
Appeal Decision

Site visit made on 11 December 2019

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2020

Appeal Ref: APP/C1435/W/19/3235140

Cuckoo Barn, Land off Douglas Road, Rotherfield, TN6 3QT

- 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 Thomas Head against the decision of Wealden District Council.
 - The application ref WD/2019/0876/F, dated 22 April 2019 was refused by notice dated 31 July 2019.
 - The development proposed is change of use and conversion of agricultural building to create a single dwellinghouse
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The second reason for refusal relates to the potential for harm to the Ashdown Forest Special Area of Conservation ("SAC") and the Lewes Downs SAC. However, following the publication of a letter dated 20 December 2019 in relation to the emerging Wealden Local Plan (Submission Document) January 2019, the Council has withdrawn its evidence in relation to this issue and no longer contests this reason for refusal. It further advises that no weight should be given to the policies in the emerging plan, which were cited on the Council's decision notice. This is appropriate, given the fundamental issues raised in the Inspectors letter. I have dealt with the appeal accordingly.
3. The Council advise that the use associated with the existing building on the site does not benefit from planning permission. However, the building itself appears to have been in place for a long time, and there is no significant evidence before me to demonstrate that it is unlawful.

Main Issues

4. These are:
 - The effect on biodiversity, with particular regard to whether or not there would be an unacceptable loss of broadleaved deciduous woodland;
 - Whether or not the location is acceptable for the development proposed, with particular regard to the accessibility of the site in relation to services and facilities, and
 - The effect on the character and appearance of the area, with particular regard to the High Weald Area of Outstanding Natural Beauty ("AONB").

Reasons

Biodiversity

5. This site comprises a dismantled railway cutting, surrounded by fields and woodland. The former southern embankment, which abuts the existing building, is identified along with the remainder of the site in the ecological report as broadleaved and deciduous woodland. The Council identify this as a habitat of principal importance.
6. Whilst this woodland has been partially cleared, tree stumps and flora remain on the southern embankment, so its ecological value has not been lost and it has the potential to regenerate. The landscaping plans show that the southern embankment would be removed of scrub and tree stumps and replaced with new planting. Consequently, there would be a loss of this habitat.
7. It is suggested that there would be mitigation to address the harm that arises in this respect. However, the loss would be significant as the embankment comprises a large area. The evidence before me does not demonstrate that this could be compensated for, on the site. Consequently, the scheme could not be made acceptable by way of a condition securing a scheme of mitigation.
8. It is alternatively suggested that the scheme could be amended to restore the woodland. However, the works shown on the landscaping plan involve the creation of a new stone wall cut into the existing embankment, along with the creation of hardstanding around the house. Complete restoration and preservation of this area may require changes to the landscaping and external layout associated with this scheme; this could in turn impact on other aspects of the proposal. These are not changes that can be reasonably dealt with by way of planning condition.
9. Whilst there are a range of other measures designed to enhance biodiversity on this site, including those set out in the ecological report, these would not, even cumulatively, overcome the harm that arises through the loss of this habitat of principal importance. The effect on biodiversity would be unacceptable, and in this respect the proposal conflicts with saved policy EN12 of the adopted Wealden Local Plan (1998) ("Local Plan") which seeks, amongst other things, to retain woodland; and policy WCS12 of the Wealden Core Strategy (2013) ("Core Strategy") which seeks to maximise opportunities to maintain and restore habitats. I attach substantial weight to the harm that would arise in relation to biodiversity.

Location

10. The site falls just outside Town Row, beyond the end of Douglas Road. The proposal is located outside of the development boundary set out in the Local Plan, and also reflected in policies in the Core Strategy, including WCS6. Policies DC17 and GD2 of the Local Plan state that housing development will not be allowed outside these boundaries, unless it conforms with other policies in the plan.
11. The proposal would involve the conversion of a rural building, albeit subject to significant adaptation. Policy DC6 and DC8 of the Local Plan require that priority is given to small scale commercial uses over residential uses when such development is proposed. It has not been demonstrated that commercial use of the property is no longer possible.

12. On the evidence before me the proposal does not comply with any other local planning policies which may apply where such development is proposed. Consequently, the proposal conflicts with the development plan policies cited above, which, amongst other things, seek to direct new housing to existing built-up areas to protect the countryside.
13. However, in this case the proposal is set close to Town Row, with a shop close to the site. Further services and facilities are available in Rotherfield, which falls within reasonable walking distance of the site. There are also reasonably frequent bus services which serve the surrounding area, connecting it to larger settlements. As such, there are meaningful alternatives to the private car to access everyday services. This is not a remote or isolated location. In the context of its rural setting, it is reasonably accessible. There is no significant conflict with policy SPO7 of the Core Strategy which, amongst other things, seeks to promote sustainable modes of transport.
14. Furthermore, the National Planning Policy Framework ("the Framework") states that housing in rural areas, including conversions, should be located where they will enhance or maintain the vitality of rural communities. As it would be located close to an existing settlement with some services, this aim would be broadly achieved here.
15. Overall, whilst the proposal falls outside the settlement boundary and therefore conflicts with the development plan policies cited previously, the characteristics of this site mean that it is a reasonably accessible location. As such, the weight that should be given to the conflict with the development plan due to the location of the proposed development is limited.

