



Appeal Decision

Site visit made on 23 March 2021

by David Cliff BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th May 2021

Appeal Ref: APP/U1430/W/20/3263108

West View, Rock Lane, Three Oaks, Guestling TN35 4NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr B Al-Khalifa against the decision of Rother District Council.
 - The application Ref RR/2020/781/P, dated 21 April 2020, was refused by notice dated 24 August 2020.
 - The development proposed is erection of new single family dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with access to be considered as a detailed matter, and appearance, landscaping, layout and scale reserved for future consideration.
3. Following a recent Court of Appeal judgment¹ regarding isolated homes in the countryside, I have sought further comments from the main parties on any implications this judgment may have for this appeal. I have considered the comments received in my decision.

Main Issues

4. The main issue is whether the site is suitable for residential development having regard to its location in the countryside away from the settlement boundary, the accessibility to local services and facilities and the need to conserve or enhance the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

5. The proposal would be located outside of the settlement boundaries wherein new residential development is generally encouraged. It would not fall within the extremely limited circumstances where new dwellings are allowed within the countryside as set out in Policies RA3 and OSS2 of the Rother Local Plan Core Strategy 2014 ('the Core Strategy'). It would also not accord with Policy DIM2 of the Development and Site Allocations Local Plan 2018 ('the DSALP') which reiterates the general presumption against development in the countryside unless it accords with specific Local Plan policies or for which a

¹ Bramshill v SSHCLG [2021] EWCA Civ 320

countryside location is demonstrated to be necessary, neither of which criteria are met by the proposal.

6. The site is free of buildings and provides an open space between the existing row of dwellings and the adjacent site to the north. In spite of the ribbon of residential development to the south and other more sporadic forms of development in the vicinity, the area around the site still has a predominantly rural character which contributes to the overall landscape and scenic beauty of the AONB. The existing gaps along the west side of Rock Lane play a considerable role in contributing to the rural character. Whilst the application is in outline, the proposed new dwelling would inevitably introduce a form of urban development onto the site, transforming its appearance and character from one of open green space, free of buildings, to one comprising residential built development. A new dwelling in this location would extend the ribbon of existing residential development northwards, infilling the gap between the existing dwellinghouse at West View and the non-residential site to the north.
7. Whilst the site appears to have previously been used in association with the dwelling 'West View', it is not clear that this use has recently continued and the site now visually appears as a separate parcel of land. Even if the site is still considered as part of the residential curtilage of West View, the creation of a new dwelling house would still lead to an urbanising effect.
8. The site has good levels of boundary screening and these could be further enhanced with additional planting. Consequently, a new dwelling would be likely to be substantially screened in views from around the site. This would limit its impact upon the surrounding landscape and from Rock Lane, although it is likely that glimpses of a new building would still be possible from the road. The character of the site would also change from one of open land with vegetation, to one containing a new dwellinghouse along with the hard standings, domestic parking and paraphernalia that would generally accompany it. In spite of the screening that would limit the visual impact, the residential development of the site would neither conserve nor enhance the landscape and scenic beauty of the AONB. The proposal would therefore be contrary to the general development, countryside and AONB protection aims of Policies EN1, RA2 and OSS4 of the Core Strategy and Policy DEN2 of the DSALP.
9. The village of Ore provides a good range of services and facilities along with public transport links to other locations. However, the site is a considerable distance (approximately one mile) away from such provision, at the upper end of the distance I would envisage residents might generally wish to walk for their day to day needs. Furthermore, for most of the route along Rock Lane from the site to Ore there is no street lighting or footpath. The road is also generally narrow and would not be particularly safe for regular walking. There are no bus services along Rock Lane to serve the site. The village of Three Oaks, containing a more limited range of facilities, would also not be well located in terms of access from the site by alternative methods of transport to the private car, taking account of the lack of footpaths and street lighting. The new dwelling is unlikely to provide any significant support towards local services within the village as occupants would be most likely to drive elsewhere for the majority of their day-to-day needs.
10. Given these constraints, the site would not be a location that would generally encourage walking or cycling into Ore or Three Oaks, including for families with

young children or those with mobility issues. Instead, there is a likely to be a significant reliance on the use of the private car for most of the day to day journeys of the occupiers. This would be contrary to the aim of the Framework to promote sustainable travel, including the aims of reducing congestion and emissions and improving air quality and public health. I have afforded moderate weight to this harm.

11. As outlined above, the existing residential development adjacent to the site forms a ribbon of development along Rock Lane leading away from the main urban area with substantial gaps further to the south providing physical separation to the urban conurbation. As a matter of fact and degree, the existing row of dwellings along with other buildings on the opposite side of the road do not form an existing settlement, including one that amounts to either a village or even a hamlet. Rather it represents a ribbon of development comprising mainly other dwellings substantially away from the urban settlement to the south, or further to the north in the form of the village of Three Oaks.
12. Therefore, in the context of paragraph 79 of the revised National Planning Policy Framework 2019 ('the Framework'), the proposal would amount to an isolated home in the countryside. To allow a further dwelling in this location proposed would not meet the aim of the Framework to achieve sustainable development within rural areas. Even were I to find that it was part of the residential garden of West View, the development would represent the subdivision of the existing residential plot rather than the subdivision of an actual residential dwelling. Consequently, the proposal would not accord with any of the exceptions within paragraph 79 of the Framework that seeks to generally avoid the development of isolated homes in the countryside.
13. Although the appellant has referred to permission being granted for six dwellings at 'The Warren Yard', it appears that there were specific reasons for approving that development (i.e. as enabling development) which do not apply in this case.
14. There also appear to be clear differences between this proposal and the Council's recent grant of planning permission at 'Batchelor's Bump', including the location of that site immediately adjacent to the settlement boundary, its location adjacent to, rather than within, the AONB and its better accessibility to services, facilities and public transport.
15. Whether or not the proposal, if granted, would lead to other sites being similarly developed along Rock Lane is not a factor that weighs significantly against the proposal, as any other proposal would need to be considered on its individual merits and circumstances. However, this does not alter my findings above on the merits of this case.

Other Matters

16. It is common ground between the main parties that the Council is unable to demonstrate a five year housing land supply. The Council states that it can currently only identify a 2.87 year supply. This represents a substantial shortfall in housing delivery. Consequently, paragraph 11(d) of the Framework is applicable, to which I turn to consider below.

The Planning Balance

17. The proposal would be located within the countryside outside of the settlement boundaries and would neither conserve nor enhance the landscape and scenic beauty of the AONB, contrary to the relevant policies of the Development Plan. The weight given to the conflict with the settlement boundaries in relation to Policies RA3, OSS2 and DIM2 is substantially reduced in this case given the Council's poor housing land supply position which is substantially below 5 years, indicating that strict adherence to the settlement boundaries is likely to further hinder the Council's housing supply position. Despite this the failure of the proposal to conserve or enhance the AONB, leads me to the conclusion that the proposal would be contrary to the development plan as a whole.
18. The provision of one new dwelling would make an, albeit small, contribution towards improving the supply of housing. However, even taking account of the substantial shortfall the contribution of one dwelling towards rectifying the Council's shortfall would be modest. There would be some minimal economic benefits from the construction of the single dwelling. Against these benefits, there would be harm as the proposal would neither conserve nor enhance the landscape and scenic beauty of the AONB, and moderate harm by reason of the poor accessibility to local services and facilities that would lead to a likelihood of a reliance on the private car and would not promote sustainable methods of transport.
19. Given my findings regarding the effect upon the AONB and the poor accessibility of the site by sustainable means of transport, the site is not suitable for the proposed development. Therefore, even if I was to conclude that the site forms part of the existing garden area of West View (in which case it would amount to previously developed land as defined by the Framework), this is not a case where substantial weight should be applied to the value of using suitable brownfield land in the context of paragraph 118 of the Framework.
20. The Framework makes clear that great weight should be given to conserving and enhancing its landscape and scenic beauty. The proposal would neither conserve nor enhance the landscape and scenic beauty of the AONB and its benefits would not outweigh the harm resulting.
21. The harm arising in this case would outweigh the benefits. Consequently, the application of policies in the Framework that protect the AONB provide a clear reason for refusing the proposed development in accordance with paragraph 11 (d) of the Framework. The tilted balance is therefore not applicable.

Conclusion

22. The proposed development would be contrary to the development plan as a whole and there are no material considerations, including the provisions of the Framework which outweigh this finding.
23. For the reasons set out above, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR