



Appeal Decision

Site visit made on 16 October 2019

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

an Inspector appointed by the Secretary of State

Decision date: 24 February 2020

Appeal Ref: APP/C1435/W/19/3232260

Land adjacent to Tanyard's Farmhouse, Framfield Road, Buxted TN22 4PP

- 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 & Mrs B Huxley against the decision of Wealden District Council.
 - The application Ref: WD/2018/2636/F, dated 6 December 2018, was refused by notice dated 5 April 2019.
 - The development proposed is demolition of existing buildings and structure, and erection of a single dwelling with detached garage, driveway and soft landscaping.
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Decision

1. The appeal is dismissed.

Procedural Issue

2. The hearing sessions relating to stage 1 of the examination of the Submission version of the emerging Wealden Local Plan (2019) (emerging LP) has been conducted and the conclusions of the examining Inspector have been published during the consideration of this appeal. I have been provided with the Examining Inspector's conclusions and the parties have provided their comments on this matter.

Main Issues

3. The main issues are the effect of the proposal on:-
 - i) whether the appeal site is a suitable location for residential development having regard to the settlement strategy of the development plan and the accessibility of services and facilities; and
 - ii) whether the proposal makes adequate provision for mitigation to a Special Area of Conservation (SAC) and a Special Protection Area (SPA).

Reasons

Settlement strategy

4. The appeal site is situated to the side of Tanyard's Farmhouse and comprises an area of land containing a collection of redundant and dilapidated buildings and structures. A Lawful Development Certificate recognises its use as a builder's yard, light industrial use. It lies outside of the defined development boundary for Buxted and thus for the purposes of applying planning policy the site is located within the countryside.

5. Policies GD2 and DC17 of the Wealden Local Plan (1998)(LP) set out that development outside of development boundaries will be resisted unless it is in accordance with specific policies within the LP, for instance, being essential for agriculture or forestry needs or has some other similar justification for a rural location. Emerging LP Policies WLP4 and RAS2 have similar provisions. In the absence of anything to suggest that the dwellings proposed would be consistent with countryside policies, the development would clearly conflict with these policies for the reasons set out above. However, as the emerging policies do not form part of an adopted plan, I therefore attribute only very limited weight to that conflict in the consideration of this appeal.

Accessibility of services and facilities

6. The appeal site is divorced from Buxted. Access to the centre of Buxted would take approximately 15 minutes on foot, whereas the nearest bust stop would take around 11 minutes, taking the appellant's measurement, that have not been disputed by the Council. However, I observed at the time of my site visit that the majority of the route did not have a footway and therefore access on foot would be along grass verges, which are mostly narrow. Moreover, where existing vegetation has overgrown the verge, a pedestrian would need to walk within the highway.
7. Albeit Framfield Road did not appear to receive a constant flow of traffic, I observed the highway to be used by a number of heavy goods vehicles in addition to private motor vehicles. Given the unrestricted speed limit for the majority of the route, vehicles were generally travelling at relatively high speed along the road. Whilst I appreciate that my site visit provided only a snapshot of the road conditions, I have seen nothing to suggest that what I saw was untypical. Taken together with the presence of a number of bends along the route which have the effect of limiting forward visibility, to my mind the majority of pedestrians would not feel safe having to walk within the highway or seek refuge when being approached by vehicles.
8. Furthermore, given an absence of street lighting and the nature of the route, it is such that it would be highly unlikely that anyone with a young child, pushchair or wheelchair would attempt to walk these routes, particularly during inclement weather or at night, as the verges described above would not provide refuge for them. Similarly, by reason of the physical characteristics of the route, as described above, in my view the route would not encourage its use by cyclists.
9. Bus and train services within rural areas can also be limited and are not necessarily a practical or desirable alternative. No detailed analysis of the frequency of these services is before me. As such, journeys by bus and train are likely to be discouraged if the service is infrequent. Moreover, for reasons explained above, the nature of the route to access the train station and bus stops is unlikely to encourage pedestrians and cyclists and I therefore consider that it is likely that the majority of journeys would be made by private car.
10. Buxted consists of a number of services and facilities including a number of shops and places of worship, pharmacy, primary school and public house. Whilst these would meet some limited day to day needs, future occupants of the proposed dwelling would need to travel further afield to access employment, leisure and secondary education opportunities. However, it seems to me that the convenience of using a motor vehicle to reach Buxted, nearby

towns and destinations further afield would make it unlikely for future occupants to rely on local facilities. In any case, even if future occupants of the proposed dwelling were to make use of the local facilities on a regular basis, I do not consider this would make any significant contribution to enhancing or maintaining the vitality of Buxted. The appeal site is simply too distant from Buxted to provide a strong functional connection and the scale of the proposal too small.

11. Whilst the number of vehicular trips associated with a single dwelling would be modest, future occupants of the proposed dwelling would have a restricted choice of transport mode. The National Planning Policy Framework (the Framework) encourages homes within sustainable locations that limit the need to travel and offer a genuine choice of transport modes. To do so, helps to reduce congestion and emissions and improve air quality and public health. However, it also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Notwithstanding this, the proposal would be contrary to the aims of the Framework to reduce the need to travel and a significant factor that weighs against the proposal.
12. The appellant has drawn my attention to emerging LP Policy WLP10 which encourages the development of brownfield sites. There is dispute between the parties as to whether the emerging policy applies to the appeal site given it is neither in nor adjacent to a settlement within the settlement hierarchy. Notwithstanding this, the second limb of this emerging policy, requires the site to be accessible by means of a public footpath to a sustainable settlement, a local or neighbourhood settlement. Given my findings above, an absence of a public footpath would fail to satisfy the requirements of this emerging policy.
13. Reference has been made to a number of recent appeal decisions¹. However, in those instances each appeal site had very different locational characteristics from the appeal proposal. As such, the respective Inspector's determined that there were opportunities for sustainable modes of transport without being entirely dependent on a private car. This differs from my findings above and therefore these appeals are not directly comparable to the appeal scheme. As such, a comparison is of limited relevance in this instance. In any event, I must consider the proposal before me on its individual planning merits.
14. I conclude that the future occupiers of the dwelling would be highly dependent on travel by private motor vehicle to access services and facilities and thus the location of the proposal, beyond the settlement boundary and within the countryside, would not be a suitable location for a new dwelling. Therefore, the proposal would fail to accord with Policies GD2, DC17, and EN1 of the Wealden District Local Plan (1998)(LP) and Policy WCS6 and WLP7, of the Wealden District Core Strategy Local Plan (2013)(CS) insofar as these policies seek to locate new development within settlement boundaries. Similarly, the proposal would fail to accord with emerging LP Policies WLP4 and RAS2. However, as explained above, the emerging policies do not form part of an adopted plan and as such I afford them only very limited weight in the consideration of this appeal. In addition, the proposal would fail to accord with the aims of the Framework which seeks to limit the need to travel and offer a genuine choice of transport modes in order to move towards a low carbon economy.

¹ APP/C1435/W/16/3154744; APP/C1435/W/17/3189368; APP/C1435/W/17/3178137

Special Areas of Conservation and Protection

15. The site lies within 7km of the Ashdown Forest SPA and Ashdown Forest Lewes Downs SAC. The proximity of these European sites means that determination of the application should be undertaken with regard to the requirements of the Habitat Regulations 2017. However, it has not been necessary for me to undertake an Appropriate Assessment as the competent Authority as even if I were able to conclude that the proposal would not have an adverse effect on the integrity of the SPA/SAC, that would be a matter of neutral consequence in the overall balance and would not alter or outweigh my conclusion on the other main issues.

Planning balance

16. The Council is presently unable to demonstrate a five-year supply of housing. In such circumstances, the Framework states that the policies which are the most important for determining the application should not be considered up to date. However, simply because they are out of date does not mean that they are no longer of any relevance. In particular, paragraph 11d)ii) of the Framework states that where relevant policies are out of date, planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Policy WCS14 has similar provisions concerning that presumption in favour of sustainable development, which accords with the Framework.
17. I have concluded that the proposal would conflict with the Council's spatial strategy and not be an appropriate location for residential development. The proposal would conflict with LP Policies GD2 and DC17 and CS Policy WCS6. These policies restrict the location of housing and as such are considered to be out of date. Thus, the weight I afford to the conflict with these policies is limited. Notwithstanding this, LP Policy EN1 seeks to assist with achieving sustainable development having regard to Government guidance and considering, among other things, the effect of a proposal on the environment, including air quality. This is consistent with the aims of the Framework to plan for developments in locations that can help to reduce greenhouse gas emissions. Given it is broadly consistent with the Framework, it is a matter to which I attach significant weight.
18. In terms of benefits, there would be some economic uplift during construction through short-term employment and the purchase of building materials. In addition, the proposal would generate a new homes bonus and be liable to a Community Infrastructure Levy payment. However, such benefits would be modest and temporary. Whilst the Framework seeks to significantly boost the supply of housing and promotes housing development in rural areas where it will enhance or maintain the vitality of rural communities, I do not find that the proposal achieves this by the provision of one dwelling.
19. The proposal would make efficient use of previously developed land and tidy up the appeal site which would be a visual improvement to neighbouring occupiers. However, this is only a modest benefit weighing in favour of the proposal.
20. I am mindful that there were no third party objections to the proposal, including the Parish Council. The proposed dwelling would provide a high

quality family home. The Council has not identified any issues concerning the design and appearance of the dwelling, the impact on landscape character nor adverse impact on the living conditions of neighbouring occupiers. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.

21. Overall, I have found that there would be environmental harm arising from the site's unsuitable location with poor access to local facilities and services. The adverse impact would significantly and demonstrably outweigh the very limited benefits associated with the provision of one dwelling. I therefore conclude that the presumption in favour of development does not apply in this case.

Conclusion

22. For the reasons given above and having regard to all matters raised, I conclude that the proposal would conflict with the development plan. There are no other material considerations that outweigh that conflict and therefore I conclude that the appeal is dismissed.

E Brownless

INSPECTOR