Character and Appearance

16. The site is located within the High Weald AONB. It is accessed from an existing track at the end of Douglas Road which partially follows the path of the former railway line. The existing utilitarian barn like structure and hardstanding around it sit in the middle of a cutting, where the former railway line passed through raised land.
17. The unusual topography of this site, which is a legacy of its railway heritage, means that the existing barn is not a visually significant feature in the wider landscape. The proposal, and the immediate domestic curtilage around it, would be almost entirely enclosed within this cutting on the former track bed. Any glimpsed views would principally be from each side of the cutting, from where an existing utilitarian building is already visible. As such, even with the large areas of glazing proposed, the development would not appear as encroachment into the countryside. The effect on the wider AONB landscape would be insignificant.
18. The vehicular access from Douglas Road already exists, and where it departs from the former track bed of the railway, it sits close to existing residential properties. The addition of one residential dwelling on the site would be likely to result in additional vehicular movements along this track, but this would not be of a significant number. They would not detract from the prevailing rural character of the area.
19. The proposed building seeks to utilise the structure of the existing building, which exhibits no special architectural quality, and the development would

appear as a typical modern barn conversion. Whilst there are large areas of glazing, these are mainly on vertical side facing walls and this would limit the extent of light spillage into the night sky, in the hours of darkness. The final extent and detailed design of the glazed areas could be the subject of subsequent approvals via planning condition. The site is also located close to other residential buildings within the village, which are existing sources of artificial light. In this context, there would be no material harm through additional light pollution.

20. Overall, there would be no harm to the character and appearance of the area. There is no conflict with policy SPO1 of the Core Strategy, nor EN6 of the Local Plan which require, amongst other things, that development conserves and enhances the natural beauty of the High Weald AONB. Nor would there be any conflict with the requirement, set out in the Framework, to give great weight to the need to conserve and enhance landscape and scenic beauty within AONB's, reflecting its statutory purpose of designation.
21. There is no conflict with the Wealden Design Guide (2008). This seeks, amongst other things, to achieve a high standard of design that does not dilute the distinctiveness of the District, where new development is proposed. These aims would be achieved here.

Planning Balance

22. As a consequence of the harm identified in the first two main issues, the proposal would conflict with the development plan; when considered as a whole.
23. It is common ground between the main parties that the Council's policies are failing to deliver sufficient housing in the District. At the time of the original determination there was around 2.62 years housing supply, well short of the 5 years expected in the Framework. In these circumstances, the Framework directs that the policies most important for determining the application are out of date. Paragraph 11 states that planning permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. The proposal involves the creation of a new house with a good standard of accommodation and environmental performance, through the re-use of an existing building, on land that has historically been developed. This would contribute to the overall supply of housing within Wealden, and there is also some local support for the proposal. As noted previously, it would be located close to an existing settlement, and the additional housing would support services within the local area. It would also be a self-build dwelling, meeting an existing demand for such accommodation on the Council's self build register; helping the Council fulfil its statutory duties in this respect.
25. Previous noise generating uses of the site would cease upon redevelopment, and waste would be removed from the site. The site would be tidied up to the potential benefit of the environmental quality of the area, including the High Weald AONB. Landscaping and electric vehicle charging points would be installed.

26. In these respects, the proposal would help deliver a sufficient supply of homes, making an effective use of land whilst also achieving a well-designed place. To this extent the proposal complies with policies in the Framework, and substantial weight should be placed on this in the overall planning balance.
27. However, there would also be harm to biodiversity through the loss of an area of deciduous woodland on the existing southern embankment. It has not been demonstrated that there would be adequate mitigation or compensation for this loss of habitat. In these respects, the proposal conflicts with the requirement in the Framework to protect and enhance biodiversity and I also attach substantial weight to the harm that would arise, in consequence.
28. Overall, even taking account of the significant shortfall in housing land supply, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development does not apply.

Other Matters

29. Other planning policies are cited by both parties, on the decision notice and in the appeal submissions. I have had regard to all of these, but my conclusions relate to the most relevant policies to each main issue.
30. The Council have historically adopted a flexible approach to the conversion of existing buildings, resulting in a number of approvals of barn conversions as cited by the appellant. However, this does not justify the proposal before me, in light of the harm identified, when considered against the development plan.
31. Various other appeal decisions are cited by both parties. The comments made by previous Inspectors regarding emerging plan policies and habitats sites have been superseded by the events discussed at the start of this decision letter, so are now of little relevance to this decision. Whilst Inspectors have found that new development outside settlement boundaries in Wealden can be acceptable, these findings follow consideration of the individual circumstances of each case, often involving a balanced assessment between harm and benefits in line with the Framework. I have taken the same approach in this case but have come to a different conclusion.
32. Whilst one appeal on a nearby site was allowed¹ on the basis that it met the exceptional circumstances set out in paragraph 79 of the Framework, in this case it appears to be common ground that the proposal would not comprise an isolated home in the Countryside. Furthermore, in this case there are significant issues relating to biodiversity, which did not arise in that appeal. As such, the cases are not directly comparable.
33. The Council originally expressed concern about a likely increase in traffic generation associated with the proposal in relation to nearby habitats sites, although as noted previously it has now abandoned its position on this matter. As I am not intending to grant planning permission, it is not necessary to consider whether to carry out an Appropriate Assessment.

¹ APP/C1435/W/19/3223513

Conclusion

34. The proposal conflicts with the development plan when considered as a whole and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR