
Appeal Decision

Site visit made on 25 November 2019

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/D3830/W/19/3234270

Springwood Nursery, Nash Lane, Scaynes Hill RH17 7NJ

- 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 Warren Lee against the decision of Mid Sussex District Council.
 - The application Ref DM/19/1391, dated 9 April 2019, was refused by notice dated 15 July 2019.
 - The development proposed is demolition of existing buildings and erection of 1no dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the planning application form although I note it is expressed differently on other documents.
3. The appeal site has been subject to a previous refused planning permission and dismissed appeal for the demolition of existing chicken shed and nursery buildings and erection of detached single storey 4 bedroomed dwelling. That appeal decision was made in 2016. For the purposes of clarity, whilst mindful of the planning history relating to the appeal site, I have considered the proposal, the subject of this appeal, on its own merit having regard to the current development plan context.

Main Issues

4. The main issues raised in respect of the appeal are: -
 - (a) Whether the proposal is an appropriate location for new residential development to avoid the over-reliance on travel by private vehicle;
 - (b) The effect of the proposal upon the character and appearance of the area; and
 - (c) The effect of the proposal upon Ancient Woodland.

Reasons

Location

5. Policy DP21 of the Mid Sussex District Plan 2018 (the District Plan) sets objectives for schemes to be sustainably located to minimise the need for travel and to have accessibility to safe and convenient routes for walking, cycling and public transport.
6. The settlement of Scaynes Hill, that hosts a variety of services, facilities and public transport, is a significant distance from the appeal site. The appeal site is located in the countryside. Within the vicinity of the appeal site there is scattered development, predominantly residential in nature. There do not appear to be any services and facilities local to the site that would support the day-to-day needs of the future occupiers. I have not been directed to any accessible bus services that would link the site with Scaynes Hill or other settlements. It, therefore, appears to me that future occupiers would need to travel by private vehicle to reach services and facilities.
7. I also observed that Nash Road has all the attributes of a country lane. It does not host footpaths with street lighting or cycle paths. Furthermore, traffic is free-flowing along Nash Road with vehicles travelling at speed. Therefore, this would not provide the future occupiers an attractive alternative option in which to access services and facilities even if Scaynes Hill is less than one mile away and less than walkable distances advocated by Manual for Streets. Consequently, I find that future occupiers would be heavily reliant on private vehicle in order to cater for their day-to-day needs.
8. I have been directed to two appeal decisions¹, one of which relies upon the Braintree case². The appellant directs me to the essence of the conclusions reached that reliance on private car is not in and of itself a reason to consider a proposed development as being unsustainable when it does not relate to major development. The previous Inspector found in relation to the residential development at this appeal site that 'harmful effect would arise from the appeal site's unsustainable location'. The circumstances of the appeal site have not changed. However, the appellant points out that the previous appeal decision was made prior to the Braintree judgement and these appeal decisions referred to me.
9. The Braintree judgement determined that the word isolated in regard to former paragraph 55 of the National Planning Policy Framework (the Framework) (now paragraph 79 of the revised Framework) simply implies a dwelling that is physically separated or removed from a settlement. This judgement also determined that whether a site was within a settlement or not would be a matter for the decision taker based upon fact and planning judgment.
10. Paragraph 79 does not imply that a dwelling has to be 'isolated' in order for restrictive policies to apply. I, therefore, consider it appropriate to consider the proposal within the context of Policy DP21 of the District Plan. Although the

¹ Appeal Ref APP/W3520/W/18/3207786 & APP/C1570/W/18/3197857

² Braintree District Council v SSCLG and others [2017] EWHC 2743 (Admin)

site would not be spatially isolated from other dwellings in the area, it would nonetheless be some distance from services and facilities.

11. The Framework indicates that new development should be planned for in a way that can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Policy DP21 seeks development to be sustainably located to minimize the need for travel in order to meet its objective of achieving a resilient transport network that reduces carbon emissions. I consider this aim to be consistent with the Framework. In considering the appeal decisions referred to me these were determined having regard to the policy context of those administrative areas, which does not appear, from the information provided, to promote the same objectives as Policy DP21.
12. For these reasons, the proposed development would conflict with Policy DP21 of the District Plan as the proposal would not minimise the need for travel and would not provide safe and convenient pedestrian, cycling and public transport access to services and facilities. The proposal would also conflict with Policy 1 of the Lindfield and Lindfield Area Neighbourhood Plan as it would create a new home in an unsustainable location beyond the built-up area boundaries of Lindfield and Scaynes Hill.

Character and appearance

13. The pre-existing chicken shed (or barn) has been removed and from what I saw at my visit the concrete base of that building remains. The only other structure at the appeal site was a modestly sized greenhouse, although I also saw there to be a low retaining wall running alongside the existing base. As such, the site is largely undeveloped and has an open character in its current form. What remains at the site appears to relate to the previous horticulture use of the site, albeit I cannot be certain that this is the case in respect of the retaining wall.
14. There is existing development in the surrounding area although, as noted above, this is sporadic. The current largely undeveloped nature of the site hosts attributes akin to the open countryside that predominantly reflects the landscape in the wider setting of the appeal site. The proposal would create a dwelling at the site, along with a formalised access drive, parking and turning provision, as well as domestic landscaping. The development would have a significant urbanising effect upon the site and would substantially change its character. This would result in a diminution of the rural character and appearance of this location. Therefore, the visual harm of the proposal to the character and appearance of the countryside would be substantial.
15. The proposed development would be sited at a lower land level to that of Nash Lane and would be set back from the road. The site is screened and the development, being single storey, would not be readily apparent in views from the surrounding area. That said, the site can be seen through the existing boundary vegetation along Nash Lane and would be visible in views from the site entrance. Whilst I acknowledge that additional landscaping along the Nash Lane boundary would help to mitigate the visual impact of the proposed development, the proposal would nonetheless introduce urban-related built development into the countryside.
16. I note that east of the appeal site there is an existing industrial unit. I also acknowledge that the proposed dwelling, being single storey, would be lesser in

height to that of other dwellings in the locality and its footprint would not be dissimilar to those existing dwellings. Nonetheless, these factors do not justify an urbanising proposal at the appeal site that would visually detract from the character of the countryside.

