



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: 17th June 2020

Appeal Ref: APP/C1435/W/19/3227771

Lodgefield Farm, Watch Oak Hill, Blackham, Withyham TN3 9TN

- 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 Harry Savory of NSS Blackham LTD against the decision of Wealden District Council.
 - The application Ref: WD/2018/1472/F, dated 6 July 2018, was refused by notice dated 1 March 2019.
 - The development proposed is described as 'full planning application for demolition and part conversion of commercial buildings and agricultural barn, erection of three residential dwellings and two storey side extension to Lodgefield Farm Cottage'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Harry Savory of NSS Blackham LTD against Wealden District Council. This application is the subject of a separate Decision.

Procedural Issues

3. 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.
4. The Council's reasons for refusal cite a number of conflicts with policies within the eLP. However, these emerging policies do not presently form part of an adopted plan and I therefore find that any conflict with an eLP policy should attract only very negligible weight in the consideration of this appeal.

Main Issues

5. The main issues are:-
 - 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;
 - ii) the effect of the proposal on the landscape character and appearance of the High Weald Area of Outstanding Natural Beauty;

- iii) the effect of the proposed development on the setting of a nearby listed building, Lodgefield Farm House; and
- iv) the effect on the provision of employment land.

Reasons

Settlement strategy and the accessibility of services and facilities

6. Policy WCS6 of the Wealden District Core Strategy Local Plan (2013)(CS) is permissive of a limited amount of development within Service, Local and Neighbourhood Centres. However, the appeal site is located to the south of Blackham and is outside of any defined development boundary within the adopted Wealden Local Plan (1998)(LP). For the purposes of applying planning policy the appeal site is located within the countryside.
7. Having regard to LP Policies GD2 and DC17, development outside of the settlement boundary will be resisted unless it is in accordance with other countryside policies.
8. In the absence of anything to suggest that the proposed dwellings would be consistent with such countryside policies, the appeal site is not a location towards which new housing is directed and to do so would undermine the development plan in this regard. Thus, the proposal would be contrary to LP Policies GD2 and DC17 and CS Policy WCS6, insofar as these policies seek to locate development within defined settlement boundaries.
9. The National Planning Policy Framework (the Framework) sets out that isolated homes in the countryside should be avoided unless there are special circumstances. Given the proximity of other dwellings, I do not consider that the appeal site would be 'isolated' for the purposes of the Framework, since it cannot be said that it would be far away from other places, buildings or people, albeit the location is rural.
10. However, it does not necessarily follow that a site that is not 'isolated' will be reasonably accessible to services when considered in the context of other requirements of the Framework.
11. Albeit there are a small number of dwellings, including Lodgefield Farm House and The Oast House, in close proximity to the appeal site, it is physically divorced from Blackham, an unclassified settlement that is stated to have few or no facilities and services. Ashurst lies in the region of 1km away, taking the Council's measurements, which have not been disputed by the appellant. However, there is little by way of day-to-day services and facilities such as shops, employment opportunities or education facilities within Ashurst itself. As a result, it would be necessary for future occupants of the proposed dwellings to travel further afield to access other services and facilities.
12. I am advised of a bus service from Ashurst to Tunbridge Wells, Edenbridge and East Grinstead. In addition, Ashurst train station provides access to destinations further afield, including London and Uckfield. The parties dispute the frequency of these services, which I am unable to resolve on the limited evidence before me. The limited regularity of a bus or rail service reduces its potential as an alternative mode of transport.

13. At a distance of approximately 5.5km, taking the appellant's measurements which have not been disputed by the Council, lies Langton Green, which I am advised contains a number of services and facilities including a nursery and primary school, dentist and a range of retail outlets. Larger towns of Crowborough, Edenbridge and Oxted are located further afield.
14. However, the route to Langton Green and Ashurst would be along the A264 which I observed at the time of my site visit, received a constant flow of traffic, travelling quickly, including vans and HGVs. I appreciate that my visit provided only a snapshot of highway conditions, however, I have seen nothing to suggest that what I saw was untypical. In addition, the route was generally devoid of any footway and is unlit. From my observations, it is reasonable to consider that a large percentage of pedestrians would not feel safe having to walk along the edge of the carriageway in close proximity to passing vehicles. I also consider that taking into account the amount of traffic including vans and HGV's, that the route would not be an attractive environment for cyclists particularly inexperienced ones such as children.
15. The availability of footpath Withyham 57b would provide an alternative route to Ashurst. However, the footpath is unsurfaced and unlit. Overall, given the nature of the route and a lack of lighting, I consider that future occupants are unlikely to choose to walk to Ashurst or Langton Green. This would be particularly the case for those with limited mobility, parents with young children or at night and during inclement weather.
16. I am mindful of the advice within the Framework that opportunities to maximise sustainable transport solutions will not be the same in rural areas as in urban locations. Taking everything into account, I find that the location would not be well served in terms of walking and cycling to access local services and facilities, particularly for more vulnerable groups. As such, the majority of future occupiers of the proposed dwellings would be reliant on the use of a private motor vehicle rather than sustainable modes of transport.
17. For the reasons given above, I therefore conclude that the appeal site is not a suitable location for a new dwelling with particular regard to the settlement strategy and accessibility to services. The proposed development would therefore be contrary to LP Policies GD2, DC17 and EN1, and CS Policy WCS6, the requirements of which are set out above. The Council's reasons for refusal cite a conflict with eLP Policies WLP4, WLP7, WLP10 and RAS2. For the reasons given above, I attribute only very negligible weight to that conflict in the consideration of this appeal.

Character and appearance

18. The appeal site comprises a number of one, one and a half and two storey buildings including a substantial sized timber barn which are located in an upland position overlooking the valley down towards Ashurst within the High Weald Area of Outstanding Natural Beauty (AONB). It is mainly surrounded by open agricultural fields interspersed with trees and crossed by a network of farmhouses, hamlets and villages that provide a distinctive and expansive rural setting beyond.
19. With the exception of the timber barn building, the appeal buildings consist of a modest height and scale and thus they appear inconspicuous within the landscape. The pilates studio is partly concealed by a substantial stone wall. In

contrast, the timber barn is a sizeable and dominant building. Albeit large in scale, its utilitarian appearance is simple, allowing it to be easily read as a barn building. Overall, the design, materials and courtyard arrangement of the former agricultural barns reflects that of traditional farm buildings. Accordingly, I find that they form a cohesive group which make a positive contribution to the wider rural landscape within which they sit.

20. The appeal site occupies an elevated position and is seen against a backdrop of mature trees and vegetation. Areas of undulating land are clearly visible in the immediate foreground to the appeal site. Those areas of rising and falling land remain unenclosed, open and undeveloped. These characteristics maintain a strong physical and visual connection between the appeal site and its agricultural surroundings.
21. The appeal site is evidently visible from a number of nearby footpaths and bridleways that dissect the open land in between the appeal site and Ashurst. It is also visible from numerous points some distance away at lower parts of the valley, including from the public highway at Clayton's Lane, although they are partially obscured to varying degrees by existing vegetation. The broadly uninterrupted views across the open land from distant and more nearby vantage points serve to separate and distinguish the appeal site from the nearby villages of Blackham and Ashurst and add to the sense of isolation of the farmstead.
22. Whilst the proposed Courtyard House would remain as a single storey, it would be significantly extended. The additional built form would extend its footprint such that it would occupy a significantly wider part of the appeal site particularly when viewed from public vantage points from lower parts of the valley. The proposed windows and doors are all of large proportions and modern appearance. The existing window opening on the rear elevation would be reused, albeit this would be enlarged. Views of the proposed dwelling would be more readily apparent by reason of the insertion of a number of gaps within the existing stone wall which would lead to a garden/meadow area beyond. To my mind, the proposed conversion and alteration of this building would appear overtly domestic.
23. I note that a number of buildings would be demolished to facilitate the proposed Mid Cottage. The result would be a reduction in the overall footprint and volume of built form. However, the change in floor area and its volume are only two indicators of the comparative scale of the proposed dwelling against the existing building. The proposed dwelling would be two-storey and thus it would appear much larger than the existing modest one and a half storey buildings it would replace. Similarly, the inclusion of contemporary full height windows at second floor level together with a number of roof lights would exaggerate its domestic appearance.
24. I accept that the proposed Timber Yard House would result in a reduction of footprint and volume of built form from that of the existing barn buildings. In addition, the proposed roof structure would have a similar ridge height as the existing barn building. However, notwithstanding the above and any need for investment to improve the condition of the barn building, to my mind the timber barn building is typical of modern agricultural buildings which are part and parcel of a farmed landscape. The proposed hipped roof structure with a steep pitch and substantial amounts of glazing including an eyelid dormer

- window, would be in stark contrast to the plain simplicity of the rural barn building. The proposal would create a development of substantially more urbanised and domestic appearance contrary to the utilitarian rural character of the existing barn. This effect would be particularly conspicuous to those travelling along the adjacent public right of way that runs to the side of the timber barn building.
25. Overall, the appeal scheme would appear incongruous and reduce the overall rural setting. A use as residential dwellings would have a noticeable urbanising effect, changing the character and appearance of the site from agricultural to residential. Furthermore, the inclusion of flues/chimneys and the creation of large dedicated domestic gardens would compound the urbanisation of the appeal site, particularly if domestic outbuildings, landscaping and domestic paraphernalia, such as garden furniture and washing lines were put in place.
 26. Dwellings in this location would introduce a highly discordant feature which would significantly erode the sense of separation and detachment between the farmstead and surrounding habitation and erode the rural character of the area, where the pattern of development is characterised by dwellings serving farms or clustered with others in hamlets or villages. The urbanising effect on the tranquil and remote character of the countryside would conflict with the landscape character type generally and lead to a significant adverse effect on the landscape character and scenic beauty of the AONB.
 27. Given the scale of the proposed development and its prominent elevated position, the appeal scheme would be readily visible from the public domain in local views from public rights of way, surrounding lands and more distant vantage points. Notwithstanding the proposed tree and hedge planting, in my view, even at full maturity, this would be insufficient to mitigate the impact of the appeal scheme which would appear unsympathetic and at odds with the aforementioned landscape character.
 28. I have had regard to Lodgefield Farm House and The Oast House, which are set to the side of the appeal site and continue the linear pattern of buildings facing towards Ashurst. Notwithstanding that they are presently in residential use, they are set within mature landscaped gardens which broadly conceal their residential function. Moreover, to my mind, some limited residential use within a farmstead would not be inconsistent or out of keeping with it.
 29. The isolated, rural character and sense of remoteness are important components of the landscape character and scenic beauty of the AONB, which the urbanising effect of this proposal would substantially undermine. Thus, it would conflict with LP Policy EN6 and CS Policy SP01 insofar as these policies seek to conserve or enhance distinct landscapes, the natural beauty and character of the AONB, and the character and traditional settlement patterns and building style. Furthermore, it would be contrary to LP Policy DC8 insofar as it requires proposals for the conversion of agricultural or other rural buildings to be in keeping with its surroundings and not require significant extension, nor materially change its appearance as a rural building.
 30. Paragraph 172 of the Framework states that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection. Thus, the proposal would be contrary to the aims of the Framework.

31. The Council's reasons for refusal cite conflict with eLP Policy EA5. However, for the reasons given above, I attach only very negligible weight to that conflict.

Listed buildings

32. The appeal site lies at the side of the Grade II listed Lodgefield Farm House (the farmhouse), a 17th century farmhouse surrounded by medieval assart field systems and ancient woodland shaws. It is the principal dwelling which together with a number of other historical buildings form a cohesive group. In my view, the significance of the farmhouse is derived not only from its architectural quality but also from its status as a medieval farmstead, and from the longstanding presence of a farmstead and agricultural buildings on the site.
33. The Framework defines the setting of a heritage asset as the surroundings in which the asset is experienced. It also recognises that its extent is not fixed and may change as the asset and its surroundings evolve. I have had regard to the appellant's historic maps/plans, aerial images and photographic evidence. As such, I consider the setting to the farmhouse includes its gardens, grounds and the former stable block, together with The Oast House. Notwithstanding some partial loss of the traditional barn buildings, alterations to the historic farmstead layout and the introduction of more modern examples of barn buildings, in my view, the appeal site forms part of the setting to the farmhouse and continues to be read alongside it, the wider farmstead, the surrounding countryside and its agricultural context beyond.
34. I have had regard to the change of use of the various components of the farmstead over time. Notwithstanding some dilution to the setting of the listed farmhouse from the comings and goings of vehicular traffic and the commercial uses of the barn buildings, I do not find that the character of the farmhouse and the wider farmstead has been substantially altered. Consequently, I consider that the appeal site makes an important positive contribution to the setting and very special character of the farmhouse, particularly as they provide reminiscence of the agricultural past of the farmstead.
35. I observed the site from a number of locations and whilst inter-visibility between the appeal site and the farmhouse is somewhat limited, the complex of buildings can be seen in a number of public views. From these vantage points, notwithstanding the presence of existing vegetation, the listed farmhouse and appeal buildings can nonetheless be seen to varying degrees from where they are read as forming part of a wider farmstead.
36. I have taken into account that the proposed dwellings would be reflective of traditional design of the existing vernacular buildings within the locality. Whilst the proposed dwellings would be positioned in a manner that would likely prevent them being seen from the farmhouse itself, by virtue of the overall scale of the proposed dwellings and their associated access areas, boundary treatments and domestic paraphernalia, this would introduce a highly discordant suburban element that would be prominent within the open and rural setting of the farmhouse. The proposed development would appear as a discordant feature that would lead to a diversion of attention from the listed farmhouse and which would significantly erode the sense of separation and detachment between the farmstead and the surrounding habitation. In my view, this would cause harm to the setting of the listed building.

37. Whilst the proposal includes new planting to soften the visual impact of the proposal, these would inevitably take time to mature. Additionally, soft landscaping could not be guaranteed to be retained or maintained in the long term. In any event, soft landscaping would not provide sufficient justification to outweigh the harm caused by the proposal.
38. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
39. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
40. The harm identified would amount to "less than substantial harm". Given that the appeal site is closely positioned and associated with the wider farmstead of the listed farmhouse, the positive contribution it makes to that setting means that the harm is of a significant level. Paragraph 193 of the Framework states that great weight should be given to the conservation of a designated heritage asset, irrespective of the level of harm. Furthermore, paragraph 194 of the Framework states that any harm should require clear and convincing justification, with paragraph 196 requiring less than substantial harm to be weighed against the public benefits.
41. The appeal scheme would provide three new dwellings and thus would contribute to the Council's supply of housing land. Employment opportunities would be created during construction. Future residents would also be likely to support and contribute to nearby local services and facilities. In addition, the proposal would produce ecological enhancements to encourage a net gain in biodiversity. However, I find that the associated benefits arising from the provision of three additional dwellings would be modest. Accordingly, I conclude that the public benefits arising from the development would not outweigh the harm to the setting of the listed building that I have identified above.
42. Accordingly, for the reasons given, I conclude that the proposal would significantly harmfully erode the setting of the listed farmhouse. It would therefore be contrary to CS Policy SP02 insofar as this policy seeks to ensure that the intrinsic quality of the historic environment is protected. I find that there would be insufficient public benefit to outweigh the identified harm, to which I attach great weight, and therefore I conclude the proposed development would also fail to comply with national policy outlined in section 16 of the Framework.
43. The Council cite a conflict with eLP Policy HE1. However, for the reasons given above, I attach only very negligible weight to that conflict.

Employment land

44. LP Policy DC8 is permissive of the conversion of agricultural or other rural buildings in the countryside to residential use subject to it being demonstrated that every reasonable attempt has been made to secure suitable business re-

use. At the time of my site visit, I observed that all of the units were in use, save for the Cart Lodge, which was vacant.

45. I have had regard to the appellant's viability evidence. I note its conclusion that the units generate a moderate return on investment and that it has become increasingly difficult to find tenants due to its rural location, an absence of superfast broadband and increased competition; an issue that would be realised if the current tenants were to end their tenancies. Reference is also made to the landlord's liability for repairs to the barn buildings.
46. Notwithstanding this, there is little detailed evidence before me assessing the extent of the repairs required, nor the value of those works. In addition, albeit the wording of LP Policy DC8 does not expressly require a marketing exercise to have been undertaken, in my experience, a marketing exercise will often be satisfactory evidence of a redundant use. Even so, there is no adequate supporting statement before me, as is the requirement of the policy, to demonstrate the extent of any effort made to secure a business re-use of the Cart Lodge. Moreover, whilst reference has been made to use of the pilates studio being severely restricted by condition, it nonetheless continues to be in use alongside the other units and it has not been put to me that the existing tenants wish to relocate their businesses elsewhere imminently.
47. Whilst I note the desire of the appellant to achieve a better return on their investment, the loss of employment land needs to be adequately justified in order to support the change of use. Therefore, I find that sufficient evidence to support the loss of employment land at this location has not been provided as part of this appeal.
48. For the reasons given above, I conclude that the proposal would result in an unjustified and detrimental loss of employment land. It would therefore be contrary to LP Policy DC8, the requirements of which are set out above.
49. The Council's reason for refusal also cites a conflict with eLP Policies RAS3 and EC1. However, I attach only very negligible weight to that conflict, for the reasons explained above.

Planning balance

50. The Council are presently unable to demonstrate a five-year supply of housing. The lack of a 5-year housing land supply triggers paragraph 11(d) of the Framework and the need to consider the presumption in favour of sustainable development. The Council accept that LP Policies GD2, DC17 and CS Policy WCS6 are out of date for decision making purposes and therefore this significantly limits the weight to be afforded to these policies. The appellant states that LP Policy DC8 is also out of date. The Framework recognises that due weight should be given to relevant policies within existing development plans according to their degree of consistency with the Framework. The closer the policies in the plan to those in the Framework, the greater the weight that may be given.
51. The Framework states that significant weight should be placed on the need to support economic growth and productivity. However, LP Policy DC8 goes further than the Framework in requiring evidence of the reasonable attempts to secure business re-use and the structural condition of the building proposed for

- conversion. Therefore, there is a degree of inconsistency with the Framework, which reduces the weight to any policy conflict.
52. Paragraph 11(d) of the Framework has two limbs. The first requires the decision-taker to consider whether the application of policies within the Framework that protect areas or assets of particular importance, including designated heritage assets and AONBs, provide a clear reason for refusing the proposed development (footnote 6).
53. The assessment of heritage impacts above found a significant amount of less than substantial harm to the setting of the listed farmhouse. In addition, I concluded the appeal scheme would substantially harm the landscape character and appearance of the AONB.
54. The proposal's benefits include the provision of three additional dwellings that would contribute to the Council's supply of housing land. In addition, there would be economic investment from the development's construction and subsequent expenditure on local services and facilities. These are modest benefits that weigh in favour of the proposal. The provision of ecological enhancements is largely to address the impact of the proposal and therefore carries little weight.
55. The location of the development would not be appropriate having regard to the spatial strategy and thus there would be conflict with LP Policies GD2, DC17 and EN1, and CS Policy WCS6. However, the lack of housing land supply moderates the weight I give to this policy conflict.
56. An important consideration in the appeal case is the reduction of traffic movements to and from the appeal site. Having regard to the appellant's Transport Report, the number of two-way trips to the appeal site would reduce from 121 trips to 24 trips per day. As such, I find that these reductions would be a significant environmental gain, which the Framework at paragraph 102 requires to be taken into account in considering transport issues and thus weighs in favour of the proposal.
57. The unjustified and detrimental loss of employment land would be contrary to LP Policy DC8, however, inconsistencies with the Framework limit the weight I attach to this conflict.
58. As noted above, the harm to the setting of the listed farmhouse would be less than substantial and significant in magnitude. The Framework is clear that great weight should be given to the asset's conservation irrespective of that harm amounting to 'less than substantial harm'; the heritage balance indicates that the public benefits would not outweigh the harm in this instance. Therefore, there would be conflict with CS Policy SP02 and paragraph 192 of the Framework. The 'tilted balance' is therefore not engaged.
59. Paragraph 172 of the Framework sets out that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs, which have the highest status of protection in relation to these issues. The effect of the appeal scheme on the landscape character and scenic beauty of the AONB would be substantial due to the change in landscape and visual character and the incongruous form of development contrary to LP Policy EN6 and CS Policy SP01 and paragraph 172 of the Framework.

60. Therefore, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development would not apply. The proposal would be contrary to the development plan with no material considerations to indicate that planning permission should be granted.

Other Matters

61. It is part of the Council's case that the appeal buildings are non-designated heritage assets (NDHAs). It has not been put to me by the Council that the appeal buildings are included on any 'local list'. However, the Planning Practice Guidance recognises that NDHAs may be identified as part of the decision-making process on planning applications and so inclusion on a local list is not a prerequisite to consider a building as a NDHA.
62. Nevertheless, the decision to identify a NDHA should be based on sound evidence. The Council have provided limited detailed evidence on this matter. Whilst some of the appeal buildings are clearly older than others, perhaps with historical merit, other buildings are more modern. As such, I am unable to reach a fixed conclusion as to whether any or all of the buildings should be considered as NDHAs. Nevertheless, this does not alter my findings above.
63. The parties dispute whether the entirety of the appeal site amounts to previously developed land (PDL). However, given my findings above, namely that I do not consider the appeal site to be 'isolated' and therefore the restrictions set out in paragraph 79 of the Framework do not therefore apply, I have not needed to reach a determinative view on the PDL issue.
64. Reference is made to alternative uses that may be undertaken at the appeal site, including the availability of permitted development rights. However, there is little information before me on the nature and content of the alternative uses in order to undertake a comparison of the schemes, nor evidence of the likelihood of these alternative uses being carried out. As such, on the evidence before me, I do not consider that a valid fallback scheme exists and thus I attach negligible weight to the fallback position in consideration of this appeal.
65. No objection is raised by the Council to the proposed extension of the existing Lodgefield Farm Cottage subject to the clarification that the built form to be demolished to facilitate the extension does not have any heritage value. However, this does not alter my findings in relation to the main issues above.
66. As the site lies within 7km of the Ashdown Forest and Lewes Downs Special Areas of Conservation, 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, as the appeal is failing because of the harm which has been identified in relation to the main issues, the development is not going ahead and therefore any harm to the special areas of conservation would not occur. Therefore, it has not been necessary for me to undertake an Appropriate Assessment as the competent Authority nor give any further consideration to this matter in the appeal.
67. It is likely that a screening opinion/direction would have been required were the appeal scheme found to be acceptable on other matters. However, in view

of the decision stemming from the main issues to dismiss the appeal, there is no need to consider this matter any further.

Overall Conclusion

68. The appeal is dismissed.

E Brownless

INSPECTOR