



Appeal Decision

Site visit made on 13 June 2019

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal Ref: APP/C1435/W/19/3220716

Hargate House, St Marks Road, Royal Tunbridge Wells TN2 5LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Mark Fletcher against Wealden District Council.
 - The application Ref WD/2016/3088/F is dated 22 December 2016.
 - The development proposed is an additional dwelling, access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for an additional dwelling, access thereto and associated landscaping, at Hargate House, St Marks Road, Royal Tunbridge Wells TN2 5LU, in accordance with the terms of the application Ref WD/2016/3088/F, dated 22 December 2016, subject to the conditions set out in the attached Schedule.

Preliminary Matters and Main Issues

2. Although the Council failed to reach a decision on the application its Statement of Case highlighted three specific issues which, in its representations, can be seen to amount to putative grounds for refusal. One of these related to the considered impact on Ashdown Forest but, following the Inspector's recent report on the examination of Wealden District Council's replacement Local Plan, the Council, by e-mail dated 8 January 2020, confirmed the withdrawal of its evidence relating to its considered effect from the proposal on the Ashdown Forest Special Area of Conservation. Accordingly, the Council no longer considers that the proposal requires for an Appropriate Assessment to be undertaken in this regard. Indeed, following the Inspector releasing her findings, it is understood that Officers will be recommending that the Plan be withdrawn.
3. In the circumstances the main issues in this appeal are:
 - 1) whether the site is an appropriate location for residential development; and
 - 2) the proposal's effects on the High Weald Area of Outstanding Natural Beauty (AONB);

Reasons

Location

4. Policy GD2 of the Wealden Local Plan (LP), adopted in 1998, says that outside the development boundaries new development will be resisted unless in

accordance with other LP policies, and policy DC17 serves also to preclude residential development outside these boundaries.

5. The appeal site, on the south side of St Marks Road forms part of what is a sizeable residential curtilage. Situated in the north west corner of the wider curtilage, the proposed additional dwelling would be sited to the side of the existing access driveway serving Hargate House itself. The submitted plan, Drawing No 16.22/02A, shows the proposed development as a landscaped site comprising, in addition to the new house, a front and rear garden and a detached garage. A new independent access would also be created.
6. Although on the edge of the countryside to the south and west the site is in reasonable walking distance of Frant Road along which runs a regular bus service to and from Tunbridge Wells town centre which is close by. St Marks Road itself has significant residential development on its north side and beyond between Frant Road to the east and Eridge Road (the A26) to the west. Whilst I acknowledge that the future occupiers of the development would likely be reliant on the private car, this should be balanced with the local residential character and existing vehicular movements along St Marks Road.
7. The Council, in its representations, refers to the site as being located within the rural countryside but, at my site visit, I noted sporadic development on the south side of St Marks Road, albeit at a very low density relative to the north side. Indeed, the general feeling is that of the edge of a suburban area bordering on an area of more rural character. Accordingly, I find that the Council's description of the area is termed in more zonal terms than is actually the case on the ground. Further, although the proposal is in conflict with LP policies GD2 and DC17, such a restriction, without exception, is somewhat at odds with the less prescriptive guidance in the National Planning Policy Framework (the Framework) in this regard.
8. The Council, in support of its case, refers to previous appeals where proposals for new residential development on land outside the development boundaries have been unsuccessful. However, it would appear that, from the content of the decision letters, both the Brent Farm site (*APP/C1435/W/18/3219463*) and the land opposite Robin's Nest, in Herstmonceaux (*APP/C1435/W/18/3213892*) lie within the open countryside. Given my findings a clear distinction can, therefore, be drawn between these locations and the current appeal site. The common factor is that the three sites lie outside the development boundaries but individual circumstances need to be taken into account, with each proposal assessed on the individual planning merits and impacts involved. The Wannock Cottage appeal (*APP/C1435/W/18/3215358*) is more directly concerned with the effects on the local Special Areas of Conservation which, as mentioned, is no longer an issue in the current appeal.
9. Although, therefore, I conclude that this is not a particularly sustainable location, given the particular circumstances involved, I am not convinced that this is an unacceptable location for the proposal and I find that the intended development, being of an appropriate design and appearance, would integrate satisfactorily into the streetscene.
10. This does not mean, of course, that similar proposals outside the development boundaries elsewhere would be automatically acceptable in planning terms. Here, the particular circumstances involved, along with the evidence advanced

by the parties suggests, on balance, that the appeal should be allowed and planning permission granted in this instance.

11. On this main issue I conclude that, although the location falls outside the identified development boundaries, the character of this section of St Marks Road along with the siting and limited scale of the proposal appeal site, coupled with more contemporary guidance within the Framework, the conflict with LP policies GD2 and DC17 and policy WCS 6 of the Wealden District Council Core Strategy Local Plan should be overridden in this particular case. Accordingly, I am satisfied that this would be an appropriate location for residential development.

AONB

12. Paragraph 172 of the Framework says that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection.
13. The Council mentions that the site is located where the High Weald AONB meets St Marks Road, and I have already discussed its apparent immediate character, despite the Council's reference to it being within a rural location and contributing towards the AONB's essential characteristics.
14. I find that the Council's reference to the proposal on this fringe site being a 'forceful form of development, clearly harmful to the rural character of the area', as somewhat misleading in the circumstances. The proposed dwelling would be positioned forward of Hargate House itself and, in the general contextual setting, the Council has not demonstrated how exactly the proposal and its relatively modest scale would be harmful to the AONB.
15. On this main issue I conclude that the proposal's effect on the AONB need not be harmful nor, as a consequence, need there be material conflict with the objectives of LP policy EN6 or paragraph 172 of the Framework.

Other considerations

16. The appellant has drawn my attention to the Council being unable to demonstrate a 5 year Housing Land Supply. In his representations he refers to there being a land supply covering only 2.65 years, which is a significant shortfall. The Council has not challenged this figure, but I have referred to the Council's Annual Monitoring Report for 2017/2018 which gives a figure of just 2.62 years. Although the Council says that once relevant planning permissions are issued, based on the framework set by the submission Wealden Local Plan, it will be able to show in excess of a 5 year supply, I have received no further updates on this matter save for the information I have outlined regarding the replacement Local Plan.
17. I have had regard to the various representations made from interested parties, and most of the points raised I have already addressed. Other matters referred to are in respect of the implications from an expected increase in traffic and also loss of privacy due to potential overlooking. The proposal comprises one additional two storey house, set into its site which will be landscaped and screened. Given the nature of the proposal and its contextual setting I cannot see that this could reasonably be termed an intrusive form of development unduly affecting the living conditions of neighbouring residential occupiers. There would be a small increase in vehicular movements along

St Marks Road but, realistically, this would not be significant and it should be borne in mind that the local highway authority has not raised objections in this regard.

Conclusion and Conditions

18. I have found that the proposed development would be acceptable in all regards. No significant harm would be caused in the event and, for the above reasons, and having had regard to all matters raised, the appeal succeeds.
19. In terms of conditions I have considered those suggested by the Council and have also taken into account advice within the Planning Practice Guidance. Some require that details be submitted to the Council for written approval prior to the commencement of development, but are necessary as, in certain areas, insufficient detailing has been provided to date.
20. In addition to the standard time limitation of three years conditions relating to landscaping, arboricultural protection and bio-diversity enhancement are necessary to ensure the safeguarding and enhancement of the natural environment. A condition prohibiting any uncontrolled installation of floodlighting is also required in order to safeguard wildlife and also to protect the immediate part of the AONB beyond.
21. A condition relating to surface-water drainage is necessary in order to serve the needs of the residential development. Given the location I have, though, imposed a condition which removes Classes A and B permitted development rights, thereby requiring that any future proposals involving extensions or roof alterations to the dwelling hereby approved would require the Council's assessment and the benefit of planning permission. The Council's suggested removal of Class C entitlement is neither necessary nor reasonable due to the limitations of such.
22. In the interests of a satisfactory appearance and form of development a condition is imposed requiring that samples of external materials shall be submitted to and approved by the Council. However, no condition is necessary as to the domestic use of the approved detached garage. Also, no parking spaces are shown within the front driveway. In the event that the garage might be used at some future point for unrelated purposes then it would be open for the Council to use its remedial powers, as necessary.
23. Finally, in the interests of certainty, a condition is imposed requiring that the development is carried out in accordance with the approved plans.

Timothy C King

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Drawings Nos 16.22/01, 16.22/02A, 16.22/03, 16.22/04, 16.22/05, 16.22/06, 16.22/07, 16.22/08A and 16.22/09.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved samples.
- 4) No development shall commence until details of surface water drainage, which shall follow the principles of sustainable drainage as far as practicable, have been submitted to and approved by the local planning authority. The drainage shall be provided in accordance with the approved details before first occupation of the related dwelling.
- 5) No development shall commence until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out in accordance with the approved details. These details shall include proposed boundary treatments, proposed finished levels and contours, hard surface finishes, including details of retaining walls, steps, railings, walls, gates, fences or other supporting structures, car parking layouts, other vehicle and pedestrian access and circulation areas and structures (e.g. refuse and other storage units). The information shall also include indications of all existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in full with BS5837:2012 Trees in relation to design, demolition & construction. The scheme shall also include details as to the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted as part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, and schedules of plants - noting species (which should be indigenous), planting sizes and proposed density.
- 6) No development shall commence until a scheme for the enhancement of the site for biodiversity purposes, in accordance with section 5 of the submitted Preliminary Ecological Assessment prepared by PJC Consultancy date stamped 17 January 2017, to include timescales for implementation and future management, has been submitted to and approved in writing by the local planning authority. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter so retained.
- 7) The development shall be implemented in strict accordance with all the recommendations set out within the Arboricultural Method Statement and the Arboricultural Survey prepared by PJC Consultancy, date stamped 17 January 2017.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order with or without modification) no buildings, structures or

works as defined within Schedule 2, Part 1, Classes A and B shall be erected or made within the curtilage of the dwelling hereby permitted without the prior approval of the local planning authority.

- 9) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has firstly been submitted to and approved in writing by the local planning authority.