
Appeal Decision

Site visit made on 27 November 2019

by Neil Smith BA Hons BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2020

Appeal Ref: APP/M2270/W/19/3236698

Paygate Cottage, Horsmonden Road, Tonbridge, TN12 7AB

- 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 Potter against the decision of Tunbridge Wells Borough Council.
 - The application Ref 19/00785/FULL, dated 26 April 2019, was refused by notice dated 2 August 2019.
 - The development proposed is the erection of a dwelling and associated garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I saw from my site visit that some building works have commenced at the appeal site. I have determined this appeal in accordance with the plans that were considered by the Council at application stage.

Main Issues

3. The main issues are:
 - i) the effect of the appeal proposal on the character and appearance of the High Weald Area of Outstanding Natural Beauty (AONB);
 - ii) whether or not the site is a suitable location for housing with regard to national and local policy; and
 - iii) the effect of the appeal proposal on the existing trees on site.

Reasons

Character and appearance of the High Weald AONB

4. The appeal site is in the countryside to the south of the village of Brenchley on the corner of Horsmonden Road and Fairmans Lane. It is triangular shaped, of a substantial size and well screened by hedgerows. It slopes away from the back of the existing dwelling, Paygate Cottage, and is in the High Weald AONB. The AONB is characterised by dispersed settlements, particularly historic farmsteads, ancient woodland and wooded heaths. These are all draped over a deeply incised and ridged landform of clays and sandstones with numerous streams. The appeal site is in an elevated location in the countryside and is an attractive and open area of AONB.

5. I am mindful that planning permission was granted on appeal¹ for a replacement dwelling, including partial demolition of the existing dwelling, Paygate Cottage, dated 8 January 2015. The appeal proposal seeks a similar additional dwelling, located more centrally within the site, but without the demolition of the more recent extensions to Paygate Cottage.
6. I am mindful that the amended design of the new dwelling would largely reflect that of the 2015 permission, and I note that there is no dispute between the parties in this respect. For these reasons, I have no reason to reach a different conclusion in respect of the design of the new two-storey dwelling.
7. However, the proposal also seeks to retain Paygate Cottage without the removal of the more recent additions including a gabled sitting room and a modern glazed conservatory. Together, these extensions approximately doubled the size of the original toll house. In determining the previous appeal, the Inspector stated that whilst the proposal would introduce an additional building on site, there would be a compensatory reduction in the built form of the existing cottage, which would also be a much simpler and more compact design. He also stated that the building, a non-designated heritage asset, would be reinstated to its original design for use as ancillary accommodation. For these reasons, the Inspector concluded that the proposal would conserve the character and appearance of the AONB.
8. Similarly, when taken together, the retention of the disjointed and inharmonious extensions to the original cottage, combined with the new dwelling, would introduce a significant amount of built development into an open garden area that would significantly change the appearance of the site. In contrast to the previously approved scheme, the proposal would erode the openness of the land having an urbanising effect on it, causing significant harm to the character and appearance of this part of the AONB.
9. The appellant argues that the site is capable of accommodating two dwellings, that the extensions are not clearly visible and that they should be considered to be an original part of the dwelling for planning policy purposes. I do not agree that the extensions are not visible from public vantage points given their proximity to the road frontage and, in any event, these matters would not overcome the harm from the development to the open character of the appeal site and surrounding land.
10. In line with paragraph 172 of the National Planning Policy Framework (the Framework), great weight should be given to conserving and enhancing the scenic beauty of AONBs which have the highest status of protection in respect of those matters. The proposal represents a significant incongruous form of built development that would reduce the open character of the site and would cause significant harm to the intrinsic character and appearance of the AONB.
11. The proposal conflicts with Policies EN1 and EN25 of the Tunbridge Wells Borough Local Plan (2006) (LP), Policies 4 and 14 of the Tunbridge Wells Borough Local Development Framework Core Strategy Development Plan Document (2010) (CS) and policies within the Framework, which seek, amongst other things, development proposals to have minimal impact on the landscape quality of the area.

