



Appeal Decision

Site visit made on 18 May 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/D3830/W/20/3261319

Forest Farm, Paddockhurst Lane, Balcombe RH17 6QZ

- 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 Jarrod Griffiths against the decision of Mid Sussex District Council.
 - The application Ref: DM/20/2464 dated 9 July 2020, was refused by notice dated 18 September 2020.
 - The development proposed is demolition of existing redundant farm buildings and temporary accommodation and their replacement with a single dwelling with associated landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing redundant farm buildings and temporary accommodation and their replacement with a single dwelling with associated landscaping at Forest Farm, Paddockhurst Lane, Balcombe RH17 6QZ in accordance with the terms of the application, Ref: DM/20/2464 dated 9 July 2020 subject to the following conditions set out in the schedule at the end of this decision letter.

Preliminary Matters

2. Since the application was determined and the appeal submitted, the Council has adopted the Mid Sussex Design Guide SPD (SPD) and the Appellant has referred to the document in his Final Comments. As the SPD has been adopted, I shall take it into consideration, as I am required to do. Furthermore, as the Appellant has addressed the document in his representations to me, it is not necessary to offer an opportunity for further representations.

Main Issues

3. The main issues in this appeal are:
 - a) the effect of the proposal on the character and appearance of the local area, including with regard to its siting within the High Weald Area of Outstanding Natural Beauty, and
 - b) The accessibility of the site to local services.

Reasons

Issue a) Character and Appearance

4. The appeal site comprises a number of agricultural buildings and structures, of differing scales and forms in varying states of repair, accessed from a track leading off Paddockhurst Lane. There are a number of individual residential dwellings set in large grounds on either side of the main road in close proximity and the track also leads to three dwellings, the one closest to the appeal site I understand to be a residential and holiday let, created from the conversion of a former granary building. The site is surrounded by open fields and a number of public rights of way; it is within the High Weald Area of Outstanding Natural Beauty (AONB).
5. The proposal would demolish all the existing agricultural buildings and structures within the site and replace with a single dwelling with car parking and garden area. It would be L shaped and approximately on the footprint of one of the former buildings; the dairy. It would be partly single storey and partly one a half storey with accommodation in the roof space, and set into the ground.
6. In planning terms, the site lies within the countryside. The National Planning Policy Framework (Framework) confirms at paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in, amongst other locations, AONBs. This policy position in respect of AONBs is also set out under Policy DP16 of the Mid Sussex District Plan (District Plan). Policy DP12 of the same Plan also addresses the protection and enhancement of the countryside in recognition of its intrinsic character and beauty.
7. The relevant policies of the District Plan would not support a new house in this location, except for a number of very specific reasons and this would not fall within one of those categories. However, planning permission has been granted by the Council for the conversion of the building where the new development would now be sited under the Council's reference DM/17/4778 together with the demolition of a number of the other buildings and structures, although there is disagreement between the Council and the Appellant over which buildings were required to be demolished as a result of that permission.
8. Moreover, the Appellants have also provided evidence to indicate that this permission has now been implemented, through the approval of drainage details under the Council's reference DM/20/4382 and the subsequent installation of the drainage tank, which I was able to see at my site visit. The Council has not sought to offer any information to suggest that the permission has not been lawfully implemented and I have no reason to take a different view, on the basis of the information before me.
9. I have been provided with no reason to doubt that this permission could or would not be progressed and the development built out; it therefore does provide a clear fall back position in the event that planning permission is not granted for the application before me. I appreciate that the policy position has changed since that permission was granted, but that would not prevent the permission from being built out. Furthermore, I am aware that Inspectors have taken different views on the weight to be given to fall back positions in individual cases before them, depending on the particular circumstances before them. However, in the circumstances of this case, where there is an extant

permission which has been implemented, I consider that great weight should be given to the fallback position. As each decision must be determined on its individual merits, I see no conflict between the view I have reached and contrary views reached in other cases.

10. The current proposal would be primarily sited on the footprint of the dairy, albeit not an exact match. From the information provided by the Appellant the former L shaped dairy had a floorspace of 201 sq m and the replacement dwelling would have a footprint of 239 sq m, and that with the accommodation in the roof, the total floorspace would be 327 sq m. Although introducing accommodation within the roof, I am advised that the ridge height would be no higher than the existing ridge height, as a result of setting into the ground. Whilst the proposed would be larger than the existing, it does not seem to me that the increase in size would be material in terms of its relationship with the site and surrounding buildings and its rural context.
11. Policy DP26 of the District Plan seeks for development to be well designed and reflect the local context and the Council has recently adopted its SPD, seeking to inform and guide the quality of development across the District. The images on the front of the SPD indicate the wide range of design styles found within the District. I have also had regard to the High Weald Housing Design Guide (Design Guide).
12. I consider that the proposed design would be appropriate to the rural location. It would be of an unembellished and regular, L shaped footprint; the regular footprint would reflect the style and design of the former buildings on the site, typical of a farmyard location. The larger openings and roof lights would face away from the principal areas of public access and visibility. On the southern and eastern elevations, the openings would be smaller and the proportions of openings to solid walls would, in my view, respect the rural vernacular style.
13. The use of gable ends would reference the existing buildings on the site to be replaced. Although clay tile roofs are more typical of the High Weald area as set out in the Design Guide, the existing site and adjoining buildings have a broader mix of materials. The use of brick, timber cladding and slate would reflect the range of existing materials on the site and in the vicinity, including with regard to the converted granary building which it would be directly adjacent. Details of the materials would be reserved out to ensure that these would be of high quality and respect the local area.
14. There would be an element of flat roof in the middle of the building, which would not be a feature typically found within the local area. The SPD also advises against crown roofs, particularly where they would be visible in the street scene. However, the element of flat roof would be relatively small scale and, in many views, particularly at short distance, would be largely screened and contained by the surrounding roof slopes. Given the relatively small scale of the area of flat roof, it would not be a dominant factor in terms of the overall composition of dwellings in this rural location; in this instance it would assist in reducing the height of the building without detracting from the overall composition and high quality design.
15. I am therefore satisfied that the proposed development would be of a high quality design which would respect the rural character and appearance of the local area and conserve the landscape and scenic beauty of the AONB. There would be no conflict with Policy DP16 of the District Plan, Policy 3 of the

Balcombe Neighbourhood Plan and the Framework in this regard. I have noted that the inclusion of an element of flat roof would not necessarily accord with the detailed guidance of the SPD, but taking the composition and design as a whole, I am also satisfied that it would respect the guidance and principles in Policy DP26 of the District Plan and the SPD, as well as the Design Guide to ensure a high quality design which is respectful of its local context and siting within the AONB.

Issue b) Accessibility to Local Services

16. Policy DP21 of the District Plan seeks, amongst other things, to ensure that development is sustainably located to minimise the need to travel, with appropriate opportunities for alternative means of travel. I acknowledge that the site is located in the countryside and, although there is development in the close vicinity, it would be very likely that the occupiers of the dwelling would be reliant on the private car for many journeys. It would therefore conflict with the objectives of this policy.
17. However, the existence of an extant permission for the re-use of existing buildings to create a 3 bedroom dwelling is a material consideration of great weight in my decision. The proposed dwelling would be larger than the existing but I do not consider that the change from 1 x 3 bedroom dwelling to 1 x 5 bedroom dwelling would be significant in terms of accessibility matters and potential car trips.
18. I am satisfied that the proposal before me would not be materially different in terms of its accessibility to local services and reliance on the private car, compared with the extant permission for the same site. Although I recognise that the site would conflict with Policy DP21 of the District Plan when viewed in isolation, the existence of a comparable fallback position leads me to conclude that withholding permission on this matter would not be justified.

Other Considerations

19. Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. In this case, the European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). I am advised that the potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.
20. I have considered the Habitats Regulations Assessment screening report undertaken for the proposed development by the Council at the application stage. I note that the proposed development would be outside of the 7km zone of influence around the Ashdown Forest SPA and that as a result no mitigation would be required in respect of recreational disturbance. In respect of atmospheric pollution, the development would be regarded as windfall development and therefore any potential effects have been incorporated into existing assessments which have concluded that there would not be an overall impact on the Ashdown Forest SAC.

21. I consider the screening report undertaken by the Council to have been thorough and robust and no new or different information has been provided to me to indicate that I need reconsider the screening undertaken at the application stage. I am therefore also satisfied that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development. I further agree that, as a result of the screening process undertaken, a full HRA of the proposed development is not required.
22. A window would be proposed at first floor level facing towards the front garden area of the former granary building. However, given the siting of this proposal in relation to that building and the buildings beyond and the distance to the boundaries, I am satisfied that there would be no material impact on the living conditions of the neighbours, with particular regard to overlooking and loss of privacy. The Council also raised no issue in this regard.

Conditions

23. The Council has suggested a number of conditions in the event of planning permission being granted.
24. A condition is required to ensure appropriate foul and surface drainage for the proposed dwelling. In order to be effective, it is my view that this condition relating to drainage matters requires to be a pre-commencement condition. In accordance with Section 100ZA (5) of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, I have therefore requested and received the Appellant's written agreement to the imposition of this condition.
25. I agree that conditions are required in respect of materials and landscaping and boundary treatments to protect the character and appearance of the local area. However, in respect of external materials I consider that these details require to be approved prior to construction above slab level, rather than prior to commencement and this slight change in the timing would not adversely affect the character and appearance of the local area. Conditions to require the access, parking arrangements, including cycle and electric vehicle charging space are required both to ensure highway safety and sustainable transport options. The biodiversity condition is required in the interests of protecting matters of ecological importance.
26. I agree that the existing buildings and structures on the site and as shown for removal require to be cleared to protect the character and appearance of the local area. However, given their siting in relation to the new development and the works proposed across the site, I propose that the condition should require them to be cleared prior to first occupation. I do not consider that the amendment to the timing would prejudice the Appellant or the Council.
27. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Similar advice is also set out in the Planning Practice Guidance. In the particular circumstances of this case, I do not consider that such a condition would pass the test of reasonableness or necessity.
28. I shall list the approved plans for the avoidance of doubt and in the interests of good planning.

Conclusion

29. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions (1 – 10 inclusive):

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 441832_303 Rev A; 441832_001 Rev A; 441832_302 Rev B; 441832_301 Rev D; 441832_003.
- 3) The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. The dwelling shall not be occupied until all the approved drainage works have been carried out in accordance with the agreed details.
- 4) Notwithstanding Condition 2, no development shall be carried out above slab level unless and until a schedule of materials and finishes to be used for the external walls and roofs of the dwelling hereby permitted has been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority.
- 5) Notwithstanding Condition 2, the development shall not be occupied unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of a hard and soft landscaping scheme including detailed landscape drawings and details of boundary treatments, including screen walls/fences and hedges and materials for hard landscaping areas. These works shall be carried out as approved. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 6) No part of the development hereby permitted shall be first occupied until the vehicle parking and turning area has been constructed in accordance with the details shown on plan no 441832_302 Rev B. This area shall thereafter be retained for its designated use.

- 7) No part of the development hereby permitted shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be first submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained for their designated use.
- 8) No part of the development hereby permitted shall be first occupied until at least one electric vehicle charging space has been provided in accordance with plans and details to be first submitted to and approved in writing by the Local Planning Authority. The electric charging space shall thereafter be retained for its designated use.
- 9) Prior to the occupation of the dwelling hereby permitted, the recommendations set out in the Bat and Owl Survey report by Martin Newcombe, dated 19th December 2017 shall be implemented in full unless otherwise agreed in writing by the Local Planning Authority
- 10) Prior to first occupation of the dwelling hereby permitted, all the existing buildings and structures shown on plan nos. 441832_001 Rev A and 441832_302 Rev B shall be demolished, all materials arising from such demolition removed from the site and the site cleared.