists of a low wall with fencing above it together with mature vegetation. Given an absence of a footway along this side of the lane, the boundary is positioned immediately at the back edge of the highway. As a result, sightlines along Workhouse Lane uphill towards the junction are very limited. A vehicle would need to edge a considerable way into the highway to achieve a clear view of oncoming traffic and therefore there would be great potential for vehicle conflict, particularly given that current on-street parking has the effect of reducing the width of the road in places.
26. Notwithstanding that the proposal makes use of an existing highway access, there is no evidence before me to demonstrate that the land required to achieve the necessary visibility splays is within the ownership or control of the appellant. The appellant has suggested the necessary sight lines could be achieved by way of covenants between the neighbouring landowners. However, in my experience, to secure this, there would need to be a legally constituted agreement between the parties. No legal agreement has been provided as part of this appeal and there is no clear evidence before me that any third party would be willing to enter into such an agreement. Thus, in the absence of any guarantee that safe visibility is capable of being achieved, I therefore do not find that a negatively worded condition to secure a future

section 106 planning obligation would be capable of addressing the issue of highway safety.

27. Whilst I have taken into account the absence of recorded road traffic accidents at this existing access, a more intensive use of the access would prejudice highway safety.
28. Therefore, I conclude that the proposal would be contrary to CS Policies CO6 and TR3 insofar as these policies require development to demonstrate safe access arrangements in order to avoid prejudice to road safety.

Other Matters

29. Reference has been made to the proposal not being overbearing nor causing an adverse loss of light to neighbouring occupiers. However, as the proposal is in outline form, a detailed consideration of these matters cannot be undertaken at this stage.

Overall conclusion and planning balance

30. The National Planning Policy Framework (the Framework) states that local planning authorities should avoid the development of isolated homes within the countryside. However, given the proximity of other dwellings to the appeal site, I do not consider that the proposal would be isolated and therefore the restrictions set out in paragraph 79 of the Framework do not therefore apply.
31. The Council are presently unable to demonstrate a five year supply of land for housing. In such circumstances, the Framework states that policies which are the most important for determining the application should not be considered up-to-date. However, paragraph 14(d)(i) goes on to state that planning permission will be granted unless there are relevant policies within the Framework that protect areas or assets of particular importance. Footnote 6 of the Framework gives examples of such policies which include those relating to AONB's.
32. Paragraph 172 of the Framework sets out that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs, which have the highest status of protection in relation to these issues. I have found harm to the AONB as a result of the proposal. I therefore find that relevant policies within the Framework indicate that the development should be restricted. The 'tilted balance' is therefore not engaged.
33. I therefore move on to separately consider the 'planning balance'. In terms of benefits of the proposal, the construction of a dwelling makes a modest contribution to housing supply, construction costs and jobs, albeit for a temporary period, and support for nearby services and facilities. I also have regard to the location of the appeal site within walking distance of a school, public house, village shop containing post office and a church. However, I have concluded that the proposals' adverse impact relates to the character and appearance of the surrounding area, the living conditions of neighbouring occupiers and highway safety. In my judgement, this harm carries substantial weight.
34. In addition, as noted above, great weight should be given to conserving landscape and scenic beauty of AONBs. On balance, I therefore find that the harm to the character and appearance of the surrounding area and the AONB,

together with the harm to the living conditions of neighbouring occupants and highway safety is not outweighed by the benefits. Nor does the fact that approximately 80% of the District is situated within the AONB justify the proposal given the harm I have found.

35. Accordingly, my finding in respect of paragraph 14 of the Framework, along with all other material considerations, indicates that planning permission should not be granted.

36. The appeal is therefore dismissed.

E Brownless

INSPECTOR