



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: 4th February 2021

Appeal Ref: APP/C1435/W/20/3252556

Wannock Cottage, Wannock Road, Polegate, BN26 5PE

- 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 Ms Susan Horsman against the decision of Wealden District Council.
 - The application Ref WD/2019/2513/F, dated 21 November 2019, was refused by notice dated 27 February 2020.
 - The development proposed is erection of two single-storey two-bedroom garden cottages.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Background

3. The proposal is a resubmission of a previous application for a very similar scheme on the appeal site in 2018 that was refused. A subsequent appeal was dismissed on the basis of the effect of the proposal on the character and appearance of the area and the potential adverse effect on the integrity of the Ashdown Forest and Lewes Downs Special Areas of Conservation¹. The appellant submitted further information with the resubmission in an attempt to address the concerns of the Inspector on the first issue.

Character and appearance

4. The appeal site comprises parts of the rear gardens of Wannock Cottage and its neighbouring property to one side, Clayton. To the rear of the site is a corner of Willingdon Community School playing field that appears to have been allowed to naturalise with scrub and wild planting. The proposal is to erect 2 single-storey dwellings, one in each rear garden, with a shared access via an existing driveway to the side of Wannock Cottage.
5. Wannock Cottage and Clayton are at one end of a row of dwellings on the north-east side of Wannock Road each with long and generously-sized rear

¹ APP/C1435/W/18/3215358

gardens. These gardens are an attractive feature of the area and contribute positively to the pleasant low density character and appearance of this part of Wannock.

6. The appeal site is large enough to accommodate the proposed dwellings and they would be largely hidden from view by existing dwellings and vegetation in the corner of the School playing field. However, the proposal would truncate the rear gardens of Wannock Cottage and Clayton and result in backland development at odds with the pattern of development along this part of Wannock Road. The Wealden Design Guide 2008 sets out that within development boundaries new development should respect the character of the locality.
7. The appellant has demonstrated how Wannock has developed historically and has identified several examples of backland and cul-de-sac developments in the wider locality. These demonstrate that such forms of development have been considered acceptable elsewhere in that locality in the past. However, not all of these have been developed in recent years or are directly comparable to the appeal scheme in their layout.
8. Those most comparable to the tandem backland development form of the proposal, including 80 Wannock Lane, 106 Wannock Lane and 247a - 247d Eastbourne Road, are not so numerous as to be a defining characteristic of Wannock. None of the developments identified by the appellant are so close to the appeal site that the proposal would be seen within their context. Whilst May Tree Cottage, adjacent to Wannock Cottage, is set back within its plot, it is not backland development. I have determined this appeal on its merits with regard to the site-specific characteristics and context of the site.
9. I therefore conclude that the proposal would be harmful to the character and, to a limited extent, the appearance of the area. Accordingly, in this respect, the proposal would conflict with saved Policy EN27 of the Wealden Local Plan 1998 (the Local Plan) which seeks to protect character. The policy specifically states, amongst other things, that the proposed development should not constitute an unacceptable backland or 'tandem' form of development.
10. I find limited conflict with saved Policy EN1 of the Local Plan, which is a broad overall policy setting out the Council's commitment to sustainable development, in respect of protecting and enhancing the built environment. This is part of the environmental objective for achieving sustainable development set out in the Framework. The proposal also conflicts with Strategic Planning Objective SPO13 and Policy WCS14 of the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 which, in combination, promote local distinctiveness and support planning applications that accord with the policies in the Local Plan.

Other Matters

11. The requirements of the emerging Wealden Local Plan 2019 regarding the Ashdown Forest and Lewes Downs SACs to which the previous Inspector refers no longer apply following the withdrawal of the Plan in February 2020. However, the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) remain an important consideration.

12. 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 (SAC) 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.
13. 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.
14. The Lewes Downs SAC comprises semi-natural dry grasslands, dry grasslands and scrublands on chalk or limestone, which provide important orchid sites. These habitats constitute its qualifying features. The conservation objectives for the SAC are to ensure that the integrity of the site is maintained or restored as appropriate and that the site contributes to achieving the Favourable Conservation Status of its qualifying features.
15. Recreational activities are known to have an adverse effect on the integrity of the SPA. The SACs are potentially at risk from air pollution in part from vehicles. The Habitats Regulations 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.
16. However, evidence in the form of visitor surveys undertaken for the Council demonstrate that it is residents within 7 km of Ashdown Forest that are most likely to visit it. As the appeal site is more than 7 km from Ashdown Forest the Council's screening assessment for the proposal concludes that it would not have a likely significant effect on the SPA. I concur with this assessment.
17. The draft Wealden Local Plan 2019 sought to deliver 14,228 homes and 22,500 m² of business floorspace to 2028. The Planning Officer's Report notes that Natural England was satisfied that this quantum of growth would not adversely affect the integrity of the Ashdown Forest and Lewes Down SACs from air quality impacts without mitigation measures being needed.
18. This conclusion was based on the evidence provided, Natural England's expert knowledge of the particular characteristics, interest features and management of the designated sites in question and its professional judgement. Given this, as the proposal is for only 2 dwellings, I am satisfied that it would not have a likely significant effect on the SACs. This differs from the conclusion of the previous Inspector but is based on the evidence before me.

Planning Balance

19. 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.

20. Paragraph 68 of the Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. Great weight should be given to the benefits of using suitable sites within existing settlements for homes. Paragraph 122 of the Framework sets out that planning decisions should support development that makes efficient use of land. Paragraph 123 seeks to avoid homes being built at low densities.
21. However, paragraph 122 also sets out that the desirability of maintaining an area's prevailing character should be taken into account. Paragraph 127 of the Framework sets out that planning decisions should ensure that developments are sympathetic to local character. Although appropriate innovation or change should not be prevented or discouraged, given my conclusion on the effect of the proposal on the character of the area I do not consider the proposal to be appropriate. For the same reason, I do not consider the appeal site to be suitable for homes.
22. Set against this harm there would be limited social and economic benefits from the proposal. Two additional dwellings would make a very modest contribution to the overall supply of housing and the support to the local economy from two extra households would be limited. Consequently, the 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.
23. 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.

Conclusion

24. I have found 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 is dismissed.

Martin Small

INSPECTOR