
Appeal Decision

Site visit made on 23 June 2020

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th July 2020

Appeal Ref: APP/D3830/W/19/3241301

Land at Bow Cottage, North Lane, West Hoathly, RH19 4QF

- 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 Colstock Construction Ltd. against the decision of Mid Sussex District Council.
 - The application Ref: DM/17/5222 dated 21 December 2017, was refused by notice dated 17 May 2019.
 - The development proposed is the erection of a single detached dwelling and garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was refused for four reasons. Reason 2 relates to the effect of the proposed development on the character and appearance of the area from the future loss of trees and reason 3 relates to sustainable construction. However, the Council has confirmed in its evidence that it does not wish to defend these reasons in the light of further evidence. I have no reason to disagree with the Council's revised position on these matters and hence neither these nor the consequent contended conflict with Policies DP37 and DP39 of the Mid Sussex District Plan 2014-2031 (2018) (MSDP) fall to be considered as main issues in this appeal.
3. The appeal site lies within the Zone of Influence of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). The Council's fourth reason for refusal relates to the absence of adequate mitigation of the effects of the proposed development on the integrity of this protected site and consequent conflict with Policy DP17 of the MSDP. However, the appellant has submitted a signed and dated unilateral undertaking in respect of financial contributions towards Strategic Access Management and Monitoring and Suitable Alternative Natural Greenspace for the mitigation of these effects. The Council has confirmed that this addresses the fourth reason for refusal¹. I return to this matter below.

Main Issue

4. Given the Council's revised position, the main issue in this appeal is therefore the effect of the proposed development on the setting of listed buildings and the West Hoathly Conservation Area (WHCA).

¹ E-mail dated 12 June 2020.

Reasons

5. The appeal site is undeveloped, with a pronounced dip in the middle and extensively vegetated boundaries with a number of trees. The site lies within the High Weald Area of Outstanding Natural Beauty (the AONB), which 'washes over' West Hoathly, and the trees in the centre of the site are covered by a group Tree Preservation Order (TPO). Access is via a drive that serves a communal parking area to the rear of Bowfield Cottage and Old Timbers, both to the south-west of Bow Cottage, beyond which is the site. The drive is a public right of way, footpath no 26_2WH, that continues as a path along the south-western / western boundary of the site. The site borders a recreation ground to the east with existing development to the south, west and north.
6. Views into the site from the public footpath, from the recreation ground and properties to the north were limited by the existing vegetation at the time of my site visit as it was in full leaf. An evergreen hedge runs alongside the footpath but, notwithstanding that the proposed dwelling would be set down in the dip on the site, it would be more visible from the east during the winter months. The proposed dwelling and garage would also potentially be visible from the public footpath across the communal parking area.
7. The site is visible from Bow Cottage and its rear garden to the south, from which the site is separated by a post and rail fence and vegetation. Bow Cottage is Grade II listed, as is Old Timbers. These properties are within the WHCA, the boundary of which follows the rear boundaries of Old Timbers and Bowfield Cottage and the rear elevation of Bow Cottage. The appeal site therefore lies outside the WHCA.
8. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of listed buildings. In addition, paragraph 193 of the National Planning Policy Framework (the Framework) requires, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight to be given to the asset's conservation. Paragraph 194 of the Framework sets out that any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification.
9. Notwithstanding the vegetation to the eastern and western boundaries of the site, the relationship of the appeal site to Bow Cottage, Old Timbers and the WHCA can be appreciated from the Recreation Ground to the east and public footpath to the west. Accordingly, even with the extent of separation, the intervening vegetation and buildings and the change in ground levels between the proposed dwelling and these designated heritage assets, the appeal site forms part of the surroundings in which these heritage assets can be experienced. The site is therefore within their settings as defined in the Glossary to the Framework.
10. From the evidence before me, the significance of Bow Cottage and Old Timbers lies principally in their historic interest, dating from the early 18th century and 17th century respectively and forming part of the development extending northwards from the medieval core of the village. The WHCA Character Appraisal (2009) explains that the WHCA illustrates the evolution of the village from medieval times until the present, with 'layers of history' evident in the physical form and materials of the buildings within it and the original medieval

street pattern. Buildings tightly grouped together and built close to the road is identified as a characteristic of that part of the WHCA in which Bow Cottage and Old Timbers are located.

11. The site lies between Bow Cottage, Old Timbers and other historic development in the WHCA along North Lane and the more modern development of Riddleys to the north-west. It forms a buffer between the historic part of the village and its later expansion, thus allowing the appreciation of that historic part and its context from both the Recreation Ground to the east of the site and the public footpath to the west. Accordingly, the site makes a positive contribution to the setting and significance of these heritage assets, and to the appreciation of that significance.
12. Even with the retention and / or reinforcement of the boundary vegetation the proposed substantial dwelling, garage and associated domestication, would result in a significant change in the character of the site. This change would be appreciable from the Recreation Ground and the footpath. The creation of a 'transition zone' would mean the loss of this separation and the blurring of the important distinction between the historic and modern areas of the village.
13. Furthermore, the historic pattern of development on the west and north-west side of North Lane in the vicinity of the appeal site is principally linear with no dwellings behind those fronting the lane, other than The Vicarage to the south-west of the site. The siting of the Vicarage thus appears anomalous from the public footpath. The proposed development would not respect the development form of this part of the historic core of the village and would therefore also appear incongruous.
14. I therefore conclude that the proposed development would be harmful to the setting of Bow Cottage, Old Timbers and the WHCA. In terms of the Framework, I consider this harm would be less than substantial. It is thus necessary to weigh this harm against the public benefits of the proposed development, in accordance with paragraph 196 of the Framework.
15. The Framework sets out the Government's objective of significantly boosting the supply of homes and recognises the contribution of small and medium sites to meeting the housing requirement of an area. The proposal would have social and economic benefits from the construction of the dwelling and the contribution of future occupiers to the local economy. However, as a single dwelling, these benefits would be very modest and, even in combination, would not be sufficient to outweigh the great weight the Framework requires to be given to the conservation of designated heritage assets.
16. The proposed development would fail to preserve the setting of the listed buildings, to the desirability of which I must have special regard. Whilst the MSDP does not specifically protect the site as a 'green buffer' nor is it within the WHCA, the proposed development would conflict with Policies DP34 and DP35 of the MSDP in respect of its effect on designated heritage assets. These set out, in combination and amongst other things, that development will be required to protect listed buildings and their settings and should protect the setting of conservation areas. However, I find no conflict in this respect with Policy WHP9 of the West Hoathly Parish Neighbourhood Plan 2014-2031 (2015) (WHPNP) which supports residential infill development provided it helps meet local housing needs.

17. Nevertheless, the proposal would also conflict with the Framework with regard to paragraph 193 and, in the absence of any clear and convincing justification, paragraph 194. Moreover, whilst the effect on the AONB was not cited in the Council's reasons for refusal, paragraph 172 of the Framework notes that the conservation and enhancement of cultural heritage is an important consideration in Areas of Outstanding Natural Beauty.

Other Matters

18. The appeal site lies within the Zone of Influence of the Ashdown Forest SPA and SAC. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) before giving any permission where there are likely significant effects on the integrity of designated habitats sites from the proposal, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
19. Therefore, had I reached a different conclusion on the main issue, it would have been necessary for me to undertake an AA and give further consideration to the likely effectiveness of mitigation measures associated with the Ashdown Forest SPA and SAC. In doing so I would have had regard to the provisions of the submitted unilateral undertaking as I would have had to be certain that the integrity of this protected site would not be adversely affected. However, as I am dismissing this appeal for another reason, this has not been necessary.
20. I acknowledge that the proposed development would provide adequate living conditions for future occupiers, would not adversely affect the living conditions of the occupiers of neighbouring properties and that the Highway Authority raised no objection to the proposal, subject to conditions were planning permission to be granted. Notwithstanding some third party concerns over the design of the proposed dwelling I consider it to be acceptable, as did the Council. The development would not be harmful to the landscape or scenic beauty of the AONB and thus complies with paragraph 172 of the Framework in this respect. However, these matters represent an absence of planning harm rather than benefits of the proposal and I therefore give them neutral weight in my decision.

Conclusion

21. The appeal site lies within the settlement boundary for West Hoathly, Policy DP6 of the MSDP identifies windfall development as contributing to the overall housing supply in the district and Policy WHP9 of the WHPNP supports residential infill development in principle. Nevertheless, and notwithstanding the benefits of the proposal, I have found overriding conflict with the policies of the development plan and the Framework relating to designated heritage assets.
22. Therefore, for the reasons given above, and having had regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR