



Appeal Decision

Site visit made on 16 November 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/U1430/W/22/3290590

Land at north side of Caldbec Hill, Caldbec Hill, Battle TN33 0JY

- 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 N Whistler against the decision of Rother District Council.
 - The application Ref RR/2021/1102/P, dated 30 April 2021, was refused by notice dated 30 September 2021.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would conserve and enhance the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

3. AONBs are designated for the purposes of conserving and enhancing natural beauty and Section 85(1) of the Countryside and Rights of Way Act 2000 places a duty upon me to have regard to these purposes in this decision. Paragraph 176 of the National Planning Policy Framework (the Framework) puts great weight on their conservation and enhancement.
4. The appeal site would constitute the section of the donor field nearest to the existing access and adjacent residential property, Old Wellington House. The donor field, along with 3 other fields including Kingsmead open space, creates a gap between various residential roads and properties towards the northern edge of Battle. It is partially enclosed with hedging and mature trees, and these are most dense along the boundary with Caldbec Road and the Kingsmead open space. Nevertheless, there are views through the boundary planting and when combined with the donor field's higher position at the end of the ridge, the appeal site is reasonably visible from a relatively wide area.
5. Along Caldbec Road, the donor field provides space within the surrounding development, aiding the visual transition from town centre, along the radiating roads out to the open countryside beyond. Although not formally part of the historically relevant Kingsmead open space, the donor field is considered, by the Council, as part of the same ancient field pattern.
6. The location of the proposed new dwelling would relate reasonably well with the building line of the existing properties it would be adjacent to. From

Caldbec Road it would also likely be largely screened by the proposed retention of the existing boundary hedging. The proposal would, however, be partially visible in longer ranging views from the north-west, where the field boundary planting is less dense. This would change the visual character of the donor field and reduce the verdant and rural backdrop the appeal site, as part of the wider group of fields, provides to this transitional edge of the town.

7. Nevertheless, the importance of an AONB is related to spatial factors as well as visual. The physical encroachment into the donor field and the separation of the appeal site from that field would also impinge on the space the group of fields provide within the settlement as well as reduce the legibility of the ancient field pattern. The proposal would therefore fail to conserve the AONB and there is nothing before me to show how the proposal would enhance its intrinsic value.
8. It is appreciated that the proposed development is smaller than the previously dismissed appeal for 5 dwellings (reference APP/U1430/W/20/3251619); would provide direct access from Caldbeck Road rather than require an internal road; and would be physically and visually less impacting on the donor field and wider landscape. Nevertheless, a reduction in harm does not equate to a lack of harm.
9. Reference to the County Landscape Architect's positive comments in relation to the previously dismissed scheme are noted. Those comments were made in relation to a Landscape and Visual Impact Assessment (LVIA) submitted to support that specific scheme. Although it is appreciated the proposal is smaller than the previous scheme, without an LVIA or specific comments from the Landscape Architect, their support can not be assumed.
10. Turning to the examples submitted, Hammonds (RR/2018/3096/P) and Undermill (RR/2015/139/P) both appear to be infill dwellings approved on land associated to existing residential properties and Old Wellington House (RR/2017/431/P), an annex in an existing dwelling's garden. None of these relate to the development of a new dwelling on a field, which is not related to an existing residential use, so are not comparable. The appellant has also referred to other 2 multi-dwelling schemes as being acceptable by the Council. However, the details provided in Appendix 7 of their Statement of Case are insufficient to conclude why the schemes were deemed acceptable. Nevertheless, from the very limited details provided both schemes appear to be on sites with different characteristics to the appeal site and donor field.
11. The proposed development would fail to conserve and enhance the landscape and scenic beauty of the AONB. This would be contrary to Rother Local Plan Core Strategy Policies EN1 and OSS4(iii), Rother Development and Site Allocations Local Plan Policies DEN1 and DEN2, insofar as they seek to protect the character and appearance of the AONB, and Paragraph 176 of the Framework.
12. The proposal would also not comply with emerging policies HD1, HD5, HD6, EN1 and EN3 from the Battle Civil Parish Neighbourhood Plan (Plan Proposal Final Version including examiner recommendations) and objectives S2 and S3 of the AONB Management Plan 2019-2024, all of which also relate to the protection of the AONB.

Other Matters

13. The reasonably accessible location of the site is noted, as are the appellant's comments relating to potential nearby residents seeking to downsize. The limited potential financial benefits work for local tradesmen and the additional Council Tax returns would bring to the area is also recognised. Nevertheless, these matters do not outweigh the harm to the AONB.
14. It is appreciated the proposal would seek to increase the biodiversity of the site. That it would ensure the new dwelling would be energy efficient, and adaptable and accessible and that it would provide electric vehicle charging. These are all elements which new development should include however, so are not mitigation for the harm found.
15. The appeal site is within the vicinity of 5 listed buildings. Sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that I pay special attention to the desirability of preserving the setting of a listed building. Nevertheless, due to the distance involved and intervening trees, I do not consider the proposal to have an impact on their setting. A conclusion agreed by the main parties.

Planning Balance and Conclusion

16. The Council can only demonstrate a 2.89 year housing land supply. Therefore Paragraph 11(d) of the Framework indicates that permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. AONBs are considered a protected area of particular importance¹ and as I have identified significant harm to it, as set out in the main issue, the presumption to grant permission is not engaged.
17. For the reasons above the appeal scheme would, therefore, conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, that would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR

¹ As specified in footnote 7 of the National Planning Policy Framework