



Appeal Decision

Site visit made on 18 April 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/U1430/W/22/3299923

The Warren – Land At, Stevens Crouch, Battle TN33 9LR

- 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 & Mrs A Williams against the decision of Rother District Council.
 - The application Ref RR/2021/3030/P, dated 14 December 2021, was refused by notice dated 18 February 2022.
 - The development is proposed residential development of land with 3 no. detached dwellings served by existing vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following determination of the application, the appellants commissioned an ecological survey. The Council has had the opportunity to comment on this information and has not disputed its findings.
3. The Council's appeal statement concludes against different policies to that on the decision notice. The appellants have commented on the Council's submission. I have reviewed all policies with which the Council has alleged conflict and my conclusions are set out below.
4. Whilst the reasons for refusal do not reference the Battle Civil Parish Neighbourhood Plan 2019-2028 (BCPNP), adopted in June 2021, the Council has alleged harm with BCPNP policies within its appeal statement. However, it is only the frontage of the site, which falls within the Parish of Battle. The proposed development falls outside of the BCPNP boundary and this document is therefore not relevant to this appeal.

Main Issues

5. The main issues are:
 - whether the appeal site represents a suitable location for the proposed development, having particular regard to conserving and enhancing the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB); and,
 - the effect on great crested newts.

Reasons

Location and effect on the AONB

6. The appeal site lies outside of a defined settlement boundary and therefore, for planning purposes is located within the countryside. Policy OSS2 of the Rother Local Plan Core Strategy (CS) September 2014 and Policy DIM2 of the Council's Development and Site Allocations Local Plan (DaSALP) December 2019 seek to focus new development within the defined settlement boundaries and limit development within the countryside to that which accords with specific development plan policies, or where a countryside location is demonstrated to be necessary. The proposal does not meet the criteria set out within these policies.
7. The proposal would not fall to be considered within the 'extremely limited circumstances' where new dwellings are allowed within the countryside, as set out in Policy RA3 of the CS. Consequently, when applying policies concerned with the provision of housing in rural areas, the proposed development would not be in a suitable location and would conflict with the adopted evidence based spatial strategy for rural housing set out within the development plan.
8. Policy OSS2 of the CS requires that decision makers have regard to the accessibility of a proposed development in relation to facilities and services. Given the proximity of other development in the locality, including sporadic residential development, commercial premises and a public house, I find that the appeal site would not be isolated in the context of paragraph 80 of the National Planning Policy Framework (the Framework). However, the proposal would be located in open countryside some distance away from the nearest town of Battle with its facilities including a train station, shops and schools. The appeal site is also some distance away from the nearest village of Catsfield, where further facilities/services are available.
9. Access to the site would be via an existing field gate onto the A217, which is subject to the national speed limit. There are no pavements or streetlights along this stretch of highway. The nearest pavement is on the outskirts of Battle, which is approximately 900 metres away. To access these settlements on foot, future residents would have to walk along the grass verge at the edge of the highway, which is uneven and would not be suitable for all users, particularly in the hours of darkness.
10. Whilst the 1066 footpath is in the vicinity of the appeal site, future residents would have to walk along the A271 in the opposite direction to Battle to access it. This footpath does not provide a direct route into Battle and consequently is unlikely to be used by future residents to meet their day-to-day needs.
11. There are bus stops relatively close to the appeal site. However, the bus services are infrequent and do not run in the evenings, with limited services on Saturdays and no services on Sundays. The infrequency of the bus services and lack of footway to the bus stops, is likely to deter future residents from using this form of transport.
12. Accessibility to services and facilities from the appeal site using sustainable modes of transport would be poor. Whilst it would be possible to walk or cycle to Battle or Catsfield, the speed and volume of traffic is likely to deter future occupants from doing so. I acknowledge that there are employment

- opportunities in the immediate locality; however, future residents are likely to be heavily reliant on private motor vehicles to meet their day-to-day needs, and this weighs heavily against the development.
13. The appeal site lies within the AONB. The Framework requires that great weight is given to conserving and enhancing the landscape and scenic beauty of AONBs. The area is characterised by sporadic development and is predominantly rural in character. The surrounding landscape consists of rolling countryside, comprising of irregular shaped fields and areas of woodland. Opposite the site are commercial premises, which are surrounded by a large area of woodland. To the west is a dwelling and to the east is development associated with a concrete business. To the rear of the site are fields, which are predominantly within agricultural use. The land slopes away towards the rear of the site, with few trees interrupting views.
 14. Whilst there is an open storage building adjacent to the road frontage, the appeal site is largely free from built development and consists primarily of open grassland. The appeal site provides an attractive open space between the existing built development, which makes a positive contribution to the landscape and scenic beauty of the AONB.
 15. The appeal site lies on lower level land than the highway. There is a native hedge along the boundary with the highway and trees along both side boundaries. The site has good levels of screening, which could be enhanced with additional planting. However, views of the proposed development would still be available from the highway, via the access and through the hedgerow during the winter months. Although the design of the proposed dwellings and palette of materials would not be out of keeping with domestic architecture found in the locality, a row of chalet-style bungalows would appear incongruous in this countryside location, which is characterised by sporadic residential development, which is traditional in its character.
 16. Whilst I acknowledge that the proposal would extend no further south than the development on either side, the introduction of 3 new dwellings, a detached garage, hard surfacing for driveways/car parking and domestic paraphernalia would have an urbanising effect on the appeal site and locality. It would transform the existing site from a green open space to one comprising residential built development. In addition, the proposed earthworks would result in a harmful and unnatural change to the existing gently sloping landscape. The proposal would result in a harmful encroachment into the countryside, which would detract from the rural characteristics of the surrounding area. As a result, the proposal would cause significant harm to the landscape and scenic beauty of the AONB.
 17. The Framework does not define infilling, and I have not been pointed to any local policy definition. I consider that infilling is generally defined as the development of a gap in an otherwise built-up frontage. In this case, The Warren to the west is set well back from the road and the commercial site to the east would not assist in framing the proposed dwellings as infill development nor would the proposed dwellings be seen as fitting within a cluster of development as suggested by the appellants.
 18. Overall, I conclude that the appeal site would not be a suitable location for the proposed development and the proposal would fail to conserve or enhance the landscape and scenic beauty of the AONB. The proposed development would

conflict with Policies OSS2, OSS4, RA2, RA3 and EN1 of the CS, Policies DEN1, DEN2 and DIM2 of the DaSALP. Amongst other matters, these policies seek to limit development in the countryside and ensure new development is located in areas with good accessibility to services and facilities. These policies also seek to ensure that development proposals safeguard the intrinsic and locally distinctive character of the countryside; conserve and enhance the landscape and scenic beauty of the AONB; and, that all development is of an appropriate scale and does not adversely impact on the landscape character of the countryside. Furthermore, the proposal would be contrary to the Framework, which seeks to protect and enhance valued landscapes.

19. I do not consider that Policy BA1 of the CS is relevant to this appeal as the proposed built development lies outside of the Parish of Battle, some distance away from the town.

Great crested newts

20. The appeal site lies within an amber impact risk zone for Great Crested Newts (GCN), which means that the area provides a suitable habitat for GCN. GCN are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). I noted on my site visit a small ornamental pond within the neighbouring property and no waterbodies within the appeal site.
21. The appellants' ecological survey concludes that the waterbodies located within 500 metres of the site offer poor quality aquatic habitat and that GCN are unlikely to be present on site. Should the appeal be allowed, details of ecological mitigation and enhancement measures could be required by condition to ensure that GCN and other protected species are not harmed during construction works and their habitat is enhanced.
22. For these reasons, I conclude that the proposed development would not be harmful to GCN, subject to ecological mitigation. The proposed development would therefore comply with Policy EN5 of the CS, which seeks to protect and enhance biodiversity.

Other Matters

23. The appellants ascertain that the proposal would provide 3 self-build houses. The national Planning Practice Guidance makes it clear that for a home to be considered as a self-build, the initial owner needs to have primary input into its final design and layout. Off-plan housing, which is purchased at the plan stage prior to construction, without input from the future buyer does not meet the definition of self-build housing. In addition, there is no appropriate mechanism before me to secure the development as self-build housing. Based on the evidence before me, I find that the proposal would provide market housing and I therefore do not give the self-build aspect any weight.
24. The appellants have drawn my attention to other housing developments within the locality that have received planning permission. Limited details have been provided on the circumstances of each case. However, some are clearly not comparable as they are closer to a settlement than the appeal proposal. Other schemes relate to the change of use of an existing building or are for a replacement building and fall to be considered under a different policy context. I have assessed the proposal on its own merits and do not consider that the other schemes quoted justify the appeal scheme.

25. The appellants argue that the proposal would help to meet the need for small family homes in the locality. However, 2 of the dwellings would have 5 bedrooms and would be sizeable units and I therefore give this matter limited weight.
26. The local highways authority and Town Council raise concerns about highway safety. However, this does not form part of the reason for refusal and there is no technical evidence before me to reach a contrary conclusion to the Council on this matter.

Planning Balance

27. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. The latest published data indicates a 2.79 year supply, which is a substantial shortfall. In such circumstances, paragraph 11d of the Framework advises that the most important policies for determining the appeal are deemed to be out-of-date and planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
28. The proposal would align with the aims of the Framework, which seek to significantly boost housing supply. The provision of 3 new accessible and adaptable dwellings (as set out in the Building Regulations) would make a small contribution towards the Council's housing land supply, which would have a social benefit. There would be economic investment from the construction of the development and future residents would help to support local services and facilities. Although limited details have been provided, the provision of new planting, energy and water efficiency measures, provision of renewable energy, electric vehicle charging points and biodiversity enhancement measures would have environmental benefits. Overall, these benefits carry moderate weight in favour of the development.
29. However, against these benefits, there would be harm as the proposal would neither conserve or enhance the landscape and scenic beauty of the AONB. Paragraph 176 of the Framework is clear that AONBs are to be afforded the highest status of protection in relation to these issues and the scale and extent of development within the AONB should be limited. Furthermore, there would be harm by reason of the poor accessibility of the site to local services and facilities, which would lead to a reliance on private motor vehicles and would not promote sustainable methods of transport.
30. The site is located within a protected area for the purposes of footnote 7 of paragraph 11 d) (i) of the Framework. The proposal would neither conserve nor enhance the landscape and scenic beauty of the AONB, a factor to which I am required to give great weight. The benefits of the scheme would not outweigh the harm I have identified. Consequently, the application of policies in the Framework that protect the AONB provide a clear reason for refusing the proposed development in accordance with paragraph 11 d) (i) of the Framework. As such, the tilted balance within paragraph 11 d) (ii) is not engaged and the presumption in favour of sustainable development does not apply.

31. Given my findings regarding the effect upon the AONB and the poor accessibility of the site by sustainable means of transport, I find that the site is not suitable for the proposed development.

Conclusion

32. For the reasons given above, having regard to the development plan as a whole, the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

A James

INSPECTOR