



Appeal Decision

Site visit made on 18 April 2023

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th April 2023

Appeal Ref: APP/U1430/W/22/3292342

Land West of Frederick Thatcher Place, North Trade Road, Battle TN33 0HW

- 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 Harry Wills against the decision of Rother District Council.
 - The application Ref RR/2020/1875/P, dated 13 October 2020, was refused by notice dated 24 August 2021.
 - The development proposed is for the construction of 4 No dwellings with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For certainty, the postcode used in the site address above was drawn from the appellant's submitted drawings.
3. The Government published a revised National Planning Policy Framework (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.
4. The main parties agreed that Battle Neighbourhood Plan 2021 (NP) was made following the Council's determination of the proposal before me. I have proceeded accordingly.

Main Issues

5. The main issues are the effect of the proposal on:
 - the character and appearance of the area, including the scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB)
 - the setting of a nearby listed building; and,
 - highway safety.

Reasons

AONB

6. Frederick Thatcher Place (FTP) is a Grade II listed, former Victorian workhouse in residential use that is approximately 2km from the settlement of Battle.
7. The appeal site is accessed from the A271 highway via a gravelled service road and faces onto one side of FTP. The appeal site is located in the High Weald AONB and is covered with various trees and other vegetation that traces the A271 to the south. The site slopes down to the dwelling known as 'Battlewood' on the western side.
8. Battle is a relatively dense settlement to the east of the appeal site. To the west of the appeal site the built environment is typified by a loose string of road facing dwellings set back on generous plots behind trees and landscaping. To the south of North Trade Road there is a contemporary residential development known as Nightingale Place that is built in traditional style materials. To the eastern side of FTP there is a development known as 'Sunny Rise'. The built form is surrounded by the AONB which is typified by fields and woodland some of which form established sections that line the A271.
9. The proposed development for 4 new dwellings would be in the AONB and for planning purposes located in the countryside. Therefore, the development should conserve and enhance the landscape and scenic beauty of the AONB as required by Paragraph 176 of the Framework, to which I attach great weight. Moreover, the development must comply with the relevant Rother District Council development plan policies to be permitted.
10. I acknowledge that the proposal would be built in similar materials to Nightingale Place. In addition, my attention has been drawn by the appellant to a care-home development¹ nearby and proposals for 20 new dwellings to the west of FTP² and two detached houses with a garage³. However, I have limited details of those schemes before me that are in different locations and/or are a different type of development altogether to the proposal before me. Therefore, I have considered the proposal in respect of the AONB on its own planning merits.
11. The appellant contends that the proposal would be in keeping with the scale, pattern and style of the existing urbanised landscape, I find to the contrary. The appeal site lies to the north of the A271 and west of the settlement of Battle. Development in this specific location in the AONB is relatively sparse. Furthermore, whether the appeal site can be seen in the long views or not, I noticed at my site visit that the trees on the site can be seen from the A271 and provide a break in the established built form of FTP.
12. Therefore, notwithstanding the findings of the LVIA, and whether the appeal site can be described as 'verdant' or identified in the NP as a 'green gap' or not, the proposed development would be of some scale and mass that would not only erode the established section of trees and vegetation to the west of FTP, but also diminish the soft transition to the countryside beyond.

¹ RR/2019/1597/P

² RR/2018/2666/O

³ RR/2021/1930/P

13. I note alterations have been made to a previous scheme⁴ for the site, and that the proposed development would be longitudinal and set back. However, in addition to hard surfaces such as parking spaces, the proposal is likely to introduce domestic paraphernalia such as, but not limited to, seating, barbeques, washing lines and play-areas into this section of the AONB where currently there is none.
14. Therefore, in my view, the scenic beauty of the AONB would be eroded by the scale, mass and urban style of the proposal in this location.
15. The retention of some existing trees, new hedging, reinstatement of an overgrown pond, a wild-life area, brash/log piles, dormouse nest boxes and bird and bat boxes would not be adequate mitigation.
16. I conclude therefore, that the proposal would harm the character and appearance of the surrounding area, and hence fail to conserve or enhance the scenic beauty of the AONB.
17. Therefore, the proposal is contrary to Policies EN1 and OSS4 (iii) of the Rother Local Plan 2014 (RLP), Policy DEN2 of the Rother District Council Development and Site Allocations Local Plan 2019, as supported by objectives S2 and S3 of the High Weald Management Plan 2019-2024, and the Framework when read as a whole.

Listed building

18. The setting of a listed building contributes to its significance. Therefore, I have had special regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest, which is supported by the national *Planning Policy Guidance* (PPG) which says that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.
19. FTP is a Tudor Gothic building with a square and hexagonal plan of high architectural merit that includes, amongst other features, coursed stone with ashlar quoins, carriage archways, blind windows, windows with square headed casements, a slate roof, and diagonally placed brick chimneys. Its significance is informed by its historic interest as a former Victorian workhouse outside the settlement of Battle.
20. The extent of a heritage asset's setting is not fixed and may change as the asset and its surroundings evolve. Indeed, I noted several contemporary additions to the dwelling, as well as the neighbouring dwellings of 'Sunny Rise' to the east of FTP. However, those schemes are of relative vintage, some of which are likely to have been considered under a different development plan to the scheme before me. Therefore, I have considered the proposal in respect of the listed building nearby on its own planning merits.

⁴ RR/2019/2845/P

21. As such, in my view, the proposal would have a different relationship to FTP compared to 'Sunny Rise' as the vegetated appeal site is the only remaining connection to the former grounds of the building and surrounding countryside on this side of the building.
22. Nevertheless, the appellant contends that the proposal would be subordinate to the heritage asset and have sympathetic design detail, including the reinstatement of a pathway and a pond. Moreover, the set back of the proposal from the access road would allow a sense of openness and bring order to the existing site condition.
23. However, even though the appeal site is currently unmanaged, the host building can still be appreciated from this unfettered wooded-type location. Indeed, the dwelling is representative of a period of time when the institutional-type property would have been important shelter and occupation for its residents who would have been able to look out onto generous outside spaces that blended with the countryside beyond. Therefore, the adjacent appeal site forms an important part of the dwellings' architectural merit and setting which serves to soften the surrounding built environment. This would be lost if the proposal were to be constructed.
24. Consequently, following my site visit and the comprehensive evidence before me, I am in no doubt that the setting of the heritage asset at FTP would be significantly diminished by the proposal.
25. Accordingly, I conclude that the development would cause 'less than substantial harm' to the setting of the listed building at FTP. This would conflict with Policy EN2 of the RLP. For similar reasons, I find that the development would not meet the aims of Paragraph 199 of the Framework that explains that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Highway safety

26. The existing access to the residential dwellings at FTP would serve the proposed development. I acknowledge that the A271 is a well-used road and that there is a bus-stop nearby which could result in over-taking near to the site access. However, given the number of new dwellings, the additional traffic movements generated by the scheme would be limited and similar in nature to those carried out by the residents and visitors to FTP and 'Battlewood', including parking and the turning of refuse vehicles. Moreover, the access has a bell-mouth arrangement, footways to either side, and there has been an absence of recorded accidents near to the site access in the preceding 5 years. Therefore, given my observations at my site visit, even if utility diversions are required, I am persuaded by the appellants 'Highway Mitigation Scheme' in combination with relevant highway and any other necessary permissions for off-site highway works, that the proposal would not have an adverse effect on highway safety.
27. I conclude therefore, in respect of highway safety, that the proposal would accord with Policy TR3 of the RLP and Paragraphs 110 and 111 of the Framework, which say, amongst other things, that in assessing sites it should be ensured that safe and suitable access to the site can be achieved for all users.

Planning and Heritage Balance

28. I have found that the proposed development would harm the scenic beauty of the AONB and that the proposal would result in 'less than substantial harm' to the setting of a listed building.
29. The Council cannot demonstrate a five-year housing land supply. Bearing footnote 8 of the Framework in mind, Paragraph 11(d) is engaged. Therefore, the economic, social and environmental benefits must be weighed against the adverse impacts of the proposal.
30. Moreover, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which is supported by the PPG, requires the decision maker should pay special regard when assessing proposals for development that affect listed buildings and their setting. Furthermore, Paragraph 199 of the Framework states that great weight should be given to an asset's conservation, and that this is irrespective of whether harm is substantial or less than substantial. The courts have confirmed that 'less than substantial harm' does not equate to a 'less than substantial planning objection', and this is supported by the PPG which requires that whether a proposal causes 'less than substantial harm' will be a judgement for the decisionmaker, having regard to the circumstances of the case and the Framework. As such, Paragraph 202 of the Framework provides for a balancing exercise to be undertaken, between 'less than substantial harm' to the designated heritage asset on the one hand, and the public benefits of the proposal on the other.
31. The proposal would include the economic benefits associated with the 4 new homes against the Council's housing land supply and provide short-term employment opportunities connected to the construction of the homes. In addition, the development would increase patronage of local services and facilities such as public houses, restaurants, and shops in the local area. On and off-site biodiversity enhancements would include reinstatement of an overgrown pond, new hedging, a wild-life area and brash/log piles, dormouse nest boxes and bird and bat boxes.
32. Nevertheless, I attribute very modest weight to the combined economic, social and environmental benefits to be provided by the proposed development.
33. I conclude therefore, that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.

Conclusions

34. For the reasons given above, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR