



Appeal Decisions

Site visit made on 19 July 2022

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 August 2022

Appeal A Ref: APP/U1430/C/21/3288724

Land at Telham Meadows, Hastings Road, Battle, East Sussex TN33 0SH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Clare Gilchrist against an enforcement notice issued by Rother District Council.
- The notice was issued on 8 December 2021.
- The breach of planning control as alleged in the notice is:

Without planning permission,

- i) the creation of a new area of hardstanding on the Land shown in the approximate position hatched blue on the plan attached ("the Hardstanding"),
- ii) drainage works connecting a static caravan to foul mains drainage shown in the approximate position by a black dot on the plan attached,
- iii) creation of a new unauthorised access into the Land shown coloured purple on the attached plan onto a classified road ("the Access") and a new access track shown in the approximate position hatched grey on the attached plan ("the Track") (altogether referred to as "the Unauthorised Development")

Without planning permission, the material change of use of the Land from agriculture to a mixed use comprising agriculture with the stationing of a static caravan ("the Caravan") for residential use unconnected with agriculture and shown in the approximate position coloured red on the attached plan and the storage of domestic paraphernalia on the Land associated with the residential use ("the Unauthorised Change of Use").

- The requirements of the notice are to:
 - i) Break up and remove from the Land all imported materials used to create the Hardstanding in their entirety, including but not limited to hardcore, bricks, rubble, road planings and any membrane.
 - ii) Break up and remove from the Land all imported materials used to create the Track in their entirety, including but not limited to road planings.
 - iii) Reinstate the former field access, shown in the approximate position with an X on the attached plan and completely stop up the Access.
 - iv) Cease the Unauthorised Change of Use of the Land.
 - v) Remove from the Land the Caravan in its entirety including any foul drainage connections and remove all pipes connected to the mains foul drainage
 - vi) Remove from the Land all other domestic paraphernalia connected to or associated with the Unauthorised Change of Use including, but not limited to, vehicles, wheelie bins, external steps to the caravan, gas canisters and personal possessions, children's play equipment and all rubbish, rubble, debris arising from compliance with steps i) to vii) above.
 - vii) Return the Land to its former condition before the breaches took place.
- The period for compliance with the requirement is: six months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Appeal B Ref: APP/U1430/W/21/3287672

Telham Meadows, Hastings Road, Battle TN33 0SH

- 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 Mrs Clare Gilchrist against the decision of Rother District Council.
- The application Ref RR/2021/1591/P, dated 21 June 2021, was refused by notice dated 29 October 2021.
- The development proposed was described as the “remove existing structures and replace with one residential dwelling. Seeking retrospective planning approval for the siting of emergency temporary mobile home, minor site clearance, access and drive widening. (Resubmission following refusal of RR/2020/2501/P).”

Summary Decision: The appeal is allowed and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. Appeal A relates to an enforcement notice alleging the use of land for a residentially occupied static caravan and operational development to facilitate its stationing on the land. I understand that this has been located on the site and occupied whilst the appellant seeks planning permission for a residential dwelling on the site. The appeal on ground (a) and deemed planning application seek its retention on the site for a temporary period for that purpose.
2. Appeal B relates to the construction of a residential dwelling on the land and stationing of a residentially occupied static caravan until the dwelling has been constructed and occupied. The decision on appeal B is likely to be a material consideration in relation to appeal A.
3. As a result, I will deal with appeal B first. I note also that section 180 of the Act states that if, after service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
4. For clarity, the enforcement notice subject of appeal A refers to a static caravan and the planning application subject of appeal B refers to a mobile home. My understanding is that these relate to the same structure. Both appear to relate to a caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended. I will use the terms interchangeably in my decision.

The enforcement notice

5. The provisions of s176(1) of the Act give Inspectors wide ranging powers to correct or vary enforcement notices in order to get them “in order”, provided that such alterations would not result in injustice to any party.
6. The enforcement notice separates the breach of planning control into two sections, the operational development and the change of use. At the end of the section dealing with the operational development it states they will be referred to as “the Unauthorised Development”. As the change of use is also a form of development, this isn’t as clear as it could be. I will correct the enforcement notice to state “the Unauthorised Operational Development” for clarity.
7. Requirement vi) of the enforcement notice refers to removal of materials arising from compliance with the “steps i) to vii) above”. However, there are

only five steps above that, such that the enforcement notice needs to be corrected to refer to steps i) to v).

8. Given the nature of these minor changes, they will not result in injustice to any party.

Appeal B

9. The description of development refers to the siting of the mobile home being retrospective. However, that is not a description of development so I will consider the stationing of a mobile home in connection with and for the duration of the operations associated with the construction of the dwelling.

Appeal B

Main issues

10. The main issues are:

- whether the proposal is in a suitable location in terms of access to settlements, services and facilities; and
- whether the dwelling would conserve and enhance the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty.

Reasons

Location

11. Telham Meadows comprises a modest site comprising two former agricultural buildings within a small yard. It is located within a small group of buildings, including a number of houses and public house. Within a short distance are also a church, car dealership and care home. Crowhurst Park, a complex of holiday chalets, provides further services and facilities nearby. It is located close to the town of Battle that provides a range of services and facilities, including shops, schools and train station. There are bus stops on both sides of the road close to the site serviced by a number of bus routes leading to or through Hastings and Battle.
12. The services in the area immediately surrounding the site are accessible on foot, with a footway opposite the site to the church and on the same side of the road between the public house and care home. It is a busy main road and unattractive to walk alongside for any distance, but those services and facilities would be accessible on foot. Other services and facilities, including work, would be accessible via a variety of transport modes such as bus or bicycle as well as car.
13. For these reasons, the site is not isolated. However, it is outside any defined settlement and within the countryside. Policy RA3 of the Rother Local Plan Core Strategy (CS) and Policy DIM2 of the Development and Site Allocations Local Plan (DSALP) relate to development in the countryside and that it should normally be limited to that according with Local Plan policies, with the creation of new dwellings allowed only in extremely limited circumstances. Policy RA3 of the CS lists a number of such circumstances, such as the conversion of traditional historic farm buildings and replacement dwellings, although that list is not exhaustive. None of the listed circumstances apply in this instance.

14. A dwelling in this location would support the nearby services and facilities and further services and facilities in nearby settlements, with access possible including by public transport or bicycle. Consequently, I conclude that the location is not unsuitable in terms of access to settlements, services and facilities. The development seeks to provide a modest dwelling to reflect the style of a traditional rural building, replacing an existing small yard containing small former agricultural buildings, albeit not previously developed land. On balance, whilst not falling within the circumstances listed in Policy RA3 of the CS, it would not conflict with that policy or Policy DIM2 of the DSALP.
15. In addition, it would not conflict with Policies OSS2, OSS3 and TR3 of the CS and Policy HD1 of the Battle Civil Parish Neighbourhood Plan (NP). These policies define development boundaries and seek to direct most development toward areas within those boundaries with good access to services and facilities and to minimise the need to travel. Neither would it conflict with the National Planning Policy Framework (the Framework) that seeks to promote sustainable development in rural areas, including locating housing where it will enhance or maintain the vitality of rural communities and avoiding the development of isolated homes in the countryside.
16. My attention has been drawn to another appeal decision for four dwellings on a grass paddock along the road. That appears to be closer to the services and facilities provided in the town of Battle, but without any other services and facilities in the vicinity of that site. The Inspector in that case concluded that bus services were infrequent, but the bus times I have been provided in this case suggest they would allow movement for access to various services and facilities if the appellant chose that method of transport. Consequently, the circumstances presented in this case differ from those subject of that decision.

High Weald Area of Outstanding Natural Beauty

17. The Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty (AONB), such as the High Weald. The High Weald AONB comprises small fields and woodlands interspersed with groups of agricultural or former agricultural buildings and settlements in a hilly landscape. The land at Telham Meadows is on the edge of a small settlement, next to the historic Hemingfold Farmhouse and close to the ridge of a hill.
18. The site comprises a narrow frontage to Hastings Road with access route to a cleared yard, containing two small buildings, the front elevation of the larger building constructed in concrete block and in view from the road. A mobile home, subject of the enforcement notice appeal, is located to the side of the site. The appearance of this small yard reflects its rural location, although does not contribute to the landscape and scenic beauty of the AONB.
19. To the rear of the site are open fields, with a public footpath on a track beyond. Given the topography, there are limited views of the site from that path. The neighbouring dwelling has a number of outbuildings, mostly between the dwelling and access to this site but also a stable block to the rear, next to the location of the proposed dwelling.
20. The proposed dwelling is designed to reflect the appearance of a converted barn, with a clay tiled roof containing rooms above charred timber clad walls and a detached garage. They would be more substantial buildings than the

existing structures and the roof is likely to be visible over the neighbouring stables. Nevertheless, the dwelling and garage would reflect the landscape and scenic beauty of the AONB.

