
Appeal Decision

Site visit made on 27 September 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2022

Appeal Ref: APP/C1435/W/21/3284025

Brownings Manor, Lewes Road, Blackboys TN22 5HG

- 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 Daniel Tyler against the decision of Wealden District Council.
 - The application Ref WD/2021/0493/F, dated 1 March 2021, was refused by notice dated 23 July 2021.
 - The development proposed is use of land for the siting of an öd house for use as holiday accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is dispute between the main parties regarding the lawfulness of the track, which formed part of an earlier application for prior approval¹, given concerns for its length and use. However, it is not within the remit of the appeal to establish whether the track constitutes permitted development, and it nonetheless forms part of the appeal scheme. I have therefore included it in my assessment of the appeal.

Main Issues

3. The main issues are: the effect of the development proposed on the character and appearance of the area, including the High Weald Area of Outstanding Natural Beauty (AONB), and; whether the proposal benefits from suitable access and parking.

Reasons

Character and Appearance

4. The appeal site is in a rural location, south of the village of Blackboys and within the High Weald AONB. The site is located at the lowest point of a valley, bound by gently rising grass slopes to the north and south. It is set next to one of a series of ponds which extend from a drainage ditch which runs to the west. There are a number of dispersed mature trees set around the appeal site as well as more dense foliage surrounding the ditch. The access track already exists and extends in a straight line down the northern slope of the valley and along the line of the ditch and foliage, towards an existing barn used for storage.

¹ WD/2020/7052/AD

5. To the north, the land is bound by the hedgerows and trees which form the southern side of the B2192 Lewes Road. Residential properties exist to the north east of the appeal site, and experience outlook over the valley and grassland towards the appeal site. To the south, behind the slopes of the valley, a series of mature hedgerows divide the land and restrict long distance views. Together, the natural features of the valley and its gently undulating landscape contribute positively to the landscape character of this part of the AONB.
6. Saved Policy EN6 of the Wealden Local Plan 1998 (the WLP) refers specifically to development in the High Weald AONB and states that development will only be permitted if it conserves or enhances the natural beauty and character of the landscape, and lists characteristics which development should have particular regard to. Paragraph 176 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.
7. The proposed ööd house, would be distinctly modern in its design, incorporating mirrored panels set within a dark frame with crisp edges and set above a dark coloured steel chassis with wheels some 1.275m in height. While the mirrors would reflect the images of the surrounding landscape, the structure would remain visually pronounced by reason of its dark framing and chassis, and wood clad rear elevation, which together would prevent the structure from blending with the natural landscape. Instead, it would appear in stark contrast to the natural and verdant features that surround it. The visibility of the structure would be limited to localised views from around the slopes of the valley and from those properties to the north east. However, the impacts on those localised views would be significant, and the development would be heavily at odds with those attributes above which contribute positively to the character and appearance of the landscape. Despite the structure being relatively small in its footprint, it would, nonetheless, dilute the natural landscape character and would neither conserve or enhance the landscape and scenic beauty.
8. While there are some existing mature trees near the appeal site, these would do little to screen the development, particularly in winter months when leaf coverage would be substantially reduced, further exposing the structure. Due to the orientation of the glazed elevations, the extent of reflected sunlight would be limited. However this would not mitigate for, or reduce, the above concerns.
9. The Council have raised concerns for additional paraphernalia associated with the occupation of the site by tourists, including laying of a path connecting the accommodation to the parking area. The scale of the site for which the change of use is sought is limited to an area which wraps tightly around the area of the ööd house, thereby preventing significant additional sprawl. The path would also be laid in an area of more dense foliage, limiting its impacts on the landscape. In combination with the level of occupancy of the ööd house, which would be limited by its size, the additional impacts from paraphernalia are unlikely to be significant.
10. The access track has the appearance of a typical agricultural track which is not uncharacteristic in a rural setting, and experiences limited visibility due to its

position among the grassland. For these reasons the track conserves the character and appearance of the area and the special landscape character.

11. For the above reasons, the proposed ööd house structure would cause harm to the character and appearance of the area and fail to conserve or enhance the special landscape character of the AONB. In respect of this main issue, the development would conflict with saved policies TM1, EN6 and EN27 of the WLP insofar as they require development to conserve or enhance landscape character and promote local distinctiveness. There is also conflict with policies SPO1 of the Wealden Core Strategy Local Plan (the WCS). Consequently, there is also conflict with saved Policy EN1 of the WLP, which relates more generally to principles of sustainable development.
12. Insofar as it is relevant to the proposal, I do not find conflict with Policy SPO13 of the WCS which relates to the spatial strategy for the delivery of new homes. The implications of policy WCS14 of the WCS are discussed in turn below.

Access and Parking

13. At the time of my site visit the access track leading from the highway to the agricultural barn at the bottom of the valley was usable, and comprised a suitable top surface of predominantly loose stones. The track terminates in an area outside the barn where space exists for the parking and manoeuvring of vehicles. Based on the evidence and findings of my site visit, the use of the track to serve the tourist accommodation would not necessarily prohibit access to the barn for agricultural purposes.
14. For these reasons, the track would provide safe and suitable access to the proposed development, and the proposal would not cause harm to highway safety. The development would comply with saved policies TR3 and TR16 of the WLP which together require developments to have satisfactory accesses and safe pedestrian routes, and the objectives of the Framework relating to transport impacts.

Other Matters

15. The Council acknowledge the importance of tourism to the District's economy through generating income and investment, and helping maintain and enhance local services and amenities. The proposal would add an interesting and contemporary space to the District's range of tourist accommodation for overnight stays in an area with limited accommodation, which is a benefit of the proposal. In turn, the proposal would improve access to the countryside and deliver associated benefits to the well-being of its users, which is an important part of the social aspect of the three strands to sustainable development contained in paragraph 8 of the Framework.
16. In addition, the proposal would support the rural economy, which is encouraged by paragraph 84 of the Framework. However, paragraph 84 goes on to state that sustainable rural tourism should respect the character of the countryside, which is not the case for the appeal scheme.
17. Despite the identified benefits to its users, given the scale of the proposal, those benefits taken together would not outweigh the harm identified to the landscape character and the consequent conflict with other aspects of the Framework.

18. While many forms of tourist accommodation may have visual impacts on the landscape, individual proposals will inevitably vary and their acceptability depend on site specific circumstances and individual merits. Therefore, a generalised assumption that tourist accommodation presents landscape impacts does not alter my judgement.
19. Biodiversity improvements are proposed beyond the appeal site, including native planting and bat boxes within the garden of Brownings Manor. Details of their location and extent have not been provided at this stage, and as such it is not possible to establish whether the subsequent benefit would outweigh the harm. Furthermore, while I understand the area of those benefits would be within the appellant's ownership, there is no evidence, in the form of a blue line plan, to provide certainty that such a scheme could be reasonably secured. If this were to be fundamental to the acceptability of the appeal scheme in terms of outweighing the harm identified, it would not be reasonable for details to be delayed for submission at a later date under a condition.
20. The appellant sets out that the ööd house structure would meet the definition of a caravan, as defined by Section 29(1) of the Caravan Sites and Control of Development Act 1960. It is not for this appeal to establish whether the structure would meet such a definition or require planning permission, however, even if it did conform to that definition, the ööd house forms a part of the development for which planning permission is sought and is a manifestation of the change of use of the land, which would inevitably require accommodation to be installed on the appeal site.
21. The site is located outside a 7km zone around the Ashdown Forest Special Area of Conservation (SAC), Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI). It is also approximately 12km from the Pevensey Levels Ramsar and SAC site, and 14km from the Lewes Downs SAC. The Council acknowledge that, based on their evidence and that of Natural England, increased recreational disturbance or air quality impacts to the protected sites as a result of the proposed development would be unlikely. As the appeal is dismissed for other reasons described above, this is not a matter which I need to consider further.
22. Policy WCS14 of the WCS reiterates the presumption in favour of sustainable development given within the Framework. In the case of this appeal, the proposal does not accord with an up to date development plan, nor are the relevant development plan policies found to be out of date. As such the proposal would not benefit from the presumption in favour of sustainable development given in the Framework and Policy WCS14.
23. I note the dispute between the parties as to whether the development would be liable for a Community Infrastructure Levy (CIL) payment. However, this is not for me to establish as part of this appeal.

Conclusion

24. Although the proposal would comply with parts of the development plan, the conflicts are such that the proposal should be regarded as being in conflict with the development plan, when read as a whole.
25. With the above in mind, there are no material considerations, including the approach of the Framework, that are worthy of sufficient weight that would

indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

C Shearing

INSPECTOR