¹ APP/M2270/W/15/3134352

Suitable location

12. Policy LBD1 of the LP seeks to concentrate development within more built-up areas of the Borough whilst simultaneously limiting development in the surrounding countryside.
13. Having had regard to paragraph 78 of the Framework, as the physical location of the proposal is adjacent to the existing dwelling, it would not result in a new isolated home in the countryside that the Framework seeks to avoid. Thus, there would be no significant conflict with paragraph 78 of the Framework.
14. I am mindful that there are limited facilities in the settlement of Brenchley. I note that although they are located relatively close to the appeal site, they would not be easy to access on foot as the nearby footpath is not fully paved, is partially stepped and unlit. For these reasons, future occupants would be reliant on the private car when carrying out day-to-day activities. For these reasons, the site is not in an accessible location.
15. The appeal site falls outside the designated Limits to Built Development boundary and is in a countryside location where housing development is restricted. Policy LBD1 states that development will only be permitted where it would be in accordance with all relevant policies in this Local Plan. I have already demonstrated that the proposal would result in significant harm and the appeal site is not a suitable location for housing.
16. Consequently, the proposal conflicts with Policy LBD1, EN1 and EN25 of the LP and Policies 1, 4, 6 and 14 of the CS which require, amongst other things, that new development will generally be restricted to sites within the Limits to Built Development. I do not consider Policy 5 of the CS is applicable as this relates to sustainable design and construction rather than whether the site is a suitable location for housing.

The effect on the existing trees

17. The Council has raised the absence of an arboricultural impact statement, with regard to the existing trees on the site, as a reason for refusal.
18. I am mindful that the previous planning permission in 2015 attached a planning condition requiring the development to be carried out in such a manner as to avoid damage to existing trees. As with the previous planning permission, I see no reason why those concerns cannot be dealt with by way of a similarly worded condition.
19. Accordingly, the proposal would not be harmful to the existing trees on the site. The proposal would comply with Policy 4 of the CS and Policy EN13 of the LP, which seek, amongst other things, to manage, conserve and enhance the landscape as a whole. I do not consider Policy LBD1 of the LP is applicable as this relates to whether the site is a suitable location for housing rather than the effect of the proposal with regard to the existing trees.

Other Matters

20. Local residents, the Parish Council and the Campaign for the Protection of Rural England have raised concerns to the proposal in relation to car parking and access into the site; poor living conditions for future occupiers of the cottage; light pollution; and that works have commenced on site. As I have found the

development unacceptable for other reasons, it is not necessary to explore those matters any further.

Planning Balance

21. There appears to be no dispute between the parties that the Council cannot demonstrate a 5-year housing land supply. For decision-taking this means, by virtue of Framework Footnote 7, that paragraph 11 d) is engaged and, further, by virtue of point d) i, Footnote 6 applies. In particular, for decision making, this means that, if the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, then the presumption in favour of development does not apply. In this instance, such reasons are provided by the Framework's policies in relation to the AONB as described.
22. In particular, the Framework requires that, in those circumstances, planning permission should only be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. I have had regard to the benefits of the scheme, including temporary construction jobs, some increased spend and that the proposal would boost the supply of housing by one dwelling. I have also taken into consideration that the dwelling would incorporate elements of sustainable design and I am mindful that the appeal proposal would be a self-build development. I have also concluded that the appeal proposal would not be harmful to the existing trees on site, subject to the imposition of a suitably worded condition.
24. However, I have identified that significant adverse impacts would result from the development upon the character and appearance of the AONB, and in a location unsuitable for housing. Whilst the provision of housing and associated benefits carry moderate weight, particularly given the absence of a 5-year housing land supply, they are not of an order that would outweigh the harm arising.
25. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 requires an application for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. There are no other material considerations which would out-weigh the development plan in this instance.

Conclusion

26. For the reasons given above, I conclude that the appeal should be dismissed.

Neil Smith

INSPECTOR