
Appeal Decision

Site visit made on 17 November 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 27 November 2020

Appeal Ref: APP/M2270/W/20/3255850
Land south of Spout Lane, Brenchley, Kent

- 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 Crisp against the decision of Tunbridge Wells Borough Council.
 - The application Ref 20/00396/FULL, dated 7 February 2020, was refused by notice dated 9 April 2020.
 - The development proposed is the demolition of the existing residential garage and its replacement with a three bedroom residential dwelling with associated parking and landscaping.
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Decision

1. I dismiss the appeal.

Main Issues

2. These are;
 - The suitability of the site with regard to the aims of sustainable development, with particular regard to accessibility to services.
 - The effect of the proposal on the character and appearance of the Spout Lane area within the High Weald Area of Outstanding Natural Beauty.

Reasons

Accessibility

3. Saved Policy LBD1 of the Tunbridge Wells Local Plan states that outside the limits of built development as defined, development will only be permitted where in accordance with all relevant policies. Whilst contained in a 2006 Plan with supporting text that refers to the countryside being protected for its own sake, the stated objective is to concentrate most development on the built-up areas, in order to ensure sustainable development patterns. The National Planning Policy Framework states at paragraph 2 that the purpose of the planning system is to contribute to the achievement of sustainable development. Core Policy 14 concerns development in the villages and rural areas, and although item 6 again refers to the countryside being protected for its own sake, item 7 encourages the use of non-motorised modes of transport.
4. As agreed by both main parties, achieving sustainable development requires a multi-faceted approach and the 3 overarching aims stated in the Framework

- include land being in the right place, using natural resources prudently, and moving to a low carbon economy.
5. The full assessment in terms of paragraph 11 of the Framework will be carried out in the Planning Balance, as the Council's Reason for Refusal is specific to an alleged dependency on the use of private cars for the majority of trips. The distances to both Brenchley and Horsmonden are agreed, and the nature of the roads and lanes were seen at the time of the site inspection.
 6. The site is not 'isolated' in the paragraph 79 sense, post 'Braintree', but the likelihood is that occupiers of the proposed new dwelling would need to rely on the use of a private vehicle to gain access to services and day-to-day requirements, making due allowance for the more recent impetuous given to home working and reduced travel generally.
 7. The appellant refers to the move to electric vehicles which do not pollute at source, and to a low or zero carbon economy with electricity generated sustainably. The provision of charging points for occupiers would allow for this move, although enforcing only electric car usage would be difficult, and the Government's recently announced aims of bringing forward the ban on sales of petrol- and diesel-powered vehicles to 2030 would leave such vehicles in use for a period. It is acknowledged however that over the expected life of the dwelling this interim period could be relatively short.
 8. However, carbon emissions and pollution at source are not the sole policy concerns, with congestion and increased use of rural roads and lanes causing harm through increased hazards to non-vehicle users, and the Council's Supplementary Planning Guidance '*Rural Lanes*', which has the stated purpose of assisting in making decisions on planning applications which may have an impact on rural lanes, recognises the recreational and amenity value of the lanes. Tong Road and Spout Lane both appear in the list.
 9. To conclude on this issue, the site is not in an accessible location and whilst measures could be put in place to allow for low-carbon means of transport, there would still be an increase in vehicle use on the local roads and lanes. The proposal would not further important aspects of the Government's objectives in achieving sustainable development and would be contrary to Policies LBD1 and 14 with harm having been identified.

Character and Appearance

10. Local Plan Policy EN1 sets out criteria for all development proposals including respect for the context of the site and having no significant adverse effects on any feature of nature conservation importance that could not be prevented by conditions. Policy EN25 lists criteria for development outside the limits of built development, with concerns over the character of the landscape and rural lanes being listed. Core Policies 4 and 5 set out requirements over the environment generally and the encouragement of sustainable design and construction.
11. As stated, both Tong Road and Spout Lane are identified in the Supplementary Planning Guidance on rural lanes, the former is shown in Appendix 4 as being one of the lanes with least detractors, while the latter is shown as being of high landscape and amenity value in Appendix 3, albeit in the 20 – 30% score.
12. Paragraph 172 of the 2018 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, and the scale and extent of development within these designated areas should be limited.

13. The red-line site area seen at the time of the site inspection has the character and appearance of tended domestic amenity land. There was domestic paraphernalia in evidence, the grass was cut and there were ornamental trees and shrubs. There was visual linkage with true countryside, although the physical and visual linkage with the garden nearest the house was limited.
14. The Council express doubts over the status of the land but do not appear to allege that it should not be considered as domestic curtilage in land use terms. The garage forms part of the land and there is gate to gravel hardstanding. It is entirely possible that access from the garage to Yew Tree Cottage would be by way of the land rather than the narrow lane, and the presence of the log store, play equipment and picnic table adds weight to this being part of the domestic curtilage and hence previously developed land. Being outside the built-up area, the Glossary to the Framework does not preclude that definition in this location.
15. The nature of the site is manifest on the lane by the garage and gates, with the wide boundary to the blue-edged remaining garden being iron railings by the garage changing to a fence behind coppiced hedgerow further west. These features form part of sporadic built form along Spout Lane from its junction, but there remain lengths of undeveloped or less developed edge, and the north side of the lane displays rural boundary features to open countryside.
16. Whilst the garage is to be removed, the proposed replacement parking area for Yew Tree Cottage together with the entry for the proposed dwelling and its parking would open the frontage to a greater and more harmful extent than at present, and the native hedgerow proposed to the rear of the new hardstanding would not fully or sufficiently reinstate the existing rural character and appearance.
17. The Council identifies the loss of trees shown dotted on the site plan, and these are readily visible from the lane at present and they impart a natural beauty to the surroundings. That loss together with the placement of the proposed dwelling would change the balance of open land and natural features to built form along the lane, consolidating the appearance of sporadic development and harming the appearance of the Area of Outstanding Natural Beauty. The formation of an additional household would more firmly signal the appeal site as domestic land through additional activity, parking and possibly paraphernalia.
18. With regard to the requirements of Policy EN1 criterion 3, the development would not respect sufficiently the context of the site on a Rural Lane identified as being of high landscape and amenity value within an Area of Outstanding Natural Beauty, and with regard to criterion 5, the harm could be mitigated to an extent by replacement planting, but this would be unlikely to be effective enough within a reasonable timescale, and the presence of the dwelling may militate against effective tree growth in any event. In addition, the proposed development would not accord with the aims of Policies EN25 and 4, and the harm to the Area of Outstanding Natural Beauty should be given great weight as stated in the Framework.

Planning Balance and Conclusions

19. The Council accept that they are unable to demonstrate a five-year supply of housing land as required by the Framework, and paragraph 11 applies. This states that where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
20. The findings of this Decision are that harm would be caused to the High Weald Area of Outstanding Natural Beauty, one of the policy areas referred to in footnote 6 to paragraph 11. That harm alone provides a clear reason for refusing the proposal, and the likelihood of a reliance on the use of private vehicles on the rural lanes would cause further harm to the character of the area and the recreational enjoyment of the High Weald. In the balance, the benefits of the provision of a single dwelling are outweighed by the adverse impacts.
21. With regard to the 3 objectives of sustainable development, this is not land in the right place in order to further the economic objective, is poorly located to be able to foster the social objective, and the identified harm means that the proposal cannot be said to achieve the environmental objective, with the use of previously developed land and the better use of land not counting sufficiently in the balance to change that view. The proposed biodiversity enhancements could be carried out on this domestic curtilage land without the need for a dwelling and as mitigation do not make-up for the losses.
22. The proposal does not accord with Development Plan and national policies and for the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR