



Appeal Decision

Site visit made on 30 November 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 DECEMBER 2022

Appeal Ref: APP/C1435/W/22/3291959

Pond Farm Cottage, Lower Road, Herstmonceux, East Sussex BN27 1QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Ian Bamford against the decision of Wealden District Council.
 - The application Ref WD/2019/1347/O, dated 18 June 2019, was refused by notice dated 15 November 2021.
 - The development is described as a proposed residential development (terrace of 5 cottages with parking spaces) on site of approved barn foundations commenced WD/2010/1693.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal scheme seeks outline planning permission with all matters reserved for future consideration.
3. For clarity I recognise that the appeal site forms part of the field next to Pond Farm Cottage and is within the same ownership. The description of development includes reference to a previous permission for a barn. The barn does not however form part of the scheme before me.
4. The appellant has also submitted an amended plan, which was originally submitted during the application process but not accepted by the Council. The revised plan would increase the size and alter the shape of the appeal site. It has not been commented on by any parties beyond the appellant and I find it to materially alter the proposal. Therefore, having regard to the Wheatcroft principles¹, I consider that if I were to take account of the amended plan there is a risk of disadvantaging interested parties. I have therefore determined the appeal based on the plans that were originally considered by the Council when it determined the application.

Main Issues

5. The main issues are:
 - whether the appeal site is a suitable location for the proposed development having regard to relevant plan policies relating to the countryside and accessibility;
 - the effect of the proposed development on highway safety;

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

- the effect of the proposed development on the character and appearance of the area; and
- the effect of the proposed development on the setting of Yew Tree Cottage, a Grade II listed building.

Reasons

Location

6. The appeal site is located on Lower Road, where there is a small, loose grouping of predominantly semi-detached or detached cottages, separated by varying sized fields, mature hedges, and patches of woodland. The nearest services and facilities, including links to public transport, are at Herstmonceux some 2.6km away.
7. I consider that the appeal site is within the countryside as it is a considerable distance from Herstmonceux or any other settlement. This conclusion is supported by the defined settlement boundaries within the development plan, as confirmed by the Council. This is not contested by the appellant. However, due to the proximity of the appeal site to other houses and the proposed 5 new dwellings I do not find that the proposal would create isolated homes in the countryside as set out in paragraph 80 of the National Planning Policy Framework (the Framework).
8. The appellant states that the site should be considered a brownfield site due to the approved barn and that the Framework supports its redevelopment. Notwithstanding that the barn has not yet been erected, the Framework's definition of brownfield, or previously developed land, specifically excludes land that is or was last occupied by agricultural buildings. Therefore, I do not find that the appeal site constitutes brownfield land.
9. The Wealden District Local Plan Core Strategy (CSLP) spatial planning objective SPO7 seeks to encourage a reduction in the need to travel by car and to concentrate development where it can most closely relate to public transport. This is supported by Policies GD2 and DC17 of the Wealden Local Plan (WLP) and Policy 13 of the Herstmonceux Parish Neighbourhood Plan (HPNP), which seek to ensure new rural housing is provided within the development boundaries of settlements.
10. There is no provision within the policies for housing beyond these settlements, except in 7 specific circumstances set out in paragraph 5.91 of the WLP. The proposal does not accord with any of these circumstances as it would not provide accommodation where a countryside location is essential, would not provide affordable housing or for the needs of gypsies or travelling showpeople, nor would it constitute a conversion, extension, alteration, or replacement of an existing building, as the barn has not been completed.
11. Consequently, the proposal would be contrary to WLP Policies GD2 and DC17 and HPNP Policy 13. Nevertheless, it is appreciated the Council cannot provide a 5 year housing land supply (5YHLS) and so these policies would be considered out of date, as set out within the Framework. Although I deal with the specifics of the 5YHLS in the Planning Balance below, it is necessary to consider the proposal in light of the Framework regarding housing in the countryside and accessibility.

12. The closest services and facilities to support day to day living are at Herstmonceux village. However, there are no public transport links between the appeal site and the village. This means that alternative methods of transport other than by car are limited to walking and cycling along Lower Road and similar country roads.
13. Lower Road itself is a narrow, unlit, and poorly maintained road with hedges on either side, no pavements and limited verges and passing points. The other roads in the immediate area are not overly different. It is appreciated that the conditions of the roads do mean vehicles are often traveling at a low speed. This is supported by the appellant's transport statement (TS). Nevertheless, the lack of lighting, clear refuge for cyclists or pedestrians when approached by vehicles and mature boundary hedging which limits long distance views along parts of the road would not be conducive to safe or convenient conditions for cycling or walking the 2.6km to Herstmonceux.
14. The location of the appeal site would not, therefore, provide access to high quality public transport. Nor would it give priority to pedestrian and cycle movements requiring an over reliance by future occupants on the car, contrary to Paragraph 105 of the Framework. Although occupants of 5 houses would likely support services at Herstmonceux. However, with the more comprehensive and expansive options at Hailsham only marginally further away, and the necessary reliance on the car, I do not find this so compelling as to consider the proposal to constitute sustainable development as set out in Paragraph 79 of the Framework.
15. The TS states there are multiple public rights of way, beyond the country roads, which link the appeal site with Herstmonceux. However, in the main these constitute field paths accessed by stiles. As such they cannot be easily navigated by those less able or those using pushchairs or cycles. They would also only ever form part of the route to the village thus still requiring future occupants to travel along Lower Lane.
16. Whether working from home has materially impacted the essential status of car use for new dwellings has not been evidenced, nor would it overcome the lack of other appropriate or reasonable forms of transport available, beyond the private car. Whilst electric car use is also on the rise, this would not negate the current lack of transport options available.
17. There is potential, should the barn be completed that it could be converted to housing through permitted development and the prior approval process. Nevertheless, any housing on the appeal site would have poor accessibility to services. Therefore, the potential of converting the barn would not be more harmful than that which is before me.
18. The appeal site is, therefore, an unsuitable location for the proposed development having regard to relevant policies relating to the countryside and accessibility. It would be contrary to CSLP spatial planning objectives SPO1 and SPO7, WLP Policies GD2 and DC17, HPNP Policies 1 and 13 and Paragraphs 8, 79 and 105 of the Framework, insofar as they seek to guide the location of new housing and access to services.

Highway safety

19. Lower Road is single lane, with limited passing spaces. The verges are narrow and the hedges on either side relatively thick and tall. This not only means visibility, as the road curves, is reduced but also requires vehicles to back up some distance to pass each other. It is appreciated that the road is not excessively busy, as observed on site and upheld by the findings of the TS.
20. Although access is a reserved matter it would be directly from Lower Road with the indicative plans showing the potential of 3 separate accesses and the TS considering a singular shared access. It is, therefore, necessary to consider the impact of the proposal on highway safety.
21. Any new access would require some form of road widening to allow space for vehicles to turn into or out of the site and allow other vehicles to pass, due to the narrowness of Lower Road. The ground level of the site is above that of the road, and it is unclear how any road widening could be achieved within the appeal site without cutting into the site ground levels. The position of the site on the inner edge of the curve in the road would also require substantial sections of hedgerow to be cut back to provide appropriate visibility splays. Both of which would impact character and appearance, discussed further below.
22. The proposed 5 dwellings would substantially increase the number of properties along Lower Road and, although the road is not heavily used, would increase the number of vehicles using it. The additional usage would further exacerbate the existing limitations to traffic flow, increasing the frequency of vehicles meeting on the single carriageway. This would result in unsafe manoeuvres such as reversing long distances, or pulling off the road in inappropriate locations, to pass each other and other road users.
23. As referred to in the first main issue, the existing lack of pavement and lighting would make the use of Lower Road by pedestrians and cyclists unsafe. There is nothing before me to show that it would be possible for cyclists and pedestrians to enter the site without conflict with cars also entering or exiting the site. Which could have safety implications if the access for the proposed properties is to be shared by 5 dwellings.
24. Consequently, although there is potential the frontage of the site could be significantly altered to provide a passing space and potentially appropriate visibility splays, I am not convinced this would be enough to ensure the ongoing safety of existing road users or those entering or exiting the proposed development. Nor would it overcome the increase in vehicles the proposal would create and its impact on traffic flow and thereby safety of Lower Road.
25. The proposed development would, therefore, have an unacceptable impact on highway safety, contrary to CSLP spatial planning objective SPO13, WLP Policy TR3 and Paragraphs 110-112 of the Framework, insofar as they seek to ensure that a safe and suitable access to the site can be achieved for all users and highway safety is not unacceptably impacted.

Character and appearance

26. Although all parties agree the foundations for the barn are in place, visually the appeal site remains part of an open field. The boundaries of the donor field constitute post and rail fencing to the rear and Pond Farm Cottage. There is

mature hedging along all other sides which amalgamates with the established corridor of trees and bushes that runs along the west edge of the field, and the field behind, to a wooded area. This corridor creates a visual break in the relatively open countryside surrounding the site and beyond is another field which wraps Yew Tree Cottage on 2 sides.

27. The general character of the area is that of sporadic modest dwellings scattered through a traditional bucolic setting. Fields are separated by mature hedgerows. The topography is relatively flat and so views are wide ranging when the hedgerows do not provide screening.
28. A key feature of the landscape is the lack of sequential buildings. Properties are separated by fields and paddocks and are located, in general, linearly along the roads in relative proximity to the road edge. The main exception being farms where buildings are clustered together but are usually low lying and set further back from the road.
29. Although layout is a reserved matter, to fit 5 properties on the appeal site it is indicated they would be 2 storeys high, and to respect the road facing character of properties in the area would be either terraced or built closely together. The site is not wide enough to allow substantial gaps between the properties and this would be entirely at odds to the surrounding pattern of development.
30. It is indicated parking would be provided to the fronts of the proposed properties and this would require the new dwellings to be located further back in the site than Pond Farm Cottage or Yew Tree Cottage, disrupting the building line both front and back and drawing undue attention to their position within the open countryside.
31. I, therefore, find the site too small to provide the proposed number of dwellings with the necessary spacing and positioning to reflect the surrounding low density development pattern.
32. It is appreciated that there is potential the properties could be appropriately designed, and that materials could be selected to ensure they would be in keeping with the existing buildings along Lower Road. As such I am satisfied these elements could be dealt with in the reserved matters. Nevertheless, this would not overcome the overcrowded layout which would be necessary to provide 5 dwellings, associated access, parking, and separate gardens.
33. It is noted the appellant considers the proposed development to be less harmful than the extant barn. Nevertheless, the proposal would also constitute a new access(es) onto Lower Road requiring substantial works to the front boundary. It would separate the site into 5 individual plots and due to the residential nature would likely include the domestication of the space in the form of formal gardens and car parking areas. All of which, cumulatively, would be more impacting on the character and appearance of the area than a singular barn building set back from the road within an open field.
34. Overall, I find the proposal would significantly harm the character and appearance of the area. It would not, therefore, comply with CSLP Core Strategies SPO1 and SPO13, WLP Policies EN8 and EN27 and Paragraphs 8 and 130 of the Framework, insofar as they seek to protect the character and appearance by supporting high quality design.

Listed building

35. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that I have special regard to the desirability of preserving the setting of a listed building, a heritage asset. Paragraph 189 of the Framework requires that heritage assets, as irreplaceable resources, 'should be conserved in a manner appropriate to their significance' and paragraph 199 confirms 'great weight' should be given to their conservation.
36. The significance of Yew Tree Cottage (the Cottage) relates to it being an example of a traditional vernacular dwelling within a countryside setting typical of the special characteristics of the local area. It is appreciated that the Council are concerned by the proximity of the appeal site to the Cottage, and that the intensity of development on the site would introduce excessive built form into its setting.
37. However, the Cottage is separated from the site by a section of the donor field, the hedgerow and tree corridor, and a further field. I find, therefore, the physical distances involved, and screening and separation created by the existing landscape corridor would ensure the appeal site is spatially and visually separate from the Cottage. Thus, I am satisfied appropriate landscaping and layout of the appeal site could ensure the proposal would have a neutral impact on the setting of Yew Tree Cottage.
38. Consequently, I find the proposed development would not harm the setting of the listed building. On this issue alone I find the proposal would comply with CSLP Core Strategy SPO2 and Paragraphs 189, 199, 200 and 202 of the Framework, insofar as they seek to protect historic assets.

Other Matters

39. The appeal site is within 100m of the Pevensey Levels Special Area of Conservation (SAC) and Ramsar site, and within the impact risk zone for the Pevensey Levels and Herstmonceux Park Sites of Special Scientific Interest (SSSI). All of which are nationally and internationally important due to the wetland habitats they protect and the species that use those habitats. A key factor for this is water quality. Careful management of run-off and foul water from any development is, therefore, necessary. The Council have stated that drainage matters would need to be controlled by condition. I return to this matter below.
40. The permission granted to extend the semi-detached property attached to Pond Farm Cottage, and that Pond Farm Cottage itself has been considerably extended is noted. These are not comparable to that which is proposed as they are existing dwellings already in use and of a significantly smaller scale of development.
41. I also note the appellant's concerns relating to the time taken to validate the application and a lack of proactive willingness during the application process. These issues do not, however, impact the planning merits of the case.

Planning Balance

42. The Council cannot demonstrate a 5YHLS, stating its current housing supply is 3.66 years. As such paragraph 11(d) of the Framework is engaged.

43. The proposal would provide 5 dwellings, reasonably quickly due to its modest scale. I have considered that Paragraph 60 of the Framework seeks to boost significantly the supply of housing and that Paragraph 69 of the Framework, recognises the importance of small sites in meeting the housing requirement of the area. This along with the associated economic and social benefits it would have in contributing to the Council's 5YHLS, would attract moderate weighting based on the number of houses involved.
44. I do not, however, give weight to the argument that the proposal would prevent additional build pressure on areas of Green Belt in the district. This is because there is nothing before me confirming that a refusal of permission on this site would directly lead to houses being built elsewhere. I also attach very limited weight to the proposed benefits relating to the potential sustainable and carbon neutral aspects of the proposal, as how this could be achieved has not been evidenced. The lack of harm to the setting of the listed building is a neutral factor so cannot weigh for or against the proposal.
45. I have, however, found significant harm in relation to the location of the appeal site, highway safety and character and appearance, which conflict with numerous paragraphs of the Framework as set out in the main issues. In these circumstances and in my view, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
46. Returning to the SAC, clause 63(1) of the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) states that 'a competent authority, before deciding to undertake, or give any consent, permission... must make an appropriate assessment'. An appropriate assessment is not, therefore, necessary where there is no intention to grant permission. As I am dismissing the appeal for other reasons, I am not required to pursue this matter further.

Conclusion

47. For the reason 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