



Appeal Decision

Site visit made on 22 November 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/C1435/W/22/3291880

**Land adjacent to 1 Seaview Cottages, Firgrove Road,
Cross in Hand TN21 0SX**

- 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 Trevor Denny of MHD Architects Ltd against the decision of Wealden District Council.
 - The application Ref WD/2021/0006/F, dated 4 February 2021, was refused by notice dated 17 January 2022.
 - The development proposed is development of 2no. new houses, associated car parking, landscaping and gardens.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In light of inconsistencies among the submitted documents relating to the date of the planning application, the date used in the banner heading above is that referred to in the appellant's statement as the date on which the application was submitted to the Council.
3. The appellant submitted further amended plans to the Council dated August 2021, but which were not accepted. For the avoidance of doubt, my decision does not take account of these drawings as, to do so, would prejudice those who should have been given an opportunity to comment on them.

Main Issue

4. The main issue is the effect of the development proposed on the character and appearance of the area, including the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

5. The appeal site lies near the end of a ribbon development which lines Firgrove Road, neighbouring open countryside to the southwest. Properties further north on Firgrove Road include historic brick terraces and semi-detached pairs, positioned on raised grass banks with small gardens set above the level of the street. By contrast, many houses on the southern side of the road are set lower than the street level and are sunken into the lowering slopes to the south. The local topography and the difference between the building levels on either side of the street accentuate, and contribute positively to, the appreciation of the gently undulating landscape which is characteristic of this part of the AONB.

6. In addition, the immediate area around the appeal site displays a more open and verdant character compared to the northern part of the road, including more soft landscaping within the front gardens and greater spaces between the properties. These attributes contribute positively to the transition from the village to the countryside beyond and soften the settlement boundary.
7. The proposed development would incorporate an excavated area of land across much of the width of the site in order to accommodate off street car parking. This necessitates steps and a retaining wall, in the form of a planter and gabion baskets, close to the front of the houses. While the depth of the excavation would be limited to up to 1m, it would nonetheless, result in the loss of the topography which is characteristic on the northern side of the street. In combination with the extent of hard surfacing, together with the dominance of the parking area on the frontage, the development would appear heavily at odds with the character of the street and detract from the gentle transition to the countryside to the south.
8. Due to the landscaping on the south western site boundary, the effects of the development would be limited to localised impacts and local views. However, viewed in the context of the surrounding development, the harm arising would be significant. The adverse effects arising as a consequence would not be slight or negligible, and the case law evidenced emphasises the need for the exercise of planning judgement, based on the circumstances of the individual case¹.
9. While a planter is proposed behind the parking area, and the main development would be set back behind the building line of neighbouring houses, this would do little to mitigate for the extent of hard surfacing, nor provide a verdant garden area comparable to many of those in the immediate surrounding area. The plans suggest that 1 Seaview Cottages has already experienced a similar change to its front garden, however I saw on my site visit that this had not occurred, and I do not have evidence of its likelihood.
10. The height and eaves levels of the proposed houses are shown to be comparable to the neighbouring houses, and other houses on the northern side of the street display rooflights within the front roof slopes, serving rooms within the roof spaces. For these reasons I do not find the height of the proposed buildings themselves would cause harm to the character of the area.
11. For the reasons given, the proposal would cause harm to the character and appearance of the area, and would cause harm to the special landscape character of the AONB. The consequent effects would be significant and long lasting. The proposal would conflict with saved policies EN6 and EN27 of the Wealden Local Plan 1998 (the WLP) which require high quality design and landscaping which promotes local distinctiveness, and which conserves or enhances the natural beauty and character of the landscape. There would also be conflict with spatial planning objective SPO1 of the Wealden District Local Plan Core Strategy 2013 (the WCS) insofar as it seeks to enhance and manage the distinct landscapes of the District.
12. In addition the proposal would conflict with the design objectives of the National Planning Policy Framework (the Framework), in particular at paragraph 130 where it requires development to be sympathetic to local character and history, including the surrounding built environment and

¹ Monkhill Ltd v SSHCLG [2021] EWCA Civ 74

landscape setting, and paragraph 176 where it requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.

Planning Balance

13. The Council accept that it does not have a 5 year land supply for housing. However, the application of policies in the Framework that protect areas or assets of particular importance, in this case harm to the AONB, provide a clear reason for refusing the development proposed. Therefore, the proposal does not benefit from the presumption in favour of sustainable development.
14. Despite this, the value of new housing nonetheless attracts weight in favour of the development given the identified shortfall in the housing land supply. The proposed development would make a contribution to the Council's housing stock, as well as making a positive contribution to the national objective to boost the supply of homes. In addition, the site is one which paragraph 69 of the Framework acknowledges can make an important contribution to meeting the housing requirement of an area, and can often be built out quickly. The development would bring economic benefits in terms of construction jobs and ongoing local expenditure by new residents, and would contribute to the vitality of the village. Taken together, and in light of the scale of the proposal as two new homes, these benefits attract moderate weight.
15. As above, however, the harm to the local character and to the AONB, despite being localised, would be significant and long lasting, and be in conflict with the Framework.

Other Matters

16. The appeal site is close to the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC), which are afforded protection under the Conservation of Habitats and Species Regulations. As the appeal is being dismissed on other grounds, in line with paragraph 63(1) of the Regulations, it is not necessary for me to consider the development within the framework of an Appropriate Assessment. As such, this is not a matter which I need to consider further.
17. The appellant has highlighted an appeal decision within an AONB in Oxfordshire, in which the Inspector found the local landscape character was not representative of the special qualities set out in the relevant AONB Management Plan². I do not have strong evidence before me to suggest that the local character of the appeal site here is at odds with the qualities identified in the Management Plan, which, in this case, acknowledges different types of settlements and developments, and 'green-ness' of roads and streets as part of its key characteristics. As such the appeal decision evidenced does not alter my judgement.

² APP/Q3115/W/20/3265861

Conclusion

18. For the reasons above, 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