



Appeal Decision

Site visit made on 16 January 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Appeal Ref: APP/C1435/W/21/3286369

Sunny Vale Cottage, Parrock Lane, Coleman's Hatch, Hartfield TN7 4HT

- 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 Alex Elliott against the decision of Wealden District Council.
 - The application Ref WD/2021/1268/FR, dated 13 May 2021, was refused by notice dated 25 August 2021.
 - The development proposed is described as 'retrospective application for the change of use of land to ancillary residential use and the stationing of a timber framed mobile caravan to be used as an annexe'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The main parties have referred to the development as for a 'mobile home', a 'static caravan' or a 'log cabin' and disagree about whether the appeal site is part of the curtilage or garden of Sunny Vale Cottage. There is no conclusive objective evidence in these regards, such as a Lawful Development Certificate. The Council has also suggested that the development includes, or is tantamount to, a separate self-contained dwellinghouse but that is not what has been applied for. The Council has enforcement powers to investigate alleged breaches of planning control. I have also been referred to other regulatory legislation and licensing requirements for caravans or mobile homes.
3. These matters are therefore beyond the scope of this appeal, which is concerned with the development described in the banner above, as taken from the application form. It includes a 'timber framed mobile caravan to be used as an annexe' (the annexe) and a change of use of land to 'ancillary residential use'. This is the totality of the development that was been applied for and as defined by the extent of the appeal site red line in the submitted plans. I have determined the appeal on this basis.
4. The development has already taken place. A raised timber deck, not shown in the submitted plans, has also been constructed in front of the annexe. There is no evidence that the appellant does not seek to retain the deck and I have, therefore, taken it into account in my assessment.

Main Issues

5. The main issues are:
 - the effect of the development on the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (the AONB); and

- if there is harm to the AONB, are there any other considerations that outweigh the harm and justify the development.

Reasons

High Weald Area of Outstanding Natural Beauty

6. The AONB is a nationally designated landscape. It has the highest status of protection in relation to conserving and enhancing its landscape and scenic beauty. Near the site its distinctiveness includes small ribbons or clusters of sporadic built form surrounded by fields, paddocks or wooded shaws in an undulating landform with rolling ridges and valleys. These intrinsic features of the countryside make a positive contribution to the landscape and scenic beauty of this part of the AONB.
7. The site is a relatively large parcel of previously undeveloped reasonably steeply sloping land. It is separated from Sunny Vale Cottage by a large barn and concrete apron, which is also a driveway through what was a farm complex with a small ribbon of buildings. For planning purposes, it is outside of any defined settlement boundary, in the countryside and though not farmed it contains many trees. It therefore added to the landscape and scenic beauty of the AONB.
8. The annexe has a low dual pitched felt shingle roof and the elevations are clad with dark brown horizontal weatherboarding. However, it is quite long and wide. Taken with the French (patio style) doors and the number, design and placement of windows, it has a domestic appearance, akin to a large garden room or summerhouse outbuilding. The timber deck provides an external sitting out or activity area and adds to built form on the site. Most of the site is natural unmanaged grass, but there are mown grass paths across it, as well as some domestic planting and other domestic paraphernalia such as paved steps ascending the slope, ground level external lighting, tables and chairs, tree swings, plant pots and a retractable washing line.
9. The annexe is clearly separated from the barn and protrudes beyond one corner. Though the annexe is subservient in scale and massing to the cottage, it is significantly further away and detached from it. This encroachment further into the countryside has unduly consolidated and extended the existing ribbon of built form further to the north; in turn, eroded the rural character and appearance and this part of the previously undeveloped setting to this existing development. Moreover, the ancillary residential use of the site with associated comings and goings of people between the annexe and the cottage would emphasise domestic use of the annexe and similar use and activity on the site. The shape of the site is also out of keeping with the prevailing pattern of residential plots nearby.
10. The development does not obstruct public footpath Hartfield 32 which runs along the north boundary of the site and for a distance beyond in either direction. However, there is limited hedgerow or other planting along this boundary or the west boundary of the site. Domestic use and activity on the site is clearly visible across these open boundaries. While the annexe and timber deck are amongst the trees, they are on an elevated plateau and visible past tree trunks and under canopies. Consequently, the development is conspicuous in public views from this path and appears as an unexpected intrusion – from the west on initially lower ground, where the annexe also

breaks the skyline of the top of the slope behind it, from next to the site looking south and from higher, descending ground to the east looking downwards.

11. The annexe and ancillary residential use of the site is not limited in scale or extent and has an unduly urbanising effect. This has a significant adverse impact on the visual amenity of the site and in relation to its immediate rural surroundings, thus erodes the character, appearance and appreciation of this part of the countryside. Albeit in a small way, this has undermined the integrity of the AONB and the way in which it is experienced.
12. Accordingly, I find that the development does not conserve or enhance the landscape or scenic beauty of the AONB so causes significant harm to the AONB. Consequently, it conflicts with the Council's Local Plan (LP)¹ policies GD2, EN1, EN6 and EN27 and its Core Strategy² policies SPO1, SPO13 and WCS14. Amongst other things, these policies restrict development in the countryside, including to that which conserves and enhances the natural beauty and character of the landscape of the AONB and, by its design, promotes local distinctiveness.

Other considerations

Personal circumstances

13. The appellant and his partner live in the cottage. Both are older persons with degenerative medical conditions and the appellant also has a congenital medical condition, as confirmed in letters from the NHS. This has health, wellbeing and living implications, including that assistance is required with personal care and to administer medication. It also adversely affects their ability to look after their two horses and maintain their property safely and securely, which in addition to the cottage includes two horse paddocks, a ménage and use of part of the barn for domestic and equestrian storage. Consequently, family members who live permanently elsewhere regularly travel to Sunny Vale Cottage to help with these tasks which involves a significant journey time. They use the annexe to temporarily reside overnight.
14. On the evidence before me, I am satisfied that while the annexe is the appellant's preferred means of meeting these needs and has become established as part of this family routine, there is no other more suitable, appropriate or practicable alternative for such accommodation in this case. These reasonable adjustments are important for these aspects of the appellant's family life. On the case made to me this situation endures for the duration of either appellant's occupation of the cottage. As such, I give significant weight to these personal circumstances.

Essential need

15. It has been suggested that the welfare of the appellant's horses alone generates an essential need for the annexe. In this regard I have been referred to current and previous planning policy for new homes in the countryside for rural workers, including initially as temporary accommodation, so that they can live at or near their place of work. However, the appellant agrees that there is no commercial equestrian enterprise in this case, and that none is intended.

¹ Wealden Local Plan December 1998

² Wealden Core Strategy February 2013

There is, therefore, no apparent essential functional or financial need for an equestrian worker to live in the annexe. Furthermore, requisite welfare of the appellant's horses is met by visiting family members. I therefore give no weight to this consideration.

Planning Balance and Conclusion

16. The annexe and ancillary residential use of the site does not conserve or enhance the landscape or scenic beauty of the AONB. The limited harm to the AONB in this case is nonetheless at odds with local and national planning policy to protect the AONB. Great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty.
17. On the other hand, I acknowledge that the annexe is integral to the appellant's immediate and foreseeable future family life. However, there is no evidence that the change of use of the entire appeal site to ancillary residential use is necessary and justified, nor that each part of the development is justified in perpetuity.
18. I recognise that dismissing the appeal would interfere with the appellant's right to enjoyment of their possessions³ and their rights to private and family life and their home⁴. I have also had due regard to the age and disability protected characteristics in this appeal for the purposes of the Public Sector Equality Duty⁵, including the need to eliminate discrimination and advance equal opportunity.
19. Nevertheless, these factors must be weighed against the wider public interest. For the reasons given above, the development harms the AONB. I am satisfied that this legitimate aim can only be adequately safeguarded by the refusal of permission for the development that has taken place. I therefore consider that dismissing the appeal for these reasons would be a proportionate outcome.
20. The other considerations outlined above do not, therefore, outweigh this harm or justify the development.
21. The development does not accord with the development plan. There are no other considerations, including the provisions of the Framework, to indicate that the decision should not be made otherwise than in accordance with the development plan.
22. Consequently, for the reasons given above the development is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

³ Article 1 of the First Protocol of the Human Right Act 1998

⁴ Article 8(1) of the Human Right Act 1998

⁵ Section 149 of the Equality Act 2010