



Appeal Decision

Site visit made on 25 May 2021

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 15 June 2021.

Appeal Ref: APP/U1430/W/20/3271507

Badgers End, Breadsell Lane, Crowhurst TN38 8EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Jane Masters against the decision of Rother District Council.
 - The application Ref RR/2020/135/P, dated 22 January 2020, was refused by notice dated 12 May 2020.
 - The application sought planning permission for retention of a mobile home for a further two years without complying with condition 1 attached to planning permission Ref RR/2018/376/P, dated 23 March 2018.
 - Condition 1 which states that: The mobile home hereby approved shall be removed and land restored to its former condition on or before (26/03/2020) in accordance with a scheme of works submitted to and approved in writing by the Local Planning Authority. The scheme of works shall be submitted to the Local Planning Authority no later than 3 month prior the removal of the mobile home i.e. by (26/12/2019).
 - The reason given for the condition is: The site is within the countryside outside any town or village boundary defined within the Rother District Local Plan (2006). Policy RA3 of the Rother Local Plan Core Strategy and paragraph 55 of the National Planning Policy Framework contain strong presumption against residential development in the countryside unless it meets one of the permitted exception of policy, and permission is only granted for a temporary period due to the particular personal circumstances of the applicant.
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Decision

1. The appeal is allowed and planning permission is granted for retention of a mobile home for a further two years without complying with condition 1 attached to planning permission Ref RR/2018/376/P, dated 23 March 2018 at Badgers End, Breadsell Lane, Crowhurst, TN38 8EB in accordance with the terms of the application Ref RR/2020/135/P, dated 22 January 2020 subject to the following condition:
 - 1) The mobile home hereby approved shall be removed and land restored to its former condition on or before (18/06/2023) in accordance with a scheme of works submitted to and approved in writing by the Local Planning Authority. The scheme of works shall be submitted to the Local Planning Authority no later than 3 months prior to the removal of the mobile home.

2. This condition is necessary as the site is regarded as being within the countryside and permission is only granted for a temporary period due to the personal circumstances of the Appellant.

Procedural Matters

3. The mobile home is in situ and has been the subject of a series of planning permissions dating back to 2005 that have allowed the stationing of it on the land for temporary periods. The proposal seeks to retain the mobile home on the land for a further temporary period.
4. The Council's decision notice and officer's report make reference to the site being located in the High Weald Area of Outstanding Natural Beauty (AONB). In response to this appeal the Council confirmed that the site does not fall within the AONB. The Council have suggested an amendment to their second reason for refusal to recognise that the site is not in the AONB. In deciding this appeal I have therefore considered the duty under section 85(1) of the Countryside and Rights of Way Act 2000 to have regard to the purpose of conserving and enhancing the natural beauty of the AONB.

Main Issues

5. The main issues in the appeal are:
 - Whether the location of the proposal accords with planning policy on the location of housing.
 - The effect on the character and appearance of the surroundings, with particular regard to the effect on the landscape and the setting of the AONB and Listed Building
 - Whether the personal circumstances of the Appellant are a material consideration which would justify the development being determined other than in accordance with the Local Plan.

Reasons

Location

6. The Rother Local Plan Core Strategy (Local Plan) regards the site as being in a countryside location. As such, it falls outside the locations where new dwellings could be supported as a matter of principle. There is also no substantive evidence that demonstrates that any of the specific circumstances set out in Policy RA3 (iii) of the Local Plan exist.
7. Consequently, there is conflict with policies RA2, RA3, OSS3 and TR3 of the Local Plan which collectively restricts development in countryside locations.

Character and appearance

8. The character of the area is rural in nature and consistent with the countryside location. The mobile home that currently sits on the site is one of a range of buildings of varying age and appearance that are visually associated with the Grade II Listed Stonebridge Farmhouse.

9. The relationship of these buildings collectively gives the immediate surroundings a feel that is similar to a traditional farmyard. This character is reinforced by mature trees and other planting that separates the group of buildings from the open fields beyond and also provides a high degree of enclosure.
10. The mobile home is of a timber construction and a scale and appearance that does not compete visually or otherwise detract from the group. When compared with other structures nearby it is not particularly large and does not appear out of keeping within this rural context. Its weathered appearance further assists with assimilating it into the surroundings.
11. Due to the enclosed and screened nature of the site, the mobile home is seen primarily in close public views from the footpath that passes near to the front of the site. In this view the mobile home is seen within the context of the building group, presenting a similar appearance to the single storey agricultural/stable buildings that are visible on adjacent land.
12. Consequently, the mobile home does not detract from the character and appearance of the immediate area. Further, although it is within a group of buildings that are visually linked to Stonebridge Farmhouse, the mobile home is separated from it by a number of other structures, including the more substantial Oasthouse. This separation, along with the distance from the farmhouse and the appearance of the mobile home, preserves the setting of the Listed Building.
13. As public views quickly become filtered by other buildings and natural screening, visibility of the mobile home is highly localised. As such, the impact on the wider landscape is very limited. Given this limited visibility, the evidence does not provide justification for the Council's position that significant adverse impacts on landscape character result from the siting of the mobile home.
14. The boundary of the AONB is to the north, separated from the site by buildings and fields. Due to the distance, relatively flat topography, and intervening built and natural features, the mobile home is not a prominent feature when viewed from the AONB. Further, no specific views have been drawn to my attention as being of particular concern. Consequently, in light of the lack of visual impact the natural beauty of the AONB would be conserved and the proposal is consistent with Paragraph 172 of the National Planning Policy Framework (the Framework).
15. For the reasons discussed, the proposal would not have a harmful effect on the character and appearance of the surroundings, including the landscape and the setting of the AONB and Listed Building. Consequently, there is no conflict with Policy EN1 and EN2 of the Local Plan, DEN2 of the Development and Site Allocations Local Plan, or CE2 of the Crowhurst Neighbourhood Plan which collectively seeks to manage development in the interests of ensuring high quality historic, built and natural landscape character.

Other considerations – personal circumstances

16. I have carefully considered the Appellant's evidence relating to the need to care for an elderly family member. These are the same general personal circumstances that led to the Council granting temporary planning permissions going back over a number of years.

17. The original premise of these permissions was to allow the family member to continue to live independently in the Oasthouse whilst enabling the Appellant to live close by in the mobile home to offer care as needed.
18. The medical and other evidence supports the position that the elderly family member's needs have changed. The mobile home is suited to meeting these changing needs, providing single level living space, room for the Appellant to also live on site to offer support, and familiar surroundings.
19. Whilst there has been some change in the specific circumstances, the overall need for the mobile home to be on the site persists, and is consistent with the reasons for granting previous temporary permissions. As such, the personal circumstances of the Appellant are a consideration that should be given weight in this appeal.

Conclusions

20. The proposal does not accord with planning policy on the location of housing.
21. The continuing need for the mobile home to address the personal circumstances of the Appellant has been accepted by the Council over a period of time. The evidence demonstrates that this need still exists, although I do recognise the Council's points about the functional link to the Oasthouse being severed and have paid this point due regard.
22. However, requiring removal of the mobile home from the site, with a knock on likely consequence of the family needing to find other suitable accommodation elsewhere, is likely to have an unjustified impact on the health and wellbeing of the elderly family member that would result from the associated upheaval and disruption. Such a consequence would be unmeritorious, particularly given my conclusions on the effects on the character and appearance of the area.
23. Weighing the issues up, the personal circumstances of the Appellant represent a significant consideration in favour of the appeal that outweigh the identified conflict with Local Plan policy.
24. In deciding this appeal I have paid regard as needed to the planning history of the site. Matters relating to the regularisation of uses of other buildings close to the site are beyond the remit of this appeal.
25. The Council's concerns that a grant of a further temporary permission allows others to occupy the Oasthouse, which the Appellant may benefit financially from, are noted. However, this consideration only attracts limited weight.
26. As such, and taking all other matters raised into consideration, the appeal is allowed.

D.R. McCreery

INSPECTOR