

Appeal Decision

Site Visit made on 18 May 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2021

Appeal Ref: APP/C1435/W/21/3266268

Kittsmead, Colestock Road, Cowden, Edenbridge, TN8 7EB

- 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 Tom Vickers against the decision of Wealden District Council.
 - The application Ref WD/2020/1868/F, dated 16 September 2020, was refused by notice dated 23 November 2020.
 - The development proposed is part demolition/part retention of buildings on site with an extension to create a new dwelling on site.
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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 facilities and services;
 - ii) the effect of the proposed development on the character and appearance of the area, with particular regard to its location within the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

Location

3. Kittsmead is at the end of a line of seven dwellings on the south side of the A264 between East Grinstead and Tunbridge Wells. The small village of Cowden is approximately 2.9 km to the north by road. The site is outside any development boundary identified under Policy WCS6 of the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy 2013 (the Core Strategy). It is therefore within the countryside for the purposes of planning policy.
4. Saved Policies GD2 and DC17 of the Wealden Local Plan 1998 (the Local Plan) resist development outside development boundaries unless it conforms with other policies in the Plan for specific forms of development. It has not been suggested that any of these exceptions apply to the proposals, which would therefore conflict with the Council's spatial strategy.
5. Spatial Planning Objective SPO7 of the Core Strategy sets out that the Council will encourage reduction of the need to travel 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. The nearest facilities or services to the appeal site, other than a church at Holtye along the A264 to the west, are in Cowden, where facilities are limited. Hartfield has a greater range of services but is approximately 4.5 km from the appeal site.

6. There is a railway station at Cowden approximately 3 km from the appeal site but the Council indicates that services are limited and do not run late into the evenings. I have no evidence that Cowden is accessible by bus and accessing the village on foot or bicycle would necessitate the use of the A264 and Holtye Hill. These have either no speed limit restriction or a 50 mph limit with no footway or street lighting and there is no dedicated cycleway on the main road. The verges along these roads are narrow and uneven in places. Walking or even cycling along these roads would therefore be uncomfortable and potentially dangerous, which would discourage these activities.
7. To access the majority of facilities or services it would be necessary for the future occupiers of the proposed dwelling to travel to a larger settlement such as East Grinstead or Tunbridge Wells. The Council indicates that a bus service on the A264 provides limited services to Tunbridge Wells but the nearest bus stop is approximately 770 m from the appeal site. Moreover, the lack of footway and lighting along the A264 would discourage the use of the bus. It is therefore very likely that future occupiers would be largely reliant on the private car to access facilities and services. The provision of an electric car charging point would not ensure the use of electric cars by future occupiers nor reduce the need to travel.
8. The appellant has contended that the use of the appeal site as a smallholding generates 4-6 vehicle movements by tenants of the holding tending to their livestock per day and that deliveries, vet's visits etc average another daily vehicle movement. This would suggest 5-7 vehicle movements a day on average, although the appellant suggests 6-7. The Council estimates daily movements for a single dwelling to be 5-7 in its appeal statement and 8-10 in the Planning Officer's Report, which are not disputed by the appellant. The proposals could therefore lead to an increase in the current average daily movements. Although, if this were the case, the increase would be limited on a daily basis, the additional movements would be cumulative and would be substantial over time.
9. The appellant draws my attention to an appeal decision for a dwelling on a site on the edge of Battle in Rother district where the Inspector considered that the proposal would reduce some of the existing vehicle movements to the site, offsetting some of those from the occupation of the proposed dwelling¹. However, in that case the Inspector noted the potential for future occupiers to occasionally walk or cycle into Battle. The context for that appeal was thus significantly different to that for the appeal before me.
10. I therefore conclude that the site is not an appropriate location for housing, having regard to local policies and the accessibility of facilities and services. In addition to the proposals' conflict with Saved Policies GD2 and DC17 of the Local Plan, I find that the proposals would not represent sustainable development due to the site's location and therefore fail to comply with Saved Policy EN1 of the Local Plan and Policy WCS14 of the Core Strategy, which promote sustainable development. The proposals also fail to comply with SPO7

¹APP/U1430/W/18/3201084

and gain no support from SPO8 of the Core Strategy which sets out the Council's support for an effective network of villages which will accommodate some additional growth where this would be sustainable.

Character and appearance

11. The appeal site is located within the High Weald AONB. Paragraph 172 of the Framework requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONBs. The seven dwellings including Kittsmead form linear development fronting the A264, with long gardens. To the other side of the road is a golf course, with fields, hedgerows and woodland otherwise around the dwellings, characteristic of the High Weald field pattern.
12. In addition to the steel barns and former piggery building, the appeal site comprises a small dilapidated brick structure, hardstandings, pens and a paddock. The site is bounded by closeboarded fencing to the northern boundary with Kittsmead and to the eastern boundary with the neighbouring dwelling. To the western boundary is a hedge with agricultural land beyond whilst the paddock to the south is bounded by a hedge and woodland.
13. The site is visible but not conspicuous from the A264, being set back a substantial distance behind Kittsmead. The Landscape Appraisal Report submitted with the application identifies viewpoints from public rights of way in the vicinity; Hartfield 62b, Hartfield 54c and Hartfield 52c. However, given the distance of the viewpoints from the site and intervening vegetation the existing buildings on the site are not highly visible in these views. The buildings are of a type and form not uncommon in rural areas. Overall, they cause limited harm to the landscape of the AONB.
14. Permission was granted in 2014 for the conversion and part redevelopment of the former piggery into a swimming pool, games room, home office and changing room². The scheme included extensions to the piggery building to the east and south, with the retention of the steel barns, representing an overall increase in floorspace of approximately 123 m². The permission has been implemented through the conversion of the piggery but not completed, although the permission is extant and so the scheme could be fully built.
15. The proposals before me would be at odds with the prevailing pattern of development in the area due to the location of the site behind the existing line of dwellings along the A264. The proposals include the extension of the former piggery to the south and east. Although the southern extension would step down reflecting the existing site levels and have a flat roof, minimising its height, the proposals would represent an increase in built development on the site of approximately 86 m². The proposals would be likely to lead to an increase in domestic activity on the site and potentially additional domestic paraphernalia.
16. However, the proposals are described as 'landscape led' following the withdrawal of a previous application for a 2-storey dwelling on the site given concerns expressed by the Council over its landscape impact³. The revised scheme includes the removal of the steel barn to the south of the site, together with areas of hardstanding and the existing pens. Although not conspicuous in the landscape, their removal would be a moderate visual improvement.

² WD/2014/1343

³ 2017/2587/F

17. The Landscape Strategy Plan includes a ha-ha to define the southern domestic boundary, new indigenous tree planting and a wildflower meadow to the south-east and south-west of the proposed dwelling. Landscaping and ecological enhancements could be secured by conditions were planning permission to be granted, which would also be modest benefits of the scheme. Permitted development rights for further ancillary buildings could also be removed by condition.
18. In assessing the impact of the proposals I have taken into account the existing built character of the appeal site, the modest scale and massing of the proposed dwelling, the lack of visual impact from a wider area, the use of materials appropriate to the AONB, the removal of some of the existing structures and additional planting. With these considerations, I find that overall, the proposals would have a neutral effect on the character and appearance of the area and the AONB compared to the existing situation.
19. The Landscape Appraisal Report concludes that the proposals would have a 'minor beneficial' effect. However, this assessment is based on a comparison with the greater quantum of development in the approved 2014 scheme.
20. I therefore conclude that the proposals would conserve the character and appearance of the area and the landscape character and scenic beauty of the AONB. It would not threaten the AONB's traditional dispersed farmstead pattern. The proposals would thus accord with the High Weald AONB Management Plan 2019-2024. I have no indication that the AONB Unit raised any objection to the proposals.
21. Accordingly, I find no conflict in this respect with Spatial Planning Objective SPO1 of the Core Strategy to protect the distinctive landscapes of the District, particularly those that are nationally designated. Nor would the proposals conflict in this respect with Saved Policy EN6 of the Local Plan, which seeks to conserve or enhance the natural beauty and character of the AONB landscape.

Other Matters

The appellant's circumstances

22. I note the appellant's medical and personal circumstances. However, although there may be a shortage of bungalows in the vicinity of the appeal site on the market at the current time, it has not been demonstrated that the appellant needs to live within the immediate area or that suitable properties to meet the appellant's needs are not available in East Grinstead. I have had regard to my obligations under the Public Sector Equality Duty, contained within section 149 of the Equality Act 2010, but the lack of specific evidence means that I can only give very limited weight to this consideration. Furthermore, I have also borne in mind that the development would remain long after the appellant's circumstances have ceased to be material.

Ashdown Forest and Cowden Meadows

23. The proposals would result in an additional dwelling within 7 km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). In combination with other plans and projects, its occupation would lead to a likely significant effect on the Forest's bird species through recreational disturbance. The Conservation of Habitats and Species Regulations 2017 (as amended) require the decision maker to undertake an Appropriate Assessment

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.

24. Furthermore, I note from the Preliminary Ecological Appraisal that the appeal site falls within the Impact Risk Zone for the Cowden Meadows Site of Special Scientific Interest (SSSI). I return to these matters below.

Paragraph 79 of the National Planning Policy Framework

25. Paragraph 79 of the National Planning Policy Framework (the Framework) sets out that isolated homes in the countryside should be avoided, unless one or more of five defined circumstances apply. The more recent *Bramshill* judgement has clarified the previous *Braintree* judgement⁴ that 'isolated' should be taken to mean remoteness from a settlement rather than from other dwellings. Kittsmead and the other properties along the road simply form a line of dwellings. I consider that as a matter of fact and degree, they do not constitute a settlement. The site is separated from Holtys and other settlements in the wider area by open fields. Therefore, having regard to the judgements, I find that the appeal site is in an isolated location for the purposes of paragraph 79 of the Framework.
26. The defined circumstances in the paragraph include "*c) the development would re-use redundant or disused buildings and enhance its immediate setting*". No evidence has been provided that the two open-fronted corrugated steel barns or former piggery building are either redundant or disused. The former piggery is described as being in ancillary residential use, having been converted in accordance with the 2014 planning permission. At my site visit I noted that both barns were in partial use for storage and are reasonably modern and useable. Consequently, I am not persuaded that the buildings on the site are redundant or disused. Furthermore, with extensions to the former piggery, the proposals go beyond the re-use of existing buildings.
27. I therefore conclude that the proposals would not satisfy the requirements of paragraph 79 c) of the Framework and thus would not meet the special circumstances for an isolated dwelling in the countryside set out in this exception.

Extant permission

28. The approved 2014 scheme would have a greater floorspace than the appeal proposals. However, should permission not be granted for the proposals before me, I have no evidence that the scheme would be completed, which must be in doubt given the passage of time since the original grant of permission. Even if it was completed, the approved scheme would not be significantly more harmful than the appeal proposals; a conclusion I reach based on the ancillary nature of the development offsetting the increase in built development and the conclusion of the Landscape Appraisal Report as cited above. I therefore attach little weight to this extant permission in my determination.

⁴ *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610 and *City and Country Bramshill Ltd v SSHCLG & Others* [2021] EWCA Civ 320

Other appeal decisions

29. Both the appellant and the Council have drawn my attention to other appeal decisions⁵. However, in allowing the appeal in Polegate to which the appellant refers, the Inspector noted *"The proposed development would be more accessible than many rural homes and a full range of community services and facilities would be within a short distance of the appeal site, with the scope for some journeys to be made by sustainable modes."* This would not be the case with the proposal before me and the context is therefore materially different.
30. The appeals at Ashurst Hill, Maynards Green and Argos Hill to which the Council refers involved the erection of new buildings on open land. The appeals at Blackham, Ashurst Hill and Rotherfield were dismissed partly for reasons other than the location. The contexts for these appeals are therefore also significantly different to that for the appeal before me. Consequently, none of these appeal decisions have been determinative in this appeal.

Other considerations

31. The Council's Direction of Travel document and Housing Strategy 2020-2025, to which the appellant draws my attention, identify a need for housing that meets the needs of an ageing population. The proposed dwelling would have only a slight change in levels and would therefore be accessible for persons of limited mobility. However, it has not been suggested that the dwelling be retained for persons above a certain age and no mechanism has been put to me to secure this.
32. Moreover, given the site's distance from facilities and services and the lack of accessibility by means other than the private car, the appeal site does not seem to me to be an appropriate location for persons with medical needs and limited mobility. Aside from the appellant's need for a bungalow, I have no firm evidence of a need for such a dwelling in the locality. Accordingly, I find no support for the proposals from paragraph 77 of the Framework.
33. The appellant draws my attention to three planning applications for residential development outside development boundaries within Wealden district recently recommended for approval. However, there is no evidence to indicate that these are directly comparable to the proposals before me. These other schemes therefore have little weight in my determination.

Planning Balance

34. The Council cannot demonstrate a 5-year supply of deliverable housing sites, with the supply being 3.28 years. The shortfall is therefore significant. Given this situation, paragraph 11 d) of the Framework is engaged by footnote 7. The conflict with the development plan attracts only moderate weight in the planning balance in this case. I have found above that the proposals would not be harmful to the landscape and scenic beauty of the AONB. Accordingly, paragraph 11 d) ii) of the Framework applies.
35. The provision of a single dwelling would make a minimal contribution to the housing supply with a consequent very modest benefit, even having regard to the Government's objective of significantly boosting the supply of homes.

⁵APP/C1435/W/20/3260796, APP/C1435/W/19/3227771, APP/C1435/W/17/3189717, APP/C1435/W/19/3227196, APP/C1435/W/20/3252867, APP/C1435/W/19/3235140

36. Planning decisions should promote the effective use of land in meeting the need for homes, while safeguarding and improving the environment. The site as a whole may be considered previously-developed land due to the conversion of the former piggery building to an ancillary residential use. However, even if this is the case, paragraph 118 c) of the Framework promotes the use of suitable brownfield land within settlements which the appeal site is not. This is therefore not a meaningful factor in the proposals' favour.
37. With the scale of the development, the economic benefits of the proposals would also be very modest. The biodiversity benefits of the proposals would be limited. Therefore, even in combination the benefits of the proposals are modest.
38. Set against these is the conflict with the Framework's policies on a plan-led system, the location of development and travel. Paragraph 78 of the Framework sets out that rural housing should be located where it would enhance or maintain the viability of rural communities. However, with the lack of local services and the poor accessibility of the site to those that do exist further afield it is unlikely that the proposed development would make any meaningful contribution to such vitality. I have no evidence that the proposal is needed to ensure the survival of any of these facilities or services. The proposals are thus contrary to paragraph 78.
39. Although the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, it advocates limiting the need to travel; prioritising pedestrian and cycle movements; promoting walking, cycling and the use of public transport; and facilitating access to high quality public transport wherever possible. The proposals would not accord with any of these objectives.
40. This leads me to the conclusion that the adverse impacts of the proposals would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Accordingly, the presumption in favour of sustainable development does not apply in this case.
41. In these circumstances it is not necessary for me to undertake an AA in respect of the effects of the proposals on Ashdown Forest. There is no need for me either to consider whether the proposals would affect the Cowden Meadows SSSI.

Conclusion

42. I have found above that the proposals would conflict with the development plan taken as a whole. The other considerations, including the policies of the Framework, are not sufficient to outweigh that conflict and to indicate that a decision should be made other than in accordance with the development plan.
43. For this reason, and having regard to the other matters raised, I conclude that the appeal should be dismissed.

Martin Small

INSPECTOR