



Appeal Decision

Site visit made on 9 February 2023

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Appeal Ref: APP/M2270/W/21/3283760

Friars Coach House, Maidstone Road, Matfield, near Tonbridge, Kent, TN12 7LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Ruth Baker against the decision of Tunbridge Wells Borough Council.
 - The application Ref 21/01310/OUT, dated 14 April 2021, was refused by notice dated 12 July 2021.
 - The development proposed was originally described as a two bedroom bungalow which is energy efficient (designed by Scandia-Hus). External Gross (Footprint) 113m². Internal Gross 98m². Alternatively, if permission cannot be allowed for a permanent dwelling, even at appeal, planning permission for a mobile home. See letter attached.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above has come from the planning application form. However, I note that the development is described differently in the appeal form and Decision Notice and these confirm that the appeal proposal relates to the erection of a two-bedroom bungalow on the appeal site. I have determined the appeal on this basis.
3. The appeal is made in outline with all matters reserved for future consideration. I have therefore assessed the submitted drawings as merely illustrative insofar as they relate to the reserved matters.

Main Issue

4. Whether the proposed development would be in an appropriate location, having particular regard to the character and appearance of the surrounding area and development plan policies.

Reasons

5. The appeal site comprises part of the existing garden for Friars Coach House, which would be sub-divided to provide a separate residential plot. It features a variety of mature trees, shrubs and open lawned areas, along with a high garden wall and several outbuildings. The site is located outside the Limits to Built Development (LBD), as defined by the Tunbridge Wells Borough Local Plan (2006) Policy LBD1 and within the High Weald Area of Outstanding Natural Beauty (AONB).

6. The appeal site and its immediate surroundings is bounded by native trees and hedgerows, within a wider undulating landscape which is comprised of both well-wooded areas and agricultural farmland. The access track which connects the appeal site to Maidstone Road is lightly trafficked, which provides opportunities for recreation and links with public rights of way. The inherent and distinct rural character of the appeal site is emphasised due to its location on the outskirts of the settlement edge, the wider open land use and absence of significant levels of built development. In landscape terms, the appeal site is firmly embedded within the countryside landscape, and it has no intrinsic association with the influence of the settlement.
7. The AONB is designated for being one of the best surviving, coherent medieval landscapes in Northern Europe. The positive aspects of the AONB includes the presence of dispersed historic settlements of farmsteads and hamlets with late medieval villages founded on trade and non-agricultural rural industries. Additionally, it includes small, irregularly-shaped and productive fields bounded by hedgerows and small woodlands predominantly of medieval origin and managed historically as a mosaic of small agricultural holdings typically used for livestock grazing.
8. The documentation submitted by the appellant indicate that the bungalow would be a new building, located some distance away from Friars Coach House and situated adjacent to an existing outbuilding. The proposed development would be accessible through a new entrance which leads onto an access trackway which connects with Maidstone Road.
9. While there is limited detail available in the plans other than the general location of the proposed development, the appellant has indicated that the new building would have a floor area of over 100sqm. Accordingly, although it would be a bungalow, the building would be relatively large in comparison with the existing outbuildings located around the garden for Friars Coach House. At present, the appeal site functions as amenity land and thus makes a positive contribution to the AONB landscape. The provision of a domestic dwelling would erode that positive contribution and would be contrary to the need to preserve the landscape beauty of the AONB. Accordingly, the proposed development would harm the rural context of the site, with particular regard to the AONB.
10. I have considered that development has occurred at neighbouring properties in the immediate area, which includes properties which are taller than the proposed development. While I am not aware of the particular circumstances of those cases, the area as a whole is sparsely developed and there is a low density of development which befits the rural character of the area. Notwithstanding the existing developments, they are not so significant in scale as to fundamentally alter the open character of the area as countryside, nor do they justify development which would increase the density of built form into the area. The proposed development would further reduce the openness of the area, such that it would intensify and expand the quantum of built development. Therefore, the construction of the proposed development on amenity land would be a significant addition, when set against the background of the dispersed character of the historic settlements and local distinctiveness of the countryside.
11. While the visibility of the proposed development would be relatively low due to the height of the surrounding walls/ hedging and the limited height of the

bungalow, the development of amenity land would still remain a departure in character and appearance of the area as a whole. I have considered the enhancement that would occur due to the new hedging; however, this would not overcome the issues I have identified above. Equally, while the nature of domestic paraphernalia on site would vary over the life of the development, it would include objects which are currently not present, such as additional fencing to subdivide the plot and improvements to facilitate the