



Appeal Decision

Site Visit made on 23 February 2021

by Martin Small BA (Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2021

Appeal Ref: APP/C1435/W/20/3262811

Little Dudsland, Cross in Hand, Heathfield, TN21 0TA

- 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 Skinner against the decision of Wealden District Council.
 - The application Ref WD/2020/0380/F, dated 19 February 2020, was refused by notice dated 31 July 2020.
 - The development proposed is described as alterations to Victorian Reservoir structure to create a holiday let.
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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, with regard to its location within the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

3. The appeal site comprises a disused Victorian estate reservoir structure of 3 brick and concrete basins set into the ground with approximately 1 m high walls above ground level and an area on the north side with views across the falling ground to the north. The site is set mainly within woodland and is located approximately 1 km west of the centre of Cross in Hand. Notwithstanding the ribbon development along Lewes Road and Mayfield Flat in the vicinity of the site, the area is predominantly characterised by woodland and open fields. The structure is of some historical interest, meriting its consideration by the Council as a non-designated heritage asset, but is in poor repair in places.
4. The site is within the High Weald AONB, to the landscape of which the site currently makes a modest but positive contribution. Paragraph 172 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. This is reflected in saved Policy EN6 of the Wealden Local Plan 1998 (the Local Plan) which, although pre-dating the Framework and with different terminology, is substantially consistent with the Framework. The Framework's policy for AONBs is also reflected in Spatial Planning Objective SPO1 of the Wealden Core Strategy Local Plan (the Core Strategy)¹.

¹ Wealden District (Incorporating Part Of The South Downs National Park) Core Strategy Local Plan

5. The proposals include the raising of the walls of part of the reservoir and the provision of a 'green' roof across the northern basin to create accommodation, with the ground immediately to the north of the structure excavated to expose the northern wall, in which there would be extensive glazing. There would be further glazing in the southern elevation. In my view, these works would constitute significant rebuilding. The southern basins would form a sunken garden whilst to the north would be another garden and a parking / turning area, with a new vehicular and pedestrian access created from Nursery Lane to the west of the site.
6. The proposals also include the removal of 11 Category C trees from the site, mainly from the proposed garden area to the north, to accommodate the proposed development. Although the majority of the existing trees to the boundaries of the site would be retained, there would be some minor loss of the wooded character. In addition, the Arboricultural Impact Assessment indicates the clearance of all laurel, holly and scrub to allow for the proposed access and hardstanding, which would also necessitate excavating the bank alongside Nursery Lane. This would be harmful to the vegetated and enclosed character of the lane.
7. Whilst the south side of the B2102 opposite the appeal site is partly characterised by dwellings set back from the road, dwellings on the north side are more sporadic. The proposals would add to this sporadic development and introduce domestic activity into an area where no such activity currently exists. The alterations and the creation of the parking / turning area and new access would result in a domestic appearance to the site, at odds with its existing naturalistic nature and setting. Although the development would be largely hidden from public view, this change would be appreciable with the new engineered access and the view of the site through it.
8. Overall, therefore, the proposals would result in substantial and harmful changes to the character and appearance of the reservoir and the site as a whole. Consequently, the proposals would not conserve or enhance the overall character of the site or the landscape of the AONB. Furthermore, given the extent and nature of the proposed alterations to the reservoir, the proposals would fail to conserve or enhance the historic interest and significance of this simple functional structure. The Framework states that the conservation and enhancement of cultural heritage is an important consideration in AONBs.
9. I therefore conclude that the proposed development would have a harmful effect on the character and appearance of the site and area and would fail to conserve or enhance the landscape and scenic beauty of the High Weald AONB. Accordingly, in these respects, the proposals would conflict with saved Policy EN6 of the Local Plan and SPO1 of the Core Strategy. They would not accord with saved Policy TM1 of the Local Plan, which is supportive of new tourist facilities where they would respect and, where possible, enhance, the character and heritage of the area, with particular care being given to appearance within the High Weald AONB. Policy TM1 is consistent with paragraphs 83 and 127 c) of the Framework.
10. The proposals would also conflict, in broad terms, with saved Policy EN1 of the Local Plan and Policy WCS14 of the Core Strategy, as both promote sustainable development which includes protecting the natural and historic environment.

11. However, although the proposed development would not be locally distinctive, as it would not be a conventional building and would not be seen in the context of any other development, I find no conflict in this respect with Policy EN27 of the Local Plan or Spatial Planning Objective SPO13. These, in combination and amongst other things, require proposals to respect the character of adjoining development and promote local distinctiveness. There is no requirement within either the policy or the objective for proposals to be innovative.
12. It is a moot point whether the proposal represents a conversion of the former reservoir or a new building. If considered to be a conversion, the proposal would conflict with saved Policy DC7 of the Local Plan which supports the conversion of rural buildings to tourist accommodation subject to the requirement, amongst others, that the building is capable of conversion without significant rebuilding. If considered to be a new building then saved Policy DC7 is not relevant to my decision.

Other Matters

Ashdown Forest

13. Ashdown Forest is an extensive area predominantly comprising lowland heath and woodland within Wealden district. It is designated as a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Special Area of Conservation (SAC) because of its biodiversity interest. This interest comprises breeding populations of Dartford warbler and European nightjar and habitats including North Atlantic wet heaths with *Erica tetralix*, European dry heaths and the presence of Great crested newts.
14. Recreational activities are known to have an adverse effect on the integrity of the SPA. The SAC is potentially at risk from air pollution in part from vehicles being driven through or past the Forest. 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. The appeal site is more than 7 km from the Forest and there is thus considered to be no pathway of effect for recreational disturbance.
15. The draft Wealden Local Plan 2019, now withdrawn, sought to deliver 14,228 homes and 22,500 m² of business floorspace to 2028. Natural England was satisfied that this quantum of growth would not result in adverse air quality effects on the integrity of the SAC. The proposal is for a single dwelling.
16. Consequently, I am satisfied that the proposal would not result in a likely significant effect on the integrity of the Ashdown Forest designated habitats sites. This is also the conclusion of the Council's screening assessment.

Other considerations

17. The Framework supports a prosperous rural economy, including sustainable rural tourism developments which respect the character of the countryside. This is reflected in SPO1 of the Core Strategy. I have found harm to the character of the countryside above. That aside, the proposals would result in contributions to the rural economy through the letting income, potential employment of cleaning staff and visitor spend.
18. However, the Business Plan only gives an indication of the likely contribution of the proposal to the local economy, with no detailed evidence of likely visitor

spend. The contribution of one holiday let to the local economy would be modest. This is therefore not a significant factor in the proposals' favour.

19. The appellant contends that a hardstanding and a new access off Nursery Lane could be provided as permitted development under Class F of Part 1 and Class B of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This may be the case, but Class B rights only pertain where the access is required in connection with development permitted by any other Class in Schedule 2 and Class F rights only apply within the curtilage of a dwellinghouse. I have no evidence before me to confirm that the appeal site is within the curtilage of Little Dudsland.
20. Even if it is, given the distance of the appeal site from the dwelling, the provision of an access and hardstanding on the appeal site appears to me to be no more than a theoretical possibility. Furthermore, if a hardstanding and new access were to be provided as permitted development, they alone would result in less harm to the AONB than the proposals before me. Consequently, I give very little weight to the suggested exercise of permitted development rights under these Classes as a fallback position.

Planning Balance

21. With living / dining / kitchen area, 3 bedrooms and 3 bathrooms, the proposed holiday let would have the facilities for day-to-day private domestic existence. I therefore consider it to be a dwelling, notwithstanding the proposed nature of its occupation. As such, the application involves the provision of housing. The site lies outside any defined development boundary in the development plan and is thus in an area where development is restricted.
22. However, from the evidence in other appeals I have recently determined in Wealden district² I am aware that the Council is unable to demonstrate a 5-year supply of deliverable housing land, with the supply as at December 2019 being 3.67 years. The shortfall is therefore significant. Consequently, because of the provisions of footnote 7, paragraph 11 d) of the Framework is engaged.
23. Nevertheless, as I have found harm to the AONB, the application of policies in the Framework that protect AONBs provides a clear reason for refusing the development proposed in accordance with 11 d) i and footnote 6. The proposals do not benefit therefore from the presumption in favour of sustainable development.

Conclusion

24. I conclude that the proposal would be contrary to the development plan taken as a whole and there are no material considerations that indicate that the decision should be other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR

² APP/C1435/W/20/3251261, APP/C1435/W/20/3252556, APP/C1435/W/20/3249738 and APP/C1435/W/20/3250169