



Appeal Decision

Site visit made on 6 September 2021

By Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2021

Appeal Ref: APP/U1430/W/21/3268191

25 Tollgates, Battle TN33 0JA

- 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 Simon Bowyer against the decision of Rother District Council.
 - The application RR/2020/164/P, dated 23 January 2020, was refused by notice dated 5 August 2020.
 - The development proposed is demolition of dwelling and erection of four detached dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of dwelling and erection of four detached dwellings with associated access, parking and landscaping at 25 Tollgates, Battle TN33 0JA in accordance with the terms of the application RR/2020/164/P, dated 23 January 2020, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appellant has submitted revised site and block plans with the appeal reducing the visitor parking from 2 spaces to 1 space adjacent to the boundary with The Oasthouse, Lower Almonry Farm¹. As this revision would reduce the amount of proposed development along the boundary with the adjacent house, I consider that it would not prejudice the interests of any parties and in accordance with the principles in the *Wheatcroft* judgement², I have taken the revised plans into account.
3. The appellant has submitted further information on the proposed foul and surface water drainage with the appeal. This information partly overcomes the concerns of the Local Lead Flood Authority and the remainder of its concerns could be addressed through the imposition of a condition. In light of the Local Lead Flood Authority's revised advice, the Council is no longer pursuing the reason for refusal relating to surface water flood risk.
4. Both the block plan submitted with the application and that submitted with the appeal are titled '2 x pairs of semi-detached 3 bedroom houses'. As the dwellings on the block plan and detailed plans and elevations are all detached that title is clearly incorrect and should be disregarded. For the purposes of the appeal, I have considered the proposed development as described in the banner heading above and as shown on the submitted plans.

¹ Site location plan 18.02.2.P.010/B and proposed block plan 18.02.2.P.100/D

² *Bernard Wheatcroft Ltd v SSE* [JPL 1982 p37]

Main Issues

5. The main issues are the effect of the development on:
- the character and appearance of the locality;
 - the setting of The Oasthouse, Lower Almonry Farm; and
 - the living conditions of the occupants of The Oasthouse, Lower Almonry Farm, with regard to noise and disturbance.

Reasons

Character and appearance

6. Tollgates forms part of a residential estate of bungalows and chalet bungalows set back from the road frontage with well established, largely open front gardens. Although there is some variation in building designs, they share a common palette of materials which provides a similarity in appearance. This similarity, together with the well-tended gardens creates a neat, domestic character to the estate.
7. This character is consistent along most of Tollgates. However, as one approaches the end of the road, and in particular once views down the spur road are gained, the character changes with the more recent development of 4 dwellings adjacent to the appeal site³, and a larger residential estate development beyond⁴ being apparent. These buildings are well designed but have differing characteristics to those found in Tollgates being of a higher density, different form and materials and having shorter front gardens.
8. The change in character currently occurs between 25 Tollgates and the newly built houses. The proposed development would move the point at which the change in character occurred such that it would include the appeal site, with the 4 proposed dwellings being visually associated with the new development to the south rather than the dwellings along Tollgates. This would make the change in character more apparent in the approach along Tollgates but would lessen the contrast in character along the spur road, where it would result in a more consistent approach to the new estate.
9. It is also the case that in the vicinity of the appeal site, there is greater variation in building styles with a 1970s style, two storey house at 45 North Trade Road, and traditional buildings at Lower Almonry Farm and The Oasthouse.
10. The proposed 4 dwellings would be laid out in a similar pattern to the recent development adjacent to the site. While I note the Council's comments as regards density, the buildings themselves would exhibit similar spacing and frontage separations. I consider they would not appear cramped and would relate well to the new dwellings adjacent to the site. The most prominent landscaping on the site, the line of trees and hedging along the northern boundary, would be retained. Additional planting could be the subject of a condition.

³ RR/2018/1934/P

⁴ RR/2017/1259/P and RR/2020/165/P

11. I acknowledge the proposed development would reduce the similarity of appearance of buildings at the very end of Tollgates, but it would be consistent with the character and appearance of the newer development and present a more coherent approach to the new estate. I consider these aspects balance out such that the change would be neutral in its effect on the overall appearance of the locality. There would be a change in the point at which the differing residential characters of Tollgates and the new housing development met, but that change would not be harmful. The proposed development would therefore accord with Policies OSS4, EN1 and EN3 of the Rother Local Plan Core Strategy 2014, Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan 2018, which require new development to be of high design quality which respects and does not detract from the character and appearance of the locality.

Setting of The Oasthouse, Lower Almonry Farm

12. The Oasthouse, Lower Almonry Farm is a non-designated heritage asset adjacent to the appeal site. Its significance results from its former use as an oasthouse and its historical association with the grade II listed Lower Almonry Farm situated to the north.
13. The historical significance of the oasthouse has been reduced to an extent through its conversion to a residential dwelling, and its setting limited through the residential development that has taken place to its north and west. The proposed development of the appeal site would introduce new residential dwellings closer to the oasthouse, but these would have only a limited visual impact on it as the appeal site is already in residential use. The proposal would not impinge on the remaining open countryside setting of the oasthouse or intrude into its relationship with the listed farmhouse to the north.
14. Development to the south and south west of the oasthouse, including the recent development of 4 houses adjacent to the appeal site, was found to be acceptable in respect of the setting of the oasthouse. The proposed development would bring dwellings closer to the oasthouse than the neighbouring developments, but in all other respects the relationship would be very similar. A conifer hedge and trees along the joint boundary would be removed as part of the development. However, the boundary fence would remain, and the amended layout plan would enable some replacement planting to take place along the boundary. It would therefore remain visually and physically separate.
15. Paragraph 203 of the National Planning Policy Framework says that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. I conclude that while the development would bring buildings closer to the oasthouse, given the limited significance of the heritage asset, the existing residential use of the site and the surrounding residential development, the proposal would not have a detrimental impact on its setting.

Living conditions

16. The Oasthouse, Lower Almonry Farm sits close to the boundary with the appeal site and at a lower level. The proposed development would bring dwellings closer to the oasthouse, but the use of the land for residential purposes would

be the same as existing, and the nearest dwelling would be set off from the boundary. Although the development would make a more intensive use of the site than the existing property, the relationship between the existing and proposed dwellings would be similar to that found in many residential neighbourhoods, and would not result in unacceptable levels of noise or disturbance to either set of occupants.

17. The driveway and turning head that would serve the nearest dwellings is already in position as part of the neighbouring development. The provision of 1 additional visitor space, as shown on the revised layout plan, would not increase traffic movements close to the joint boundary to any significant extent. Boundary fencing and screen planting can be made the subject of a condition.
18. I conclude that the development would not have a harmful impact on the living conditions of the occupants of The Oasthouse, Lower Almonry Farm, and therefore would not conflict with Policy OSS4 of the Rother Local Plan Core Strategy 2014 which amongst other criteria requires that new development does not unreasonably harm the amenities of adjoining properties.

Other Matters

19. The site falls partly outside the built up area boundary of Battle as defined in the Rother Local Plan 2006. However, having regard to housing land supply and the permissions being implemented for development to the south, which lie entirely outside the built up area boundary, the Council has not sought to argue against the principle of residential development of the site.
20. Concern has been raised about a number of matters including precedent, highway safety and disruption during construction. Every development proposal has to be determined on its own merits, and that would be the case for any future proposals to redevelop land in the vicinity. The Highway Authority was consulted on the proposal but has raised no objection on highway safety grounds, and I see no reason for disagreeing with that assessment. Disruption during the construction phase may occur but is temporary in nature and therefore not a reason for preventing the development.
21. Concern has also been raised by some of the occupants of the new dwellings adjacent to the appeal site with regard to overlooking, management and maintenance of the drive and private sewerage arrangements. The separation distance between the front elevations of the facing dwellings is sufficient to avoid unacceptable overlooking. Maintenance of the drive and problems associated with the private sewerage arrangements are private matters for resolution between the respective landowners and lie outside the scope of this appeal.

Conditions

22. I have considered the conditions suggested by the Council against the tests set out in paragraph 56 of the National Planning Policy Framework and imposed them where they meet those tests, subject to minor rewording in the interests of clarity and consistency. I have avoided the use of pre-commencement conditions.
23. In addition to a time limit condition, a condition listing the approved plans is necessary in the interests of certainty.

24. A condition requiring archaeological investigation is necessary and reasonable in this case because of it being within an area designated as being of archaeological interest. I consider demolition works could be carried out prior to such investigation without disturbing any remains below the ground. I have combined 2 suggested conditions on archaeology into 1 for simplicity.
25. Details of surface water drainage are necessary to avoid surface water flooding on the site or on neighbouring land. I have combined to 2 suggested conditions into 1. The permeability of driveways can be secured as part of the approved details and their retention thereafter forms part of the conditional requirement. Any further control over national permitted development rights would not be justifiable.
26. Details of external materials, parking and turning areas, and hard and soft landscaping are necessary in the interests of the appearance of the finished development and highway safety. The hard and soft landscaping details encompass boundary treatments, including that along the boundary with The Oasthouse, Lower Almonry Farm, in the interests of privacy for of its occupants. A condition requiring replacement of any defective planting is necessary in the long term interests of landscaping on the site.

Conclusion

27. I have found that the development would result in change to the character and appearance of the locality but have concluded that the change would not be harmful. I have also concluded that the development would not adversely affect the setting of The Oasthouse, Lower Almonry Farm or the living conditions of its occupants. The proposal would therefore accord with the development plan when taken as a whole. There are no material considerations which indicate my decision should be other than in accordance with the development plan.
28. Consequently, I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
18.02.2.P/010 Rev B
18.02.2.P.100 Rev D
18.02.2.P.200 Rev A
18.02.2.P.400
- 3) No development, including ground works, other than for the demolition of the existing buildings on the site shall commence until a written scheme of archaeological investigation has been submitted to and approved in writing

by the Local Planning Authority. The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological findings shall be submitted to the Local Planning Authority within 3 months of the completion of the archaeological investigation.

- 4) No development above ground level shall commence until details of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The approved surface water drainage scheme shall be completed before occupation of any of the dwellings hereby permitted and thereafter retained.
- 5) No development above ground level shall commence until details of the external materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 6) None of the dwellings hereby permitted shall be occupied until the parking and turning areas have been provided in accordance with the approved block plan (drawing 18.02.2.P.100 Rev D) and the parking and turning areas shall be retained thereafter for their intended purposes.
- 7) No development above ground level shall commence until details of hard and soft landscaping on the site, including proposed boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. The soft landscaping details shall include details for all new planting within the site and a programme of implementation.
- 8) If within a period of 5 years from the date of planting, any tree or plant, or any replacement tree or plant, is removed, uprooted, destroyed or dies, another tree or plant of the same species and size as that originally approved shall be planted in the same place.

*****End of Conditions*****