17. For these reasons, the proposed development would have a harmful effect upon the character and appearance of the area. The proposal, therefore, conflicts with Policies DP6, DP15 and DP26 of the District Plan that seek, amongst other matters, to resist new homes in the countryside where it would not enhance its immediate setting and would not be sensitive to the countryside.

Ancient woodland

18. The area to the south of the appeal site is designated as ancient woodland. Paragraph 175 of the Framework advises that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
19. Policy DP37 advises that development should be positioned as far from ancient woodland as possible, with a minimum buffer of 15 metres maintained between ancient woodland and the development boundary. Approximately half of the width of the proposed house would lie within the 15 metre buffer zone, as well as part of the access and the parking area. Other works have been carried out within the buffer zone relating to land regrading at the southern boundary of the site, however it does not appear to me from the information before me that those works are proposed as part of this appealed scheme. I, therefore, have limited my considerations to the proposal plan that is before me.
20. The Council explains that the purpose of the buffer zone is to prevent adverse impact of neighbouring development upon the ancient woodland, which in this case could relate to air, light, noise and water run-off pollution, soil disturbance and invasion by non-native plant species and loss of the seed base within that part of the woodland close to the site.
21. The appellant contends that limited air pollution would be generated by vehicles relating to one household and the number of vehicles at the site would, in any event, be less than that of the previous use of the site. It has also been suggested that conditions could control external lighting and surface water drainage. In addition, it is also opined that internal lighting would be far enough away from the woodland not to have any impact whilst domestic activity at the site would not give rise to significant noise. However, on the available evidence I cannot be certain that the appellant's assertions in respect of these matters would be correct or that conditions could adequately mitigate any potential harm.
22. The proposal has been supported by a preliminary Ecological Appraisal. The proposal would create a residential use of this site right up to the southern boundary of the site. The Appraisal comments that due to the existing boundary treatment and the difference in site levels between the site and the woodland there is no perceived risk of potential impact to individual trees within the woodland or designated habitat. However, as I see it, domestic planting relating to the residential use of the site could migrate into the woodland. The Appraisal does not appear to consider retaining a buffer zone

within which neither development nor residential domestic use should take place. Furthermore, the Appraisal does not consider the effects of construction works upon the woodland.

23. From the information before me, I cannot be certain that the residential use of the site immediately adjacent to the ancient woodland would not cause an adverse impact upon the ancient woodland. Whilst, the site has previously been developed and the proposed dwelling would be positioned in largely the same footprint as the previous chicken shed, the residential use of the site could be significantly different to that of the previous nursery use of the site.
24. A suggestion has been put forward to create a wildflower meadow within the buffer zone secured by way of planning condition. However, I have no substantive information before me that might indicate that such vegetation would be appropriate planted adjacent to the ancient woodland. I therefore cannot be certain that such a condition would be acceptable. It has also been suggested that permitted development rights could be removed by way of a planning condition to reduce future occupiers use of garden within the buffer zone. However, this proposal seeks the residential use of this entire site and it would be difficult to prevent future occupiers having recreational enjoyment of land within their property. In addition, I do not consider a condition that would secure ecological enhancements at the appeal site itself would overcome my concerns in respect of the impact upon the adjacent ancient woodland.
25. Consequently, I consider that a precautionary approach is justified as the development could result in the loss or deterioration of irreplaceable ancient woodland. Insufficient evidence has been provided that would clearly demonstrate that the proposed development would not harm the biodiversity of the ancient woodland. As such, this brings the proposal into conflict with Policy DP37 of the District Plan and paragraph 175 of the Framework.

Other Matters

26. I note that prior approval has been granted under 'Class Q' for the conversion of the pre-existing barn at the site to a residential dwelling. However, the appellant is no longer able to implement that scheme. I do not consider that prior approval offers support for the erection of a new dwelling at the appeal site, even if the proposed dwelling would reflect the previous footprint of the pre-existing barn and future occupiers would make use of the existing access.

Planning Balance and Conclusion

27. At the heart of the Framework is the presumption in favour of sustainable development. The Framework seeks to boost housing land supply. The appellant contends that there is scope to approve development not in accordance with the development plan even in situation where a planning authority has a five year housing land supply in place, as is the case here.
28. Accordingly, I have considered whether the appeal proposal would be consistent with the social, economic and environmental objections of sustainable development. The proposal would create a new good quality National Space Standards compliant home. However, being only one home, this would not contribute significantly to the housing land supply within the District. I have found that the location of a new home in the countryside would place reliance on future occupiers to make use of private vehicle to access

services and facility. I have also found that the urbanising nature of the development would be visually harmful to this countryside location. Furthermore, I have not been satisfied that the proposal would have an acceptable effect upon the adjoining ancient woodland. As such, this places the proposal in conflict with the environmental objectives of the Framework. Any benefits of the scheme do not outweigh the harm that I have identified. This leads me to conclude that there is conflict with the development plan as a whole and I find that the proposal is not sustainable development.

29. Having regard to my above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR