



Appeal Decision

Site visit made on 23 August 2022

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Appeal Ref: APP/C1435/W/21/3282829

Star Lodge, Burnt Oak Lane, Waldron TN21 0NN

- 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 Nigel Horsley against the decision of Wealden District Council.
 - The application Ref WD/2019/2211/F, dated 14 October 2019, was refused by notice dated 22 July 2021.
 - The development proposed is proposed re-siting of dwelling approved under WD/2017/0104.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In 2017 permission was granted for the conversion and extension of an existing garage on the appeal site to form a dwelling, Ref: WD/2017/0104F. The Appellant has indicated that works to commence this conversion have begun but not fully implemented. Subsequently, the Council granted permission for a new garage within the plot of the adjacent property, Knaves Acres, Ref: WD/2017/2270. The appellant contends that this garage, which has now been built, would adversely affect the living conditions of the occupants of the conversion and was the main reason for seeking permission to re-site the dwelling. I return to this matter later.
3. The application form described the development as set out in the above banner heading. The Council's decision notice and the appeal form include the retention of the existing outbuilding in the description. The evidence indicates this was the Appellant's intention. I have dealt with the appeal on that basis.

Main Issues

4. The main issues are:
 - a) Whether the site is a suitable location for a new dwelling having regard to local and national policies for the delivery of housing.
 - b) The effect of the proposal on the character and appearance of the High Weald Area of Outstanding Natural Beauty (AONB);

Reasons

5. The Appellant suggested that the retention of the existing building in its current form and use could be secured by means of a planning condition. However, planning conditions cannot be used to prevent an extant but unimplemented permission from being carried out. This would require a planning obligation,

even if there was clear evidence that the original permission had commenced. In any event, there is no mechanism within the appeal submissions to abandon a lawfully implementable development. There is therefore nothing to prevent the creation of two dwellings on the site. Whilst that may not be the Appellant's intention, it is necessary for me to assess the implications of allowing the appeal without such controls in place.

Location

6. The appeal site is in a remote location at the end of a long rural lane within the High Weald AONB. The wider area is characterised by a few scattered dwellings some distance from any identifiable settlement. The appeal site is therefore in the countryside for the purposes of planning policy.
7. Saved Policy GD2 of the Wealden Local Plan 1998 (Local Plan) seeks to resist all development beyond settlement boundaries. Saved Policy DC17 of the Local Plan specifically resists residential development in the countryside, although the supporting text sets out a series of exceptional circumstances where housing may be acceptable. It has not been suggested that any of these exceptions apply in this case. The proposal for a new dwelling, as opposed to one created through the conversion of an existing building which would be assessed against different policies, would therefore be contrary to the Council's spatial strategy.
8. Policies SPO7 of the Wealden District (incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 (Core Strategy) seeks to reduce the need to travel by car. To achieve this aim, development will be concentrated where there are opportunities to use public transport and to improve the quality of journeys that can be made on foot or by bicycle.
9. Other than for the pleasure of walking in the countryside, it would be hard to envisage a place that would be less conducive to encouraging walking than the appeal site. There are no facilities of any consequence within walking distance. It would take about 10 minutes to cycle to Horam, which is nearly 2km away along narrow unlit country roads that are quite hilly. If future occupants had a car, the likelihood of them choosing to walk or cycle to Horam or Heathfield to meet their day-to-day needs would be extremely small. Without access to a car, anyone living here would feel isolated even though there are other dwellings within 400m of the site. Future residents would, in my view, be entirely reliant on private transport for any journeys that they would need to make. This would be the case even if they were able to reduce their travel needs by working from home and relying on home deliveries.
10. It is accepted that existing rural communities will continue to rely on private transport. However, building more homes in areas which perpetuate that dependence should not be done without specific justification. I note that Policy SPO8 of the Core Strategy encourages the growth of villages to support rural communities. However, the site is not in any village and in view of the distance between the appeal site and Horam, future residents would make minimal contribution to the viability of any local services provided there.
11. I therefore conclude that the appeal site is not a suitable location for a new dwelling. To do so would be conflict with all the above policies which seek to locate development within identified settlements and where a genuine choice of travel mode is available.

Character and appearance

12. The appeal site lies within the High Weald Area of Outstanding Natural Beauty (AONB), an area that has been designated nationally for its natural beauty and landscape quality. The appeal site is approached down a narrow lane that is enclosed by high hedges. The field in which it is proposed to construct the dwelling is overgrown and is not highly visible in the wider landscape. However, the AONB is protected for its overall landscape quality, which includes its tranquillity and sense of remoteness. The proposal would introduce an entirely new building into unspoilt, undeveloped and open countryside. This would be harmful to the AONB even if it could only be glimpsed from a few points in the surrounding area.
13. Although of identical design and footprint to the approved conversion, the new dwelling would extend the domestic curtilage beyond the existing site boundaries into agricultural land. This would amount to an encroachment into the undeveloped countryside, even if the remainder of the field was retained in agricultural use. There would be additional comings and goings associated with a residential dwelling and the use of the garden would introduce domestic paraphernalia. The proposal would therefore contribute to an erosion of the quality and natural beauty of the countryside. New hedgerow planting could help to screen the development. However, this would be a form of mitigation of harm rather than an enhancement of the landscape. In any event the purpose of landscaping is to integrate a development into its surroundings, not to hide something which is otherwise unacceptable.
14. For these reasons I conclude that the proposal would be harmful to the character and appearance of the High Weald AONB, contrary to saved Policies EN6 and EN27 of the Local Plan and SPO1 of the CS. These policies, among other things, seek to enhance and manage the District's nationally designated landscapes and only permit development within the AONB that conserves or enhances its natural beauty and character.

Other Considerations

Garage at Knaves Acre

15. A garage to serve the adjacent property Knaves Crofts has been erected close to the western boundary of the appeal site. On my site visit I was able to consider the relationship between this building and the proposed conversion of the garage at Star Lodge. The new garage is on higher ground. However, the windows in the western elevation of the conversion would be secondary ones. The kitchen would have full height windows that look out on the garden to the north. The bedroom would have double glazed doors looking east. Both rooms would therefore have adequate light and outlook.
16. The garage at Knaves Croft would appear somewhat overbearing when viewed from the secondary kitchen window. However, this would not be unduly harmful given the other openings and the proposed internal layout of the conversion. The secondary window serving the bedroom is much smaller, so would not result in the room feeling enclosed or oppressive. The bathroom is not a habitable room for the purposes of any assessment. Therefore, although the Council did not specifically address this matter when approving the garage at Knaves Croft, I am satisfied that its relationship with the conversion would be acceptable.

Housing land supply

17. The Council acknowledges that it is unable to demonstrate a five-year supply of deliverable housing sites (5YHLS). In these circumstances paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged. It is therefore necessary to consider the weight to be given to conflict with any development plan policies having regard to their consistency with the Framework.
18. The Framework seeks to boost the supply of housing by making effective use of land while safeguarding and improving the environment. It advises that rural housing should be located where it will enhance or maintain the vitality of rural communities and avoid the development of isolated homes in the countryside. It recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Nevertheless, it requires development proposals to take appropriate opportunities to promote sustainable transport modes having regard to location, and to give priority to pedestrian and cycle movements.
19. Although the Local Plan policies relating to the Council's spatial strategy and transport objectives were adopted many years ago, they are broadly consistent with these aims of the Framework. Conflict with them still carried moderate weight even in the absence of a 5YHLS. The Council's policies protecting the landscape and character of the High Weald AONB are entirely consistent with the Framework which states that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. Conflict with those policies therefore carry full weight in my assessment of the proposal.
20. Paragraph 11 d) i) indicates that where the application of policies that protect areas of particular importance provides a clear reason for refusing the development, the presumption in favour of sustainable development does not apply. In this case I have found harm to the High Weald AONB. Consequently, the Council's housing land supply shortfall is not a justification for applying the 'tilted balance' set out in paragraph 11 d) ii).

Conclusion

21. The proposal would result in the construction of an additional dwelling in the countryside, contrary to the strategic aims of the Local Plan. It would also cause harm to the High Weald AONB, a nationally designated landscape which the Framework advises has the highest status of protection in relation to the conservation and enhancement of its landscape and scenic beauty.
22. There are no other considerations, including the living conditions of the future occupants of the conversion of the existing building, which indicate that the appeal should be determined other than in accordance with the development plan.
23. For this reason, the appeal is dismissed.

S M Holden

INSPECTOR