



Appeal Decision

Site visit made on 8 March 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Appeal Ref: APP/U1430/W/22/3300314

Astricus, Tolhurst Lane, Wallcrouch TN5 7JG

- 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 James Lee against the decision of Rother District Council.
 - The application Ref RR/2021/2597/P, dated 21 October 2021, was refused by notice dated 12 May 2022.
 - The development is the occupation of Astricus as an independent dwelling and erection of single storey conservatory.
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Decision

1. The appeal is allowed and planning permission is granted for the occupation of Astricus as an independent dwelling and erection of a single storey conservatory at Astricus, Tolhurst Lane, Wallcrouch TN5 7JG in accordance with the terms of the application, Ref RR/2021/2597/P, dated 21 October 2021, and the plans numbered 12012-P-04 rev. D, 12012-P-03 rev. B, 12012-P-02 rev. B and 12012-P-01 rev. B.

Preliminary Matters

2. On the application form the appellant confirms that at the time of submitting the application construction had commenced and the works had been completed. The Council has also considered the scheme as a retrospective application. At my site visit I saw a fence and conservatory in place which matches those shown on the submitted plans, and the appeal property appeared to be occupied separately to Fine Acres. I have therefore considered the appeal on that basis.

Main Issues

3. The main issues of the appeal are:
 - whether the site is an appropriate location for the proposed development having regard to the development strategy and the accessibility of services; and,
 - the effect of proposed development on the supply of tourist accommodation.

Reasons

Appropriate location

4. Policy OSS2 of the Rother Local Plan, Core Strategy (CS), September 2014, indicates that development boundaries around settlements will differentiate between areas where most forms of new development would be acceptable and

- where they would not. Policy DIM2 of the Rother District Council, Development and Site Allocations Local Plan (DASA), December 2019, indicates that areas outside of the settlement boundaries are defined as the countryside and development will be limited to that which accords with specific local plan policies or for which a countryside location is demonstrated to be necessary.
5. Policy H1 of the Ticehurst Neighbourhood Plan 2018 -2028, Final Plan (NP), July 2019, also limits residential development outside of the village's development boundary unless a countryside location is required as per CS Policy RA3.
 6. The appeal site is outside of a defined development boundary as such CS Policy RA3 applies. CS Policy RA3 concerns development in the countryside and supports the creation of new dwellings in limited circumstances. These circumstances include dwellings to support farming and other land based industries, the conversion of traditional historic farm buildings, the one-to-one replacement of an existing dwelling and as a rural exception site to meet an identified local affordable housing need. Whilst the proposal seeks to replace a building that is used as annexe accommodation, its replacement with an independent dwelling is not a one-to-one replacement. Also, although the appellant contends that it is the conversion of a farm building, the previous use was as tourist accommodation or an annexe. As such, the development could not be described as the conversion of a farm building. The appeal scheme therefore does not meet any of the limited circumstances under which residential development is accepted in the countryside within CS Policy RA3.
 7. The appeal site is located on Tollhurst Lane close to its junction with High Street (B2099), between Ticehurst and Wadhurst. Sections of the B2099 are subject to the national speed limit and based on my observations there are fast moving vehicles in the vicinity of the junction with Tollhurst Lane. There is no footpath close to the appeal site and there is also a lack of street lighting. Whilst it is feasible for future residents to walk or cycle to the nearest settlements using alternative routes, they would be disincentivised by the distance to services and the nature of the surrounding roads. There is a bus stop close to the appeal site which provides limited services to Wadhurst and Royal Tunbridge Wells. However, given the limitations of the bus service and the prevailing character of the nearby roads future residents would most likely be reliant on the use of private vehicles.
 8. I conclude that the appeal site would not be an appropriate location for the development having regard to the development strategy and accessibility of services. The development is therefore contrary to CS policies OSS3 and TR3, which require development to consider the spatial strategy for an area and to ensure new development minimises the need to travel. The development is also contrary to CS policies OSS2 and RA3 DASA Policy DIM2 and NP Policy H1, as set out above.
 9. The first reason for refusal indicates that the proposed development conflicts with CS Policy RA1 in relation to the provision of 1,670 houses in villages. As the appeal site is not located in a village, the policy is of little relevance to the proposed development.
 10. The development is also contrary to paragraphs 8, 80 and 104 of the National Planning Policy Framework (the Framework) which seek to achieve sustainable development, indicate that planning decisions should only allow homes in the

countryside in limited circumstances and require transport issues to be considered from the earliest stages of development proposals to ensure opportunities to promote walking, cycling and public transport are identified and pursued.

11. However, whilst in this location, this use would generate a significant number of vehicular trips, the increase compared to its previous use as a residential annexe would be limited. As such, only limited weight can be ascribed to the harm caused by the proposed dwelling not being in an accessible location and being at odds with the development strategy.