21. The proposed dwelling is located further from the road than the neighbouring dwelling and public house. This location means that it would extend domestic development, both in terms of built development and domestic paraphernalia within the curtilage, into the countryside surrounding the built development. Nevertheless, it would result in landscaping of the existing yard to provide a garden. The appellant suggests that further details of that landscaping could be required by condition. Whilst views of this from public vantage points to the rear are limited, such landscaping would result in minor enhancement to the landscape and scenic beauty of the AONB.
22. I note that the access route has been moved across the frontage of the plot. Some vegetation has also been removed from around the access that has opened up visibility of the site from the road. That results in the development on the site being slightly more visible, but development is set away from the road, further than neighbouring buildings, and appropriate additional landscaping would obscure the development to some extent.
23. For these reasons and on balance, I conclude that the proposed development would conserve and enhance the landscape and scenic beauty of the AONB. As such, it would comply with Policies OSS4, RA2, RA3 and EN1 of the CS, Policies DEN1 and DEN2 of the DSALP, Policies HD1 and HD5 of the NP, The High Weald Management Plan and the Framework. Those policies seek development within the AONB to conserve and seek to enhance the landscape and scenic beauty, including the distinctive landscape character and settlement pattern.

Other matters

24. Hemingfold Farmhouse neighbours the site and comprises a grade II listed building with outbuildings. It is a traditional farmhouse of a vernacular style constructed in the seventeenth century. Its significance as a listed building arises from that traditional appearance and contribution to this rural area. Taking account of its modest scale and design reflecting the appearance of a farm building, the proposed dwelling would not affect the significance of that listed building or its setting.
25. The Blackhorse Public House is located to the other side of the site and is also grade II listed. It is an eighteenth century building originally comprising two dwellings with more recent, nineteenth century, extension. Its significance derives from its prominent relationship with the road. The subservient location further from the road, combined with the design and scale of the proposed dwelling, means that it would not harm the setting or significance of that listed building.
26. My attention has been drawn to Policy HD8 of the NP that relates to the town centre boundary and main shopping area of Battle. The proposed development is located away from the town centre, such that it would not conflict with that policy.
27. The proposed dwelling would result in windows overlooking the surrounding fields and toward the road. However, they would not result in overlooking of neighbouring dwellings or private gardens. There are likely to be more

movements from the dwelling than the previous use but, given the scale of development and location next to public house and on a busy main road, this would not materially increase noise and disturbance in this location. As such, the dwelling would not affect the living conditions of neighbouring occupiers. I note that the dwelling would be close to the rear of the neighbouring stables and paddock, but I consider this would not affect the ability to keep horses on that neighbouring land. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property. I have considered this case on its individual merits.

28. I note that this would be a self-build dwelling that would contribute to the supply of housing. The Council indicate that they do not have a five year supply of deliverable housing sites. Consequently, these factors add weight in favour of the development.

29. The Town and Country Planning (General Permitted Development) (England) Order 1995 at Schedule 2, Part 5, Class A allows the siting of a caravan for the accommodation of workers carrying out building operations, provided it is removed as soon as reasonably practicable. I have taken this into account as a fall-back position in relation to the temporary siting and residential occupation of the mobile home during the course of development of the dwelling. I will also reflect this in any conditions relating to provision of a caravan on site.

Conditions

30. To meet legislative requirements, a condition shall be imposed to address the period for commencement. I shall also impose conditions for the following reasons.

31. I shall impose a condition specifying the relevant drawings as this provides certainty. A condition is necessary for samples of materials, and details of the eaves and rooflights, to be submitted and approved before above ground works on the dwelling commence to ensure that the building is constructed in materials and to details that would maintain the landscape and scenic beauty of the AONB and protect the setting of neighbouring listed buildings.

32. Details of landscaping works, including details of hard surfacing and means of enclosure, are necessary prior to occupation of the dwelling in order to ensure the development would reflect the landscape and scenic beauty of the AONB. A condition requiring the implementation of landscaping and replacement of any planting should it die, be removed or become seriously damaged or diseased is necessary for the same reason.

33. A condition limiting the use and occupation of the mobile home during the course of construction and ensure its removal once the dwelling is occupied is necessary in order to protect the landscape and scenic beauty of the AONB.

Conclusion

34. For the reasons set out above, I conclude that on balance the development accords with the development plan. The appeal therefore succeeds.

Appeal A on Ground (a) and the Deemed Planning Application

35. I note that the appellant seeks to retain the caravan for a temporary period whilst the development subject of appeal B takes place and I have dealt with that under appeal A. Nevertheless, the enforcement notice relates to permanent siting of a caravan and other development, so I need to consider the development alleged should the development subject of appeal B not take place.

36. I have already concluded that planning permission should be granted in appeal B, which includes temporary stationing and occupation of a mobile home whilst that development takes place. As such, and taking account of section 180 of the Act, I will not consider temporary grant of planning permission in relation to this appeal.

Main issue

37. Whether the creation of hardstanding and new access, drainage works and use of land for the stationing of residentially occupied caravan with associated domestic paraphernalia conserves and enhances the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty.

Reasons

38. The caravan is located to the side of the plot, close to the stables on the neighbouring property. It is seen in views across the fields to the rear, albeit there is limited visibility from public vantage points, apart from oblique views from the road. It is within the yard and mobile homes are not unusual within rural areas. Nevertheless, I have already concluded the yard does not conserve or enhance the landscape and scenic beauty of the AONB. The mobile home, combined with the other operational development and residential use with associated paraphernalia, further adds to this negative contribution to the landscape and scenic beauty.

39. As a result, the development subject of the enforcement notice does not conserve or enhance the landscape and scenic beauty of the AONB. It would conflict with Policies OSS4, RA2, RA3 and EN1 of the CS, Policies DEN1 and DEN2 of the DSALP, Policies HD1 and HD5 of the NP, The High Weald Management Plan and the Framework.

Conclusion

40. For the reasons set out above, I conclude that on balance the development does not accord with the development plan. The appeal on ground (a) therefore fails.

Formal Decisions

Appeal A

41. It is directed that the enforcement notice is corrected by:

- the deletion of the words "the Unauthorised Development" and "Unlawful Development" and the substitution of the words "the Unauthorised Operational Development" wherever they appear in the enforcement notice; and

- the deletion of the words “steps i) to vii)” and the substitution of the words “steps i) to v)” in paragraph vi) of section 6. What You Are Required To Do.
42. Subject to the corrections the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

43. The appeal is allowed and planning permission is granted for the removal of existing structures and replacement with residential dwelling, siting of temporary mobile home, minor site clearance, access and drive widening at Telham Meadows, Battle, TN33 0SH in accordance with the terms of the application, Ref RR/2021/1591/P, dated 21 June 2021, subject to the following conditions:
- 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:
 - Proposed block plan: drawing no. HH109GIL/01
 - Existing site plan: drawing no. HH109GIL/02
 - Proposed site plan with street view: drawing no. HH109GIL/03
 - Elevations: drawing no. HH109GIL/04
 - Proposed dwelling: floor layouts: drawing no. HH109GIL/05.
 - 3) No above ground works on the dwelling shall commence until details of the following have been submitted and approved by the local planning authority, and the development shall thereafter be completed in accordance with the approved details:
 - 1:10 scale drawings of proposed eaves details (which shall be open eaves, with no boxed fascia’s);
 - Samples of the materials to be used in the construction of all external faces of the buildings, including the clay tiles to be used for the roof (bonnet tiles shall be used on the half-hips); and
 - Details of the rooflights to be used (which shall be in the form of conservation style rooflights).
 - 4) The dwelling shall not be occupied until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
 - 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the 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.
 - 6) The mobile home (a caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) shall only be sited in connection with and for the duration of the operations

associated with the construction of the dwelling. Within one month of the dwelling being occupied the mobile home shall be removed from the site.

AJ Steen

INSPECTOR