
Appeal Decision

Site visit made on 24 January 2023

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

Appeal Ref: APP/C1435/W/22/3290889

The Walled Garden, Trulls Hatch, Rotherfield TN6 3QL

- 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 Neil Summerfield against the decision of Wealden District Council.
 - The application Ref WD/2021/1774/F, dated 2 July 2021, was refused by notice dated 28 October 2021.
 - The development proposed is the erection of a new detached two storey dwelling with integrated garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the dwelling would be appropriately located, having regard to the (a) residents' accessibility to services and facilities, (b) the character and appearance of the area, and (c) biodiversity.

Reasons

Accessibility to services and facilities

3. The appeal site lies outside any settlement/development boundary of the Wealden Core Strategy (CS) 2013 and Wealden Local Plan (LP) 1998. LP Policies GD2 and DC17 states development will be resisted in such locations unless it is in accordance with specific policies in the plan. There are no other policies within the LP that would permit the type of development proposed. LP Policy EN1 states that the Council will pursue sustainable development, having regard to the principles contained in government guidance and its own strategy for environment, in considering the location, layout and design of development.
4. Spatial Planning Objective SP07 of the CS indicates the encouragement of the reduction of the need to travel by car by concentrating development in locations most closely related to public transport opportunities, and by making it easier to travel by more sustainable modes of transport. CS Policy WCS6 details a strategy of distributing housing development for Service Centres, Local Centres and Neighbourhood Centres. Although not undertaken, the policy indicates that a Delivery and Sites Allocations Development Plan Document (DPD) will allocate sites for development sufficient to ensure requirements are met. It also indicates that development boundaries are retained or provided at some settlements, such as Rotherfield,

or removed from the LP. These boundaries were to be reviewed as part of the DPD.

5. For CS Policy WCS6, the explanatory text indicates that the overall strategy is to ensure provision of appropriate development to protect, support and increase the range and quality of facilities and services available to the rural areas. Outside of the towns and the rural settlements, identified for growth development, it is indicated that development will be restricted primarily to that required to meet an essential rural need, support rural diversification and sustainability of the countryside, promote tourism or enhance the countryside.
6. The appeal site lies within the hamlet of Trulls Hatch outside any settlement/development boundary where there are no facilities and services. The nearest facility/service is a local shop within walking distance (approximately 1 mile) of the appeal site at Town Row. At Mark Cross, there is a Public House, a church, nursery and school a little further away, (approximately 1.5 miles). The village of Mayfield is beyond this at 1.7 miles. In terms of public transport, the area is served by a bus service, that links large settlements, and operates on a 'hail and ride' service for the area.
7. Urban areas will always have a greater range and accessibility to services and facilities due to their size. However, to reach any local facilities and services, pedestrians would have to use the verge of the A267, a busy road with vehicles travelling at significant speed given its classification. Furthermore, it and neighbouring side roads are lacking in significant street lighted footways. Access to the local convenience store at Town Row would be via a narrow, unlit and winding lane without a footpath. As such, sustainable transport options would be limited, and it would be highly likely that residents would use private motor vehicle, rather than sustainable public transport, to access services and facilities.
8. The appellant indicates the importance of reducing private car travel should be of a high priority but this should come in the form of improved public transport to rural locations, improved public footpaths and an improved network of safe cycle lanes. However, there is no evidence that public transport will improve in this location and improving pedestrian footpaths and cycle lanes in rural areas, is not a straightforward matter given physical constraints of narrow roads and the sporadic nature of development. Resident's use of electric vehicles would reduce emissions in the vicinity, but it would be difficult to enforce the use of this option by people, and importantly, there is no planning mechanism before me to ensure use of electric vehicles.
9. For all these reasons, there would be conflict with the development plan strategy of directing development to locations with services and facilities whilst meeting rural needs of settlements. The proposal would conflict with Policies GD2, EN1 and DC17 of the LP and Policy WCS6 of the CS.

Character and appearance

10. The appeal site comprises a landscaped area adjacent to two modern designed dwellings. It comprises overgrown vegetation and several trees on the site, including deciduous native trees. On my site visit, some clearance work of the vegetation and tree works had taken place. The appeal site and plots of the two dwellings was formerly part of a nursery within a walled garden that

served a large country house which was split up into different ownerships. In relation to the two adjacent newly built dwellings, the appeal site is sited at a lower level.

11. The surroundings comprise sporadically located and sited dwellings set in spacious landscaped surroundings. The appeal site backs onto an access road serving several dwellings with no coherent pattern of siting and varied house designs. There is a high brick wall, part of the original walled garden, at the point where the site adjoins this road. The plot also fronts onto a two storey dwelling, well set back from the A267, and flanks onto part of this dwelling's garden. Beyond this garden, there is Ancient Semi-Natural Woodland (ASNW).
12. The appeal site and surroundings lie within the High Weald Area of Outstanding Natural Beauty (AONB). Paragraph 176 of the National Planning Policy Framework (the Framework) states great weight should be given to conserving and enhancing landscape and scenic beauty within the AONB.
13. The proposal would result in a modern designed dwelling. The walls would be a mixture of dark black/grey brick and anthracite standing seam zinc, with a small amount of larch cladding, all under a standing seam dark zinc roof. The dwelling would be two storey, with lower single storey, and would reach a maximum height of 7m to its ridge.
14. The design of the dwelling attempts to be in keeping with the modern architecture of the two dwellings on the site. However, it would be overly large in terms of its footprint, including hard standing areas, for its plot. Much of the landscaped nature of the site would be lost, including native trees on the site. There would also be an extensive long two storey flank elevation adjoining the garden of a neighbouring dwelling, with little physical articulation to break up its bulk. As a result, the loss of the landscaped area, and the large and bulky design of the dwelling relative to the size of the plot would harm the character and appearance of the area. There would be limited public views of the dwelling from the main road, but the development would have a long term impact on the character and appearance of the area, including the landscape and scenic beauty of the AONB, which would be noticeable to the occupants and visitors of surrounding properties.
15. Accordingly, there would be conflict with Policies EN6, EN12, EN14 and EN27 of the LP, which collectively and amongst other matters, requires the conservation and enhancement of beauty and character of the landscape within the High Weald AONB, the retention and enhancement of the contribution of trees to the landscape character of the district, the scale, form, site coverage, design and use of landscaping, to respect the character of adjoining development, and development to be of a high quality design.

Biodiversity

16. The site is mostly outside the standard 15m buffer to the nearby ASNW, although the eastern tip is within 12m, whilst the building itself is 18m away. There are several trees, including native trees, which would be likely to be adversely affected by the development given its extent. Some trees works have taken place. Given the proximity of ASNW and adverse effect on native deciduous trees on the site, it has not been demonstrated that the development would not harm biodiversity.

17. A planning condition requiring the submission and implementation of an approved ecological survey and biodiversity scheme could require fundamental changes to the proposed development scheme. As such, it would not meet the standard tests relating to the imposition of tests at paragraph 56 of the Framework. For all these reasons, the proposal would conflict with Policy WCS12 of the CS, which amongst other matters, requires compensatory measures to Wealden's overall biodiversity resource.

Other matters

18. The Council does not have an up to date 5 Year Housing Land Supply (5YHLS) and has not met its Housing Delivery Target. The proposal would contribute to boosting housing land supply. The appellant is now on the self-build register and the dwelling is intended to adhere to the rules relating to this form of housing, including the Self Build Act 2015. Paragraph 60 of the Framework supports the objective of significantly boosting the supply of homes, and that needs of groups with specific housing requirements are addressed.
19. The development would create employment for local builders and trades people which, in turn, contributes to the local economy. The new dwelling would be subject to regular Council tax payments. In this rural area, the provision of this dwelling would support services in a nearby village in accordance with paragraph 79 of the Framework. It would improve the social vibrancy and sustainability of the wider community. The proposal will make use of a piece of land and optimise the development capacity of the site. Such economic, social, and environmental considerations would weigh in favour of the appeal proposal.
20. By reason of its overly large and bulky design, and poor landscaped nature, the dwelling would not represent design of exceptional quality. Therefore, it would not merit consideration under paragraph 80 e) of the Framework, as an exception to the avoidance of isolated homes in the countryside. The site is unmanaged, with some exposed gravelled areas. Vegetation has been removed but the overgrown landscaped area of the site would not have been unattractive. The site would revert to this state if left undeveloped.
21. The dwelling would be completed in line with modern building regulations and use high-quality, long-lasting materials to ensure its efficiency and longevity and would be carbon efficient. However, there is no evidence that the scheme would be exceeding normal requirements on energy efficiency within the Building Regulations and therefore, this is not a benefit consideration. CS Policy WCS14 requires the Council to undertake determination of planning applications to reflect the presumption in favour of sustainable development. Such a policy relates to the Council's procedure of dealing with planning applications and as such, it has not been commented upon here.

Conclusion

22. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
23. The development would boost housing supply in a district with a strong need because of a deteriorating 5YHLS position. It would provide self-build dwelling. There would be economic, social and environmental benefits associated with

the development. However, there would be harm to the character and appearance of the area, sustainable transport objectives and biodiversity. The benefits of the proposal would be small given only one dwelling would be built. The lack of a 5YHLS reduces the weight to be given to the identified policy conflicts with LP and CS. However, the harm arising from the development would be significant for the reasons indicated and overriding, and there would be conflict with the development plan taken as a whole.

24. The tilted test at paragraph 11 d) ii of the Framework applies. However, the harm arising from the scheme would be significant and the benefits would be small given one dwelling would result. Consequently, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. There are no material considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan and planning permission refused.

Conclusion

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR