
Appeal Decision

Site visit made on 29 September 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 14 October 2020

Appeal Ref: APP/D3830/W/20/3254663

West Lodge, Hammingden Lane, Ardingly RH17 6SR

- 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 T Browne against the decision of Mid Sussex District Council.
 - The application Ref DM/18/2859, dated 10 July 2018, was refused by the Council by notice dated 9 April 2020.
 - The development proposed is erection of 1No live/work dwelling.
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Decision

1. I dismiss the appeal.

Main Issues

2. These are;
 - The effect of the proposal on the character and appearance of the High Weald Area of Outstanding Natural Beauty.
 - The effect of the proposal on the Ashdown Forest Special Protection Area and Special Area of Conservation.
 - The planning balance, taking account of the countryside location and other material considerations.

Reasons

Character and Appearance

3. The countryside is to be protected as stated in Policy DP12 of the Mid Sussex District Plan 2014 – 2031 with limited provision for development, while Policy DP15 concerns the protection of the High Weald Area of Outstanding Natural Beauty, and Policy DP26 details criteria for development.
4. The 'made' West Hoathly Parish Neighbourhood Plan is part of the Development Plan for the appeal site, and apart from requiring 'visualisations' for proposals outside the development boundary in Policy WHP4, states that such proposals will be supported if in keeping with the immediate surrounding area.
5. Paragraph 179 of the National Planning Policy Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

6. The Officer's Report describes the application as being for the development of a dwelling '*within the garden of West Lodge*' and what was seen at the site inspection was a large area of grass contiguous with the more cultivated garden of the dwelling and separate from the more constrained garden of East Lodge. The blue edged land encompasses the whole of that grassed area while the red-line site boundary is smaller. It is not uncommon in rural areas for land to be more clearly delineated and considered to be domestic garden in planning terms even if a larger area is in the same ownership. The inference here must be that at least the whole of the red-edged land is considered to be domestic garden by the Council.
7. The result of that would be that the appeal site is previously developed land and further to the 'Dartford' judgment referred to by the appellant, there is no 'in principle' objection to use, since the definition in the glossary refers only to residential gardens in built-up areas. However, whilst the site can be considered to be previously developed land, the definition makes clear that it should not be assumed that the whole of the curtilage should be developed.
8. The proposed dwelling would be sited to the west of the existing dwelling and its garage and removal of the somewhat delapidated car port, seen in use for mower storage and the like, could be secured by condition. However, the appeal site is adjoining a large field of truly open countryside that displays natural beauty and a rolling terrain that is a positive element of the surroundings to the site. Whilst not visible from such as rights of way and any view from the road would be fleeting at best, and more likely blocked by the garage, the development would be a visually harmful encroachment of built form into the agricultural landscape character of the area. The nature and condition of the land to the south corner of the road junction does not provide precedent or reason for that encroachment.
9. The dwelling has been designed to appear as a converted barn, but is not clearly associated with a farmstead and its tall roofline and multiple rooflights would appear out of place and disruptive to the rural character and appearance. The formation of the access onto the lane would likely extend the feeling of a developed frontage further from the public highway at Hammingden Lane, consolidating the presently limited appearance of development further past the 2 cottages and the associated garage.
10. To conclude, the proposal would cause visual harm to the rural character and appearance of the countryside and the landscape character of the High Weald Area of Outstanding Natural Beauty, contrary to Policies DP12 and DP15, and would not accord with Policy DP26 in not being sensitive to the countryside. The proposal is not in keeping with the immediate surrounding area as required in Neighbourhood Plan Policy WHP4.

Ashdown Forest

11. The site is within 7km of the Ashdown Forest Special Protection Area and Special Area of Conservation and would introduce additional residents to the location. District Plan Policy DP17 requires new dwellings to contribute to mitigation through the provision of Suitable Alternative Natural Greenspace and a contribution to Strategic Access Management and Monitoring. The Council has confirmed the figures concerned, following an error in the Officer's Report and the appellant has agreed to the requirement.

12. The Inspector is the Competent Authority at appeal and a Habitats Regulation Assessment is required. The proposal is not directly connected with or necessary to the management of the protected site, and for the reasons set out above, the proposal is likely to have a significant effect on the interest features of the site, alone or in combination through recreational visits and use. In view of these findings, an Appropriate Assessment needs to be carried out. The risks could be satisfactorily mitigated through a mechanism to secure contributions towards Strategic Access Management and Monitoring, and Suitable Alternative Natural Greenspace and there is no need to continue with the Assessment.
13. To conclude, contributions towards mitigation are necessary to make the development acceptable and would be fairly and reasonably related to the scale and nature of the proposed development. As a result, the proposal would not adversely affect the integrity of the Special Protection Area and would accord with Policy DP17.

Planning Balance

14. The site is outside any development boundary and in the open countryside in policy terms. Policy DP6 of the District Plan sets out the settlement hierarchy, and states that outside defined built-up area boundaries, the expansion of settlements will be supported where allocated, or contiguous with the built-up area or where development is demonstrated to be sustainable. The countryside is to be protected as stated in Policy DP12 with limited provision for development, and Policy DP21 seeks development that is sustainably located, minimising the need for travel. Policy DP15 concerns new homes in the countryside and the limited circumstances that apply.
15. That latter policy is broadly in line with paragraph 79 of the Framework which states that decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply. The meaning of the word 'isolated' in that context was tested in the 'Braintree' judgments¹, and the proximity and visual effect the 2 lodge cottage and the fencing to the sawmill site certainly reduce if not eliminate the sense in which the site is 'isolated'. However, it is noted that the Plan Policy refers to the countryside rather than isolation, and section 38(6) of the Planning and Compulsory Purchase Act 2004 makes clear the primacy of the Development Plan.
16. Paragraph 103 of the Framework states that the planning system should actively manage patterns of growth in support of these objectives; significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.
17. There are facilities at Ardingly, West Hoathly and Sharpthorne, but the roads between are narrow and not well-suited to access other than by vehicles. Mention has been made of the railway station at Horsted Keynes, but this is on

¹ Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) of 15 November 2017, and subsequently in the Court of Appeal judgment of 28 March 2018

- a preserved railway that, whilst providing a link to the network at East Grinstead, would not be available as a regular year-round link. The site is in an unsustainable location distant from significant places for employment, transport and services.
18. The appellant has provided a personal statement as to the intention to use the dwelling as a live-work unit and in addition to that, the current changes to working practices brought about by the Covid-19 pandemic have placed a greater emphasis on working from home. The particular circumstances of the appellant are set out in the statement, and it appears that the businesses have been carried out successfully in the rented West Lodge. Whether recent changes in employment and commuting remain long-term is a matter for conjecture, as is whether this leads to commercial buildings in sustainable town centres becoming free for re-use as live/work dwellings.
 19. Whilst the family connections with the locality are strong, and there is a clear desire to remain in the area, it is not appropriate to permit a permanent dwelling on the basis of personal residency, as the building would remain long after the need ceases. Reference has been made to the possibility of linking the occupation of the proposed dwelling to local residents for a period, variously 50 years in the personal statement or 100 years in the Appeal Statement.
 20. It is the fact that the Neighbourhood Plan does not allocate land in Highbrook for residential development and the appellant is critical of this lack of provision, suggesting that with the last greenfield property having been built in 1975 and the Plan running till 2031, this suppresses organic growth. Reference has been made to the high price of dwellings and the likelihood of older residents staying on in over-large houses, preventing younger people from remaining in the area.
 21. However the 'made' Plan is a result of a democratic process carried out at the most local level of planning policy and carries the full weight of the previously mentioned section 38(6) and had the need identified by the appellant been considered worthy, land could have been allocated. As it is Policy WHP4 does permit such development subject to the effect, which has been found wanting in this case.
 22. There are various positive elements to the proposal and were all else acceptable, their delivery could be secured by condition, but they do not outweigh the harm that would be caused and the failure to accord with the policies of the Development Plan and National guidance which seek to protect the countryside and the Area of Outstanding Natural Beauty in particular.
 23. Turning to consider the 3 objectives of achieving sustainable development set out in Framework paragraph 8, the appellants are economically active and there would be some benefit in the build process, but this is not land in the right place and there is no guarantee of the home working continuing for the life of the building. The activity could be carried out elsewhere and is not definitely linked to this land. On the social objective, the site is not readily accessible to services and is at too great a distance to really support community provision without the use of a vehicle. The environmental objective would be poorly served through the harm to the landscape character and this is not outweighed by the intention to build to a high quality with energy-saving measures.

24. Lastly it is appropriate to consider the presumption in favour of sustainable development set out in paragraph 11 of the Framework. The Council is able to demonstrate a 5-year supply of housing land and hence the balance is not 'tilted' and the Development Plan policies should be regarded as being up-to-date. For that reason, the fact that the proposal has been found to be contrary to the Development Plan should be determinative as the corollary to the statement in paragraph 11c) and in any event, the application of policies in the Development Plan and the Framework on the Area of Outstanding Natural Beauty and the great weight that should be given to conserving and enhancing its landscape and scenic beauty indicates that permission should be withheld, and there are no material consideration sufficient to alter that conclusion.

Conclusions

25. The proposal would cause harm to the character and appearance of the area and the landscape character of the High Weald Area of Outstanding Natural Beauty in particular. The location is remote from services and notwithstanding the working pattern of the presently intended occupiers, would not represent sustainable development. The benefits of the proposal are limited and insufficient to overcome the strong policy objections and the harm identified. For the reasons given above I conclude that the appeal should be dismissed.

S J Papworth

INSPECTOR