



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/22/3296394

The Olde Piggery, Eight Acre Lane, Three Oaks TN35 4NL

- 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 Bill Coney against the decision of Rother District Council.
 - The application Ref RR/2020/923/P, dated 4 May 2020, was refused by notice dated 13 October 2021.
 - The development proposed is described as the erection of a new eco dwelling, conversion of piggery building into garage & workshop, along with associated parking, landscaping and general site features that promote a high level of ecological interest - change of use class from agricultural to residential
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the appeal site is suitable for the proposed development, having regard to a) relevant national and development plan policies relating to the countryside, and b) the conservation and enhancement of the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

Relevant Policies

3. Eight Acre Lane constitutes, in the main, a residential ribbon development extending from the village of Three Oaks. Travelling along the lane away from the village the residential properties become larger and more spaced out. The appeal site is situated between 2 such residential plots and has an old piggery building on it which is currently being used as a workshop.
4. The settlement boundary of Three Oaks is defined by the development plan, and the main parties agree that the appeal site is outside of the boundary. However, the development along Eight Acre Lane, which includes the appeal site, is physically and visually contiguous with Three Oaks. Considering the findings of both *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610 and *City and Country Bramshill Ltd v SSHLG and others* [2021] EWCA Civ 320, I am satisfied that although the appeal site is in the countryside, the proposal would not constitute an isolated home. Thus paragraph 80 of the National Planning Policy Framework (the Framework) is not engaged.

5. Nevertheless, Rother Local Plan Core Strategy (CSLP) Policy RA3 seeks to ensure appropriate development within the countryside. Amongst other things, it sets out specific circumstances when a new dwelling in the countryside could be justified. The proposal would not constitute a dwelling to support farming or another land-based industry or meet a local affordable housing need, nor would it replace an existing dwelling. It is appreciated that the existing building would be incorporated in the proposal. However, it would only be in an ancillary capacity and the proposed new dwelling would not rely on the use of that building. Therefore, the location of the proposed development in the countryside would not comply with CSLP Policy RA3.
6. The appellant justifies the location by stating the appeal site would be within walking distance of Three Oaks which has several services and public transport options available. I agree in terms of the services at Three Oaks. However, the only access to the village would be along Eight Acre Lane. To walk or cycle this would require travelling along a narrow, relatively enclosed country lane for a substantial distance. There are no pavements or street lighting and inadequate verges to provide refuge from passing vehicles. Therefore, although possible, I do not consider this route to be a safe, convenient, or practical route to Three Oaks for pedestrians and cyclists.
7. Consequently, from the information before me, I do not find that the location of the proposal would enable or promote alternative transport modes and is likely to result in high car dependency for future occupants. This would be contrary to Paragraphs 92, 104 and 110 of the Framework insofar as they require new development to take appropriate opportunities to promote sustainable transport modes and seek to encourage walking and cycling to enable and support healthy lifestyles.

AONB

8. The existing building on the appeal site is single storey, small in relation to the size of the site, and located toward the road. The rest of the site is a mixture of grassed areas and loosely formed woodland. There is a large dense hedge between the site and Eight Acre Lane which mostly screens the site from the lane. The hedging continues down the sides of the site but is not as dense providing relatively open views across the neighbouring residential properties. The site slopes away from the road down to a wooded stream which forms the rear boundary.
9. 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 Framework puts great weight on their conservation and enhancement.
10. The proposal would significantly increase the amount of built form within the appeal site. Nevertheless, its placement would take into account the topography of the site which would mask the visual bulk of much of that proposed. It would also position the new building broadly in line with the houses on either side. The proposed landscaping would retain the boundary trees, hedging and planting. It would include numerous natural features to create a verdant and informal setting rather than relying on traditional lawn. Thus, the bulk of the proposal would not be visually intrusive when glimpsed from the road nor when viewed from across the wooded stream to the rear and

the surrounding area. This is because it would retain the natural and wooded characteristics of the existing site.

11. I find the proposed development would be in keeping with the development pattern along Eight Acre Lane, and the proposed naturalistic landscaping including the retention of the existing boundary treatments, would ensure the landscape character and scenic beauty of the AONB would be conserved. The proposal would, therefore, comply with CSLP Policies RA3 (v), OSS4, EN1 and EN3, and Development and Site Allocation Local Plan Policies DEN1 and DEN2, insofar as they deal with the AONB and the general protection of the district's landscape character.

Planning Balance

12. The Council cannot demonstrate a 5-year housing land supply as such, the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework is to be considered. As I have not found harm in relation to the AONB, paragraph 11(d)ii is, therefore, engaged.
13. The proposed development conflicts with CSLP Policy RA3 for the reasons I have set out in the first main issue. However, and in the above context, it would be deemed out of date. I would accordingly reduce the weight I would attach to any conflict with it.
14. There would likely be a small, short-term benefit on the local economy during the construction process, this would be very limited. The provision of a single dwelling would contribute to reducing the current housing shortfall of the district and I have taken account of Paragraph 60 of the Framework which seeks to boost significantly the supply of housing. I have also considered Paragraph 69 of the Framework, which recognises the importance of small sites in meeting the housing requirement of an area. Nevertheless, the impact of 1 dwelling on the shortfall would be limited. As is the weight I have attributed to the conservation of the AONB.
15. Nevertheless, I have found harm in relation to the accessibility of the site in conflict with paragraphs 92, 104 and 110 of the Framework as I have explained. In these circumstances, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in my view.

Conclusion

16. For the reasons above the appeal scheme would 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