Supply of tourist accommodation

12. CS Policy EC6 indicates that the loss of tourism facilities will only be encouraged where it can be demonstrated there is no prospect of its continued use. DASA policies DEC3 and DCO1 seek to secure the effective use of existing tourist accommodation and set out the requirement that applicants should meet to indicate a lack of demand or that the tourist accommodation is unviable.
13. Condition 2 of the extant planning permission, ref. RR/2012/1266/P, allows the appeal property to be used as either tourist accommodation or annexe accommodation. The appellant states that the property has never been used as holiday accommodation and I have no other evidence to suggest the contrary. CS Policy EC6 and DASA policies DEC3 and DCO1 all refer to the "continued use" of premises including tourist accommodation and seek to prevent the loss of tourist accommodation. This implies that these policies relate to buildings which are or were last used as tourist accommodation. In this instance the building has only ever been used as annexe accommodation and therefore the development does not conflict with these policies.
14. The second reason for refusal on the Decision Notice suggests that the appeal scheme is contrary to the seventh criterion of CS Policy SRM1. This relates to the provision of widespread fast broadband coverage and I have no evidence to suggest the development would conflict with this.

Other Matters

15. The development is also located within the High Weald Area of Outstanding Natural Beauty (AONB) and it includes the construction of a conservatory and close boarded fence. The development is viewed within a wider cluster of development including large residential properties, and in that context the scale of these retrospective elements is relatively limited. The appeal site is also screened from wider views from dense and mature vegetation. The use of the property as a private dwelling is unlikely to significantly alter the type and concentration of activity at the appeal site, compared to its previous use as annexe accommodation. Therefore, under my duty as the relevant authority, I have had regard to conserving and enhancing the landscape and natural beauty of the AONB and I conclude that the appeal proposal would not be harmful to those objectives.

Planning Balance

16. The provision of a single dwelling to help address the shortfall in housing supply would be a benefit of the appeal scheme. However, given the scale of the development it can only be ascribed limited weight.

17. The retention of residential accommodation which helps support local services and a lack of harm to neighbouring residents' living conditions and the AONB are neutral factors.
18. As there are no policies in the development plan that positively favour development of this nature in this location and the appeal scheme is contrary to the policies listed above, there would be a conflict with the development plan when considered as a whole.
19. It is acknowledged by both parties that the Council cannot demonstrate a five year housing land supply of deliverable housing sites. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date and paragraph 11d i) of the Framework states that planning permission should be granted unless the application of policies in the Framework that protect areas of special importance provide a clear reason for refusing the development. The site is within the AONB as such it is located within a protected area, detailed within footnote 7 of the Framework. However, no harm is caused to the AONB by the development. It is then necessary to consider paragraph 11d ii) and assess if the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole.
20. The Framework does not restrict all development in the countryside. However, within Paragraph 174, it recognises the countryside's intrinsic character and beauty. Likewise, Paragraph 80 of the Framework limits residential development in the countryside, similar to the appeal scheme. Paragraph 104 of the Framework requires consideration of transport issues at the earliest opportunity to promote walking, cycling and the use of public transport. As such, CS policies OSS2, OSS3, RA1, RA3 and TR3 and DASA Policy DIM2 are all in general accordance with the Framework. Given these policies are in accordance with the Framework and the appeal scheme is contrary to these policies, harm is caused by the conflict with the Framework.
21. Nevertheless, consideration needs to be given to the previous use of the building as annexe accommodation. The annexe accommodation was reliant on the use of private vehicles. The proposed change in use would therefore not lead to a significant increase in vehicular journeys. I therefore only ascribe limited weight to the harm caused by the appeal scheme. The benefit associated with the provision of a dwelling to help address a shortfall in housing delivery is consistent with paragraph 60 of the Framework which indicates that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward. Nevertheless, this benefit is limited given the scale of the development.
22. In this instance the limited harm caused by the location of the proposed dwelling and the reliance of its residents on private vehicles, does not significantly and demonstrably outweigh the limited benefit. The Framework is a material consideration and in this instance the application of paragraph 11 indicates planning permission should be granted and the presumption in favour of sustainable development applies. In this respect the proposal would therefore accord with CS Policy PC1 which sets out the presumption in favour of sustainable development.

Conditions

23. The Council has suggested six conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG).
24. I have included references to approve plans in the terms of my decision, in the interests of certainty. A condition specifying the materials to be used in the development is not necessary given the fence and conservatory have already been constructed and the appearance of these features is acceptable.
25. I have not attached conditions requiring the introduction of water efficiency measures and adaptations to ensure the buildings meet the requirements of Part M4(2) (accessible and adaptable dwellings) of Schedule 1 of the Building Regulations 2010 (as amended) to the planning permission because the building is already in residential use, albeit annexe accommodation.
26. The PPG indicates the blanket removal of freedoms to carry out small scale domestic alterations that otherwise would not require an application for planning permission is unlikely to meet the tests of reasonableness and necessity. I have not received justification to restrict certain forms of development permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) at this specific site. The appeal site being located in the AONB, alone, does not justify removing these provisions.
27. It would not be reasonable to attach a condition to require the property to be used for incidental uses in association with Fine Acres, as this would nullify the benefit of the planning permission for a change of use to a private dwelling.

Conclusion

28. The proposed development conflicts with the development plan when considered as a whole. However, the Framework is a material consideration, and the provision within Paragraph 11 outweighs the identified harm and associated development plan conflict.
29. Therefore, for the reasons given above I conclude that the appeal should be allowed and planning permission is granted.

J Hobbs

INSPECTOR