



Appeal Decision

Site visit made on 14 May 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 3 June 2020

Appeal Ref: APP/C1435/W/19/3241114

Palehouse Barn, Palehouse Common, Framfield TN22 5QY

- 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 Robert Carter against the decision of Wealden District Council.
 - The application Ref WD/2017/0194/MAJ, dated 26 January 2017, was refused by notice dated 13 May 2019.
 - The development proposed is levelling of fields for personal use to include a polo field, grazing and sand school together with drainage works.
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Decision

1. I dismiss the appeal.

Preliminary Matters

2. The appellant has provided an Appeal Document List that includes the drawings referred to in the Council's Refusal Notice, together with later information, including revised drawings, submitted for consideration at Appeal. Such amendments may be considered at appeal subject to the 'Wheatcroft' principles¹.
3. In this case the changes would appear to be limited and to seek to lessen the effects; the gradients being described as 'softened' in certain areas on the periphery of the plateau land, achieved in part by a slight extension of the 'red-line' boundary into 'blue-edged' land, with the option of turning the sand school through 90°. Having regard to the 'root and branch' objections expressed by local residents and the Parish Council, there would be no prejudice to their interests in determining the appeal on the basis of the amended proposals.
4. Since the appellant's Appeal Statement terms these proposed amendments 'Opportunity 1' and 'Opportunity 2', it is reasonable to consider them each in addition to the scheme refused by the Council, so that drawings ECE-PAL-LS-008 and 009 are options for consideration rather than replacement drawings.
5. The appellant had put forward a set of suggested conditions, including number 4) 'personal use'; a condition limiting the permission to be for the benefit of the occupant of Palehouse Barn, and not for commercial purposes. The Council proposed a similar condition, but the stated reason referred to permission being granted exceptionally and only in view of the personal circumstances of the applicant; a further proposed condition sought a scheme for the restoration

¹ Bernard Wheatcroft v SSE [JPL 1982 P37]

of the site. The appellant objected to this latter requirement since the proposal was not for a temporary use.

6. Were all else found to be acceptable, it would be reasonable to restrict the use to that connected with the residential occupation of the dwelling, but that would not make the permission personal and hence not temporary in that sense. The appeal will be considered on the basis of permanent development, but with commercial use precluded.

Main Issues

7. These are;

- The effect of the proposal on the landscape character and appearance of the area.
- The effect of the proposal on the setting of heritage assets.

Reasons

Landscape Character and Appearance

8. The Wealden Core Strategy Local Plan 2013 contains Spatial Planning Objectives SPO1 which seeks to manage countryside resources and assist in the development of the rural economy whilst protecting and enhancing recognised biodiversity and geodiversity attributes; and SPO13 which encourages high quality, safe and attractive living environments. Policy WCS14 states the presumption in favour of sustainable development.
9. Saved Policies of the Wealden Local Plan 1998 referred to by the Council are GD2 states that outside development boundaries, development will be resisted unless in accordance with specific policies of the Plan, EN1 on sustainable development, EN8 which seeks to conserve the low rolling agricultural character of the Low Weald, EN27 which concerns the layout and design of development and DC13 which sets out criteria for larger equestrian uses of land including rings and maneges, including the impact of changes in level on the surrounding countryside. The supporting text recognises the requirement for a rural location.
10. The Wealden Design Guide 2008 is a Supplementary Planning Document and the parts referred to by the Council concern character zones and local distinctiveness, with the Low Weald being described, and a significant issue being identified as the erosion or loss of characteristic established landscape features such as the field system, hedgerows, and associated trees. Fragmentation of agricultural land around houses, such as that which can occur with equestrian uses is said to add to the problem. Chapter 2 sets out landscape considerations.
11. The National Planning Policy Framework states three overarching objectives at paragraph 8, the presumption in favour of sustainable development at paragraph 11, and contains policies for achieving well-design places in chapter 12 and for conserving and enhancing the natural environment in chapter 15.
12. The landform described in the appellant's Landscape and Visual Appraisal was identified at the site inspection, including by use of the public right of way (Framfield 68e). The extent of visibility and the nature of the visual receptors put forward in the Appraisal appear accurate. The site lies within Local

Landscape Character Type C 'Gently Undulating Wooded Valleys', Area C3, 'High Cross'. Observations show that some of the main features described for Area C3 are to the south of the ridgeline occupied by the road through Palehouse Common, the site is not adversely affected by the A22 main road.

13. The site undulates but slopes generally from the road and hence the ridgeline, to the north, reaching the Framfield Stream, and this slope is a strong visual cue to the action of that stream in forming the valley, together with the choice of the ridgeline for the route that is now the road through the hamlet. In particular, the existence of deep, dry-valleys were described in the Appraisal as natural valley forms, and the appellant's Personal Statement referring to them as being through erosion is no-doubt correct. One such dry valley is a particular feature of the view from the stile, at the point where the public right of way crosses the hedgerow between the edge of the appeal site and the adjoining field to the north-west.
14. The Appraisal identifies receptors, and again that process appears well-founded. The road passing through the hamlet is noted as being of Medium sensitivity and users would have a somewhat fleeting view and appreciation of that view, due to the cut-off by Oaktree Cottages and vegetation to the east side of the site boundary, and by the speed of vehicle users. The extent of that use seen at the site inspection may however have been affected by a road closure further to the east. Slower moving users such as cyclists and walkers cannot however be discounted, and their sensitivity would be higher.
15. The sensitivity of residential occupiers and users of the footpath were stated to be High, and whilst the view from ground floor windows and gardens would be limited and blocked by boundary treatment, Oaktree Cottages are 2-storey properties and the lodge to the south, while single storey, has unimpeded views from north facing windows. The footpath north of the road appeared well-trodden and vegetation had been recently cut-back, a necessary task in springtime, and since the path is constrained in width as it passes round the 'blue-edged' land.
16. That path links with another to the south of the road, passing to the side of the lodge building, and that again appeared well-trodden and clear. The inference is that the paths are well-used and appear to allow a range of walking routes together with other paths seen signposted and shown on the appellant's drawing ECE-PAL-LV-002.
17. Turning then to the proposed re-profiling, various drawings provide cross sections and contoured plans, but drawing ECE-PAL-LV-008, 'Earthwork Volumetric Mapping' provides a graphical representation of the amount of change involved. This is one of the options, 'Opportunity 1 and the original scheme, or the change to the orientation of the sand school in 'Opportunity 2' would produce a different volumetric mapping result.
18. Nevertheless, the cubic measure of inert material to be imported also gives a strong indication of the change proposed, as this is by no means a 'cut and fill' exercise where one is sought to be balanced by the other. It appears likely that such an exercise for the chosen site and chosen size of plateau, would not be feasible.
19. The proposals illustrated on drawing ECE-PAL-LV-008 are that close to the road and southern leg of the footpath, a reduced level of 3.9m is proposed, while at

- the worst, in the centre of the deep dry valley, a make-up of 9.8m above natural land level is required; the switch between cut and fill occurring around chainage 120. Immediately adjacent to the footpath and stile into the north-western field, between chainage 180 and 210, the near corner of the plateau would be significantly above natural level, the changes brought about by the softening of the profiles under the options being limited in their visual effects, and the view would be of an unnatural land form imposed on the landscape.
20. Whilst it is accepted that the longer distance effect from the opposite side of the stream valley would be of 'no notable change', the effect from the footpath where it skirts the 'blue edged' land, and in particular at the location by the stile, would be negative, and due to the expanse of plateau and the proximity of the earth batters, would be greater than the 'moderate' level assigned in the Appraisal.
 21. Part of the reasoning leading to this conclusion is that it is at turning points such as this where a view changes or opens up, that receptors would tend to dwell, so that the duration of the effect would be significant. The Appraisal identifies a short 50m length of footpath subject to negative effects but acknowledges that the effect in year one is not reduced later, since establishment of greensward will only give a *de minimis* improvement.
 22. The option of rotating the sand school would be an improvement, but the Appellant's view that this reduces the effect from 'moderate negative', to 'slight negative', is not concurred with, as the reduction is only to 'moderate negative' from a higher level, and that has no effect on the negative perception of the large plateaued area or the earthworks to achieve it.
 23. There would be limited scope for mitigation by way of boundary treatment without further constraining the outlook from the footpath, although it is accepted that some apparently recent planting and post and rail fence was in place along the straight part north of Oaktree Cottages. It is however acknowledged that vegetation could be planted or enhanced without express permission.
 24. With regard to the receptors in residential properties, their location and in the case of Oaktree Cottages, their elevation, would result in limited adverse effects through the formation of either the cutting slopes or the embankment slopes, both being seen obliquely, but the formation of the large flat area of plateaued field would introduce an unnatural landform, and users of the upper floors of the cottages would be particularly aware of this, again greater than the claimed 'moderate negative'. It is accepted that the removal of the proposed hedging under the options would improve the situation so far as the lodge building is concerned, the effect of the plateau at that level and distance being limited to 'no notable change'.
 25. Lastly the receptors in vehicles using the road, whilst of only Medium sensitivity, would be aware of the large plateau area, although the effect would be 'slight negative' when judged against other features that would be encountered within a very short time along the road. The view northwards is not one that would at present register as significant to such vehicle users during the short 'window' of opportunity to appreciate it.
 26. In these considerations, due weight has been given to improvements brought about such as the removal of the spoil heaps and overgrown brambles, as the

condition of the land nearest the road is poor in places. However, that visual shortcoming is overcome once the footpath reaches the bend and the stile previously referred to, where the views open-up to a vista of attractive landscape.

27. To conclude, the effect on users of the footpath, and at the lower end of the site in particular, is such that an unacceptable level of harm would be caused to the landscape character and appearance of the area, failing to accord with the requirements of Policies SPO1, EN8 and EN27, while not being of the standard sought in Policy DC13 through the effect of the changes in level. The aims of the Design Guide would not be met with regard to the effect on the landscape and the proposal would be contrary to the aims of the Framework with regard to design and landscape.

Heritage Assets

28. Palehouse Barn is listed Grade II and has the benefit of planning permission and listed building consent for conversion to a dwelling. Palehouse Farmhouse further to the east is also listed Grade II and the oast to the rear of the latter is referred to by the Conservation Officer as an historic outbuilding and should be regarded as being curtilage listed.
29. General policies have been referred to in the preceding Main Issue, while Spatial Planning Objective SPO2 is specific to listed buildings, to ensure that the intrinsic quality of the historic environment is protected. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they possess. Paragraph 193 of the 2019 National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
30. Listed buildings are to be preserved for their intrinsic value, in this case the historic farmstead sits in a traditional arrangement with the house and an associated oast, a locally distinctive building form. Similarly, the setting of listed buildings does not rely on a public view, although where one is present the value is enhanced.
31. Notwithstanding the conversion works to the barn and the domestic nature of the land in front of the farmhouse, the historic arrangement is clearly seen from the road and the setting extends to land either side and beyond where seen from the footpath and has an agricultural character and appearance. The appellant has supplied information on equestrian uses including use as an equine stud and some that have resulted in re-profiling of land associated with Palehouse Farmhouse.
32. Equestrian uses were taking place on the appeal site with tape delineating grazing areas, but that does not appear to have significantly altered the topography. The appellant refers to the land as being poorly drained and it could be that these steeper areas were grazing rather than arable, while the hop-field was likely elsewhere. However, the image is of a traditional farming landscape centred on farm buildings.

33. The appeal proposal would, as set out in the preceding Main Issue, bring about a substantial change to the topography and in a location that would be visible from public viewpoints that encompass an appreciation of the listed buildings; from the road and from the footpath. In particular, the viewpoint at the north-west stile previously referred to includes an attractive vista of the barn and oast, with the farmhouse evident, all seen across the appeal site.
34. The formation of the plateaued polo field in particular, extending as it does to the more steeply sloping area to the north, would significantly alter the setting of the farmstead, as such wholesale levelling would not likely feature in agricultural improvements, and would upset and erode the historic relationship between the farm buildings and the land once tended. Any intervening equestrian uses have not had that damaging effect but have worked with the landscape rather than sought to change it in such a harmful and radical way.
35. The sand school is a lower key intervention and not uncommonly associated with domestic uses in a former farmstead, as indicated by the works at Palehouse Farm referred to by the appellant and evidenced in photographs. Turning this item through 90° as proposed would lessen the effect, presenting the shorter side within the view from the stile. However, the decision over the length of the polo field does result in this being placed in an area of steep valley sides, requiring more made-up ground than would be the case elsewhere.
36. The result of the proposed works would be harm to the setting of the listed buildings, eroding the historic significance of their surroundings. The level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
37. Whilst there has been comment over what is stated to be a lengthy conversion phase, there does not appear to be any reason why a converted historic barn should not have a viable use as a dwelling, and the Council grant of planning permission and listed building consent signifies that this is a suitable future use. There does not appear to be an essential need for a polo field of the dimensions proposed to support the ongoing preservation of the buildings.
38. As to public benefits, there would be significant economic activity in the formation of the plateaued areas with the importation of so much inert material, although that might reasonably be balanced against the concerns expressed by residents and the Parish Council over adverse publicly-felt effects through lorry movements, which will be looked at under Other Considerations. Those benefits, whilst real, would be transitory, whilst the harm identified would remain, this being a proposal for permanent development. Various claims have been made by interested parties over the nature of the use, which will again be considered later in this Decision, but the application is for 'personal use' and prevention of commercial use could be secured by condition; so that limited public economic benefit would appear to accrue from the use.
39. In the balance, it is concluded that the public benefits do not outweigh or otherwise justify the harm, to the setting of listed buildings, contrary to Spatial Planning Objective SPO2, the requirements of the Framework with regard to designated heritage assets, and the development would fail the statutory test in Section 66(1) of the 1990 Act.

Other Considerations

40. The appellant referred to 3 other locations, that at Palehouse Farm having already been considered. Brooklands Lane to the west towards Framfield is a small-scale addition to the landscape, albeit readily visible from the road on approaching from the south, and information has been provided of the pre-development situation. The facilities at Crockstead Farm appear to be significantly larger and more widespread but are stated to be commercial in use and are advertised at the main road entry. Seen through the gate on the road just off the A22 towards Palehouse Common and Uckfield, it was apparent that the topography was more gently undulating and what appeared to be a plateaued area had not required substantial re-profiling. None of the other examples appear to be of the scale or harmful landscape effects found to be the case with the appeal proposals.
41. The need to import large quantities of inert material to make-up the levels has been referred to and estimates have been given as to the number of lorries and the duration of the activity. This is not a matter raised in the Reasons for Refusal, and generally in planning considerations such transitory effects are discounted, but in this case the operation is significant and indicates the magnitude of the task of forming the desired level ground area within the existing topography of the site. A Construction Traffic Management Plan could be agreed pursuant to a condition which would allow control over the operation, although the likely numbers would be a function of the proposed levels and would not be capable of significant change. Certainly, that number of lorry movements militates against any suggestion of removal of filled material and reinstatement of the land.
42. Interested persons have referred to the possibility of noise and disturbance from the use and although the proposed polo field is stated to be not large enough for competitive use, some visits from friends and acquaintances appears to be expected. A condition limiting the hours of use could be attached and while the proposal does not include details of any floodlighting or the like, a condition could be attached to require express consent.

Conclusions

43. Due to the topography of the land and the level proposed, the polo field in particular would cause unacceptable harm to the character and appearance of the area, and the setting of listed buildings. No benefits have been identified sufficient to outweigh the harm and the proposal would therefore be contrary to the Development Plan policies previously identified, the aims of the National Planning Policy Framework, and the test in the Planning (Listed Buildings and Conservation Areas) Act 1990.
44. The proposal does not accord with the environmental objective stated in the Framework and hence should not be considered as sustainable development. It is not able to take advantage of the presumption stated in Framework paragraph 11 and Policy WCS14. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR