



Appeal Decision

Site visit made on 12 January 2021

by Martin Small BA (Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2021

Appeal Ref: APP/C1435/W/20/3251261

Oaktree Nursery, Eastbourne Road, Halland, BN8 6PG

- 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 R Kendrick against the decision of Wealden District Council.
 - The application, Ref WD/2019/0760/F, dated 3 April 2019, was refused by notice dated 29 January 2020.
 - The development proposed is New Dwelling to Replace Agricultural Building and Associated Storage Compound.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the site is an appropriate location for housing, having regard to local and national policies and the accessibility of services and facilities; and
 - ii) the effect of the proposed development on the character and appearance of the area.

Reasons

Location

3. The appeal site is located on the south side of the A22 between East Hoathly, approximately 1.5 km to the east and Halland, approximately 0.5 km to the north-west. Under Policy WCS6 of the Wealden District (incorporating part of the South Downs National Park) Core Strategy Local Plan 2013 (the Core Strategy) neither settlement has a defined development boundary.
4. The appeal site therefore lies outside any settlement or development boundary identified in the Core Strategy and so is subject to the countryside policies of the development plan. Saved Policies GD2 and DC17 of the Wealden Local Plan 1998 (the Local Plan) resist development outside development boundaries unless it is in accordance with specific policies in the Plan. This is not the case with the appeal proposal. Spatial Planning Objective SPO3 of the Core Strategy seeks to direct new housing to existing towns and villages in the district.
5. East Hoathly and Halland have some limited facilities and services, including a primary school, a convenience store, a farm shop, a garage, public houses and

places of worship. However, for higher order services, including a railway station, the nearest town is Uckfield which is further away. Moreover, there is no footway along the A22 from the site to either East Hoathly or Halland, only an uneven and, in places, narrow grass verge with no street lighting. The A22 has no dedicated cycleway passing the appeal site which makes it less attractive for cycling.

6. There are bus services along the A22 to Uckfield, Hailsham and Eastbourne, with bus stops within walking distance to the west of the site. However, there is no footway from the site to the bus stops, only a grass verge which, whilst reasonably wide, is not lit. Taking all these factors into account, the distance of the site from day to day services and facilities and the limited access to them indicate to me that future occupiers of the proposed dwelling would be largely reliant on the private car to access shops and other facilities and services.
7. The appeal site is part of a larger site which has historically been used as a small nursery and more recently for car boot sales. The appellant's Highway Report indicates that the nursery has only operated at a very small scale and generated an estimated 7 trips a day based on the appellant travelling to the site and produce sales. The Report estimates the combined trips made by buyers and sellers to the car boot sales and those made by the appellant to service the sales and collect vegetables from the nursery to generate an average of 27.5 trips a day. These figures are not disputed by the Council and I have no reason not to accept them.
8. The appeal site includes a modest timber-clad barn that has been used to store vegetables grown in the nursery and is currently used for the storage of signs and equipment for the car boot sales. This would be replaced by the proposed dwelling. The Highway Report suggests that this would prohibit the commercial production of vegetables and with the appellant living on the site, the 7 daily trips associated with the nursery use would cease.
9. The Highway Report indicates that the proposed dwelling could generate an average of 5 - 6 daily trips. The proposal could therefore result in a reduction of 1 - 2 in the average number of daily trips. However, I cannot be certain from the evidence before me that commercial production at the nursery would cease. As the Highway Report indicates that the car boot sales would continue if permission were to be granted, there would be no reduction in the numbers of trips made by buyers and sellers.
10. Spatial Planning Objective SPO7 of the Core Strategy sets out that the Council will encourage reduction of the need to travel by car by concentrating development where it can most closely relate to public transport opportunities, with noticeable improvements in journey quality for those making trips on foot, by bicycle or by public transport. Even if I were to accept the contention that the proposal would lead to a reduction in vehicle trips, the proposal would not fully accord with this Objective.
11. Spatial Planning Objective SPO1 of the Core Strategy sets out, amongst other things, that the Council will assist in the development of the rural economy. Paragraph 78 of the National Planning Policy Framework (the Framework) sets out that housing should be located where it will enhance or maintain the vitality of rural communities. However, given the proposal's location and the limited

accommodation proposed it is unlikely that it would make any significant contribution to the vitality of either East Hoathly or Halland.

12. I note the appellant's reference to other residential development being permitted on 3 other sites in the area. However, from the limited details I have of these permissions, those for Crockstead Green Farm and Coopers Farm appear to be justified on the basis of the potential conversion of existing buildings under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As the existing barn on the appeal site is in too poor a condition to be converted, this justification does not exist for the proposal before me.
13. There is nothing presented to indicate that the Old Hartfield scheme is directly comparable to the appeal proposal. In any event, my findings on the location of the site in relation to day to day services and facilities are consistent with those of the Inspectors that determined the two appeals to which the Council draws my attention¹. I therefore give little weight to these previous permissions identified by the appellant.
14. I therefore conclude that the appeal site is not an appropriate location for housing having regard to local and national policies and the accessibility of services and facilities. In addition to the proposal's conflict with Saved Policies GD2 and DC17 of the Local Plan, I find that it also fails to comply with saved Policy EN1 of the Local Plan and Policy WCS14 of the Core Strategy which promote sustainable development.
15. No evidence has been provided that the proposal is necessary for the nursery or car boot sale uses associated with the appeal site. Accordingly, the proposal gains no support from saved Policy DC2 of the Local Plan which sets out that new permanent dwellings in the countryside will be permitted where a countryside location is necessary. The proposal also fails to comply with SPO1 and SPO3, would not fully accord with SPO7 and gains no support from SPO8 of the Core Strategy, which sets out the Council's support for an effective network of villages.
16. Furthermore, the appeal site lies outside any village, settlement or cluster of dwellings and is surrounded by farmland, woodland and the small nursery. I therefore consider the site to be in an isolated location in terms of paragraph 79 of the Framework, which sets out that planning decisions should avoid the development of isolated homes in the countryside unless one or more of specified circumstances apply. As the proposal does not satisfy any of these exceptions, I find that it conflicts with the Framework in this respect.

Character and appearance

17. The appeal site is located in the north-east corner of the larger site and comprises the existing barn and a fenced compound containing a shelter for vehicles / machinery and a shipping container immediately to the south. A grassed area with a belt of shrubbery lies between the barn and the A22 and an access track to the compound runs to the south-west. During my site visit I observed a mobile home to the east of the entrance to the site off the A22, although this is not shown on the submitted plans and appears to be outside the appeal site. I am not aware of its planning history.

¹ APP/C1435/W/19/3226973 and APP/C1435/W/19/3229579

18. There is an existing hedgerow alongside the A22, although views of the site are possible through gaps in the hedge in the north-east corner. The eastern boundary of the site is marked by a line of mature oak trees. However, the southern and south-western boundaries of the site are not as well defined by existing landscape features, being formed by the track with ornamental evergreen trees at intervals. As part of the proposal this track would be diverted to run around the rear garden of the proposed dwelling. The definition of the site to the south-west is therefore less clear.
19. To the south of the compound is the area used as a nursery, bounded by post and wire fencing. Although the land beyond the nursery is used for car boot sales and is marked out with posts, there are no permanent buildings on this land. The building and compound relate to the nursery use of the site and the application form describes the current use of the site as 'agricultural'. Thus the appeal site does not fall within the definition of previously developed land in the Framework.
20. The proposals include the removal of the existing buildings and structures on the site. However, this would be of limited benefit as, although in a poor state of repair, the existing agricultural building is modest and in keeping with the countryside setting of the appeal site. Whilst the compound may be glimpsed from the public footpath that runs along the south-western boundary of the site, it is largely screened by a belt of evergreen trees. The shelter is a relatively lightweight structure being open-fronted, limiting its visual impact.
21. Although the proposed dwelling would not be significantly larger than and has been designed to reflect the existing agricultural building, the proposal would inevitably lead to the domestication of the curtilage with domestic paraphernalia that would be incongruous in this location. Moreover, without a clear definition of the curtilage of the dwelling to the south-west, domestic activity could extend beyond the track. I acknowledge that, were planning permission to be granted, a condition could be attached requiring landscaping of the site which in time could help screen the site, but without existing clear boundaries to the south and south-west, the curtilage would have the appearance of being carved out of the larger site.
22. I therefore conclude that the proposed development would be harmful to the character and appearance of the area. Accordingly, in this respect, the proposal would conflict with Policies EN8 and EN27 of the Local Plan which, amongst other things, seek to protect landscape and local character. It would also conflict with SPO1 which sets out that the Council will protect the distinctive landscapes of the District and Policy WCS14 of the Core Strategy.

Other Matters

Ashdown Forest

23. Ashdown Forest is an extensive area predominantly comprising lowland heath and woodland within Wealden district. It is designated as both a Special Protection Area (SPA) and Special Area of Conservation because of its biodiversity interest. The qualifying features of the SPA are the breeding populations of Dartford warbler and European nightjar. The qualifying features of the SAC are the North Atlantic wet heaths with *Erica tetralix*, the European dry heaths and the presence of Great crested newts. Ashdown Forest is also a Site of Special Scientific Interest (SSSI).

24. The conservation objectives for the SPA are, in summary, to ensure that the integrity of the site is maintained or restored as appropriate by maintaining or restoring the qualifying features' habitats, populations and distribution within the site. The conservation objective for the SAC is to ensure that the site contributes to achieving the Favourable Conservation Status of its qualifying features.
25. Recreational activities and air pollution from vehicles are known to have adverse effects on the integrity of the SPA and SAC. The Conservation of Habitats and Species Regulations 2017 (as amended) require the decision maker to undertake an Appropriate Assessment (AA) before giving any permission where there are likely significant effects on the integrity of a designated site, either alone or in combination with other plans and projects. I return to this matter below.

Other biodiversity sites

26. The appeal site is within 1.5 km of the Park Corner Heath SSSI, an area of grassy heath, woodland and scrub with an outstanding assemblage of moths and a varied butterfly fauna. It is accessible from the appeal site via public rights of way. However, there is existing public access within the SSSI and any additional footfall from the proposal would not be significant. From the evidence before me there is no hydrological connectivity between the appeal site and the SSSI. I am therefore satisfied that the proposal would not have an adverse effect on the SSSI.
27. Bentley Wood is an area of Ancient Semi-Natural Woodland (ASNW) opposite the appeal site on the north side of the A22 with potentially similar moth interest as the SSSI. However, were planning permission to be granted, external lighting on the site could be controlled by a condition and the effects on the moth population would therefore be limited. Neither the potential effects on the SSSI or the ASNW have therefore been determinative in this appeal.

Other considerations

28. The appellant was encouraged to submit an application for a dwelling on the site in 2018 having regard to the Council's Development Management Briefing Note (DMBN) although this application was subsequently withdrawn. The DMBN was effectively replaced by a policy for the reuse of rural buildings in the former emerging Wealden Local Plan 2019. Although the emerging Plan was withdrawn in February 2020 I have no evidence that the Council has resumed the flexible approach under the DMBN. In any event, the DMBN did not form part of the development plan. Although this is frustrating for the appellant, I have to determine this appeal in the light of the current policy context.

Planning Balance

29. The Council cannot demonstrate a 5-year supply of deliverable housing land. The Planning Officer's Report indicates the supply as at December 2019 to be 3.67 years. The shortfall is therefore significant. Consequently, because of the provisions of footnote 7, paragraph 11 d) of the Framework is engaged.
30. Paragraphs 103 and 110 of the Framework seek to limit the need to travel, expect development to prioritise pedestrian and cycle movements and to facilitate access to high quality public transport wherever possible. Paragraph

79 indicates that isolated dwellings in the countryside should be avoided. Paragraph 170 of the Framework recognises the intrinsic character and beauty of the countryside.

31. Set against this harm there would be limited social and economic benefits from the proposal. One additional dwelling would make a minimal difference to the overall supply of housing and the support one extra small household would provide to the local economy would be insignificant. Consequently, the inappropriate location and harm to the character and appearance of the area would significantly and demonstrably outweigh the limited benefits of the proposal when assessed against the policies of the Framework taken as a whole.
32. As a result, the presumption in favour of sustainable development does not apply in this case. The fact that I have reached the same conclusions in assessing the proposal against the policies of the development plan and against the Framework demonstrates the consistency between the two.
33. Had I reached a different conclusion on this point, it would have been necessary for me to consider whether the proposal would have a likely significant effect on the integrity of the Ashdown Forest SPA and SAC and, if so, undertake an AA. However, as I am dismissing this appeal for other reasons, this has not been necessary.

Conclusion

34. I have found that the proposed development conflicts with the development plan taken as a whole. There are no considerations, including the policies of the Framework, that indicate that a decision should be made other than in accordance with the development plan. Accordingly, the appeal should be dismissed.

Martin Small

INSPECTOR