



Appeal Decision

Site visit made on 10 February 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2020

Appeal Ref: APP/U1430/W/19/3239291

Whydown Place, Whydown Road, Bexhill-on-Sea TN39 4RA

- 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 Jonathon Hodge against the decision of Rother District Council.
 - The application Ref RR/2019/657/P, dated 9 March 2019, was refused by notice dated 5 August 2019.
 - The development proposed is for the development of a 4-bedroom house with a detached garage and all associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council have confirmed that the Rother Development and Site Allocations Local Plan (DaSa) was adopted on 16 December 2019, and now forms part of the Rother District Local Plan Core Strategy 2014 (RDLP), including Policies; OSS1(iii)(e), OSS2, OSS3 (i) and (vi), OSS4 (iii), RA2 (iii) and (viii), RA3 (iii) (v), EN1 (v) (vii) and EN3, which the council have relied upon in their statement of case. I have proceeded accordingly.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area,
 - whether or not the proposal is a suitable location for residential development with respect to national and local planning policy, and;
 - the effect of the proposal on the ecology and habitat of the Ancient Woodland.

Reasons

Character and appearance

4. The appeal site is approximately 2km from Little Common and 3km from the settlements of Sidley and Bexhill. The immediate area is typified by woodland, and loose-knit development set back from the highway along Whydown Road. The entrance to Whydown Place is a tree-lined driveway off Whydown Road which climbs to a track on the right-hand side.

5. The appeal site is located at the end of the track where a gate opens onto a grassed clearing/former paddock surrounded by Ancient Woodland that slopes back down towards Whydown Road. The driveway then continues to an equestrian centre and to Whydown Place, which is a residential dwelling that appears to contain a number of flats.
6. The proposal is for the construction of a 4-bedroom house on the site with a glazed conservatory and a detached two-storey double garage. As such, the development would be a residential dwelling of significant scale and mass that would include; pitched roof dormers, gable features and a glazed conservatory. Moreover, the development would introduce a garage with a loft workshop and other domestic paraphernalia into this woodland area. Indeed, there is substantial scope for the introduction of a range of activities associated with a residential dwelling. For example, this could include, but is not limited to, washing lines, barbeques, sheds, informal play-areas, seating etc.
7. Furthermore, the proposal includes large areas of glazing, particularly that associated with the conservatory, that during the course of the day and night and throughout the times of the year is likely to harm the dark night skies, and also provide disturbance to local wildlife. I acknowledge that there are other dwellings relatively nearby including the development at 'Fantails'¹. However, whether these dwellings are an appropriate form of development or not, I cannot be certain if they were permitted under the current development plan. Therefore, I have considered the proposal on the basis of its own planning merits.
8. As such, the scale and mass of the development in this particular location, in combination with the effect on the dark night skies, would be out of place in this countryside location and harm the character and appearance of the area.
9. As such, the proposal would conflict with Policies OSS1(iii)(e), OSS2, OSS3 (i) and (vi), OSS4 (iii), RA2 (iii) and (viii), RA3 (iii) (v), EN1 (v) (vii) and EN3 of the RDLP (incorporating DaSa) which say, amongst other things, that new development should contribute positively to the character of the site and surrounding, and to protect, and wherever possible, enhance tranquil and remote areas, including dark night sky. For similar reasons the proposal conflicts with Paragraphs 127 (c) and 180 (c) of the Framework which aims include that development is sympathetic to local character and history, including the surrounding built environment and landscape setting, and should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Suitable location for residential development

10. The main parties agree that the site is located in the countryside outside of any defined development boundary, and I see no reason to disagree. However, as there are nearby bus-services that run along Whydown Road, the proposal would be accessible at a relatively short distance to the day to day services and transport links offered in Little Common, Sidley and Bexhill. I accept that these services are likely to be accessed by car rather than by foot or cycle. However, the number of journeys generated by an additional dwelling in this location, adjacent the existing flats in Whydown Place, is likely to be modest.

¹ U1430/W/17/3185890

11. Moreover, the proposal would likely offer some short-term economic and social benefits such as employment associated with the construction, patronage of local services, and the benefits associated with the provision of one new dwelling. As such the proposal accords with Paragraph 78 of the National Planning Policy Framework (the Framework) which says housing should be located where it will enhance or maintain the vitality of rural communities.
12. However, Policy RA3 of the Rother District Local Plan Core Strategy 2014 (RDLP), limits new development in the countryside to a number of exceptions. These exceptions include a) dwellings to support farming and other land-based industries, b) the conversion of traditional historic farm buildings c) the one-to-one replacement of an existing dwelling of similar landscape impact; or d) as a 'rural exception site' to meet identified local affordable housing need. Indeed, from the evidence before me the proposed residential dwelling would not be linked to any of the required criteria.
13. As such, in this unique location, I can find no exceptional circumstances that contribute to the needs of the countryside or wider requirements of sustainable development in rural areas, including any flexibility related to the development plan as a whole.
14. Therefore, the proposal is contrary to Policy RA3 of the RDLP (incorporating DaSa) which says that the creation of new dwellings in the countryside will only be allowed in extremely limited circumstances.

Ecology and habitat of the Ancient Woodland

15. I acknowledge the Council's concerns related to the effect of the development on ecology and the surrounding Ancient Woodland. However, the submitted ecological survey, carried out by the Ecology Partnership Ltd., found that the small scale of the proposal was unlikely to affect any priority habitats in the local area.
16. Indeed, the report concludes that, 'a range of site enhancements would not only offset any loss to habitat and maintain conservation status of surrounding habitats and protected species, but also result in a net gain in biodiversity overall post development.'
17. Moreover, the submitted arboricultural assessment demonstrates that all trees would be retained on site, other than the removal of two C2 oak trees, both of which do not benefit from a Tree Preservation Order and are located outside the Ancient Woodland. As such, I conclude that the proposal would not harm the ecology and habitat of the surrounding Ancient Woodland.
18. Therefore, the proposal accords Policies EN5 and RA2 of the RDLP (incorporating DaSa), which say that development must ensure that it retains, protects and enhances habitats of ecological interest, including ancient woodland, and Paragraph 174 of the Framework which requires that development should promote the conservation, restoration and enhancement of priority habitats.

Conclusions

19. Although the main parties agree that the council cannot demonstrate a five-year housing land supply, and as such, paragraph 11(d) of the Framework is engaged, in this case, I find the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, which include the provision of one 4 bedroom dwelling.
20. For the reasons given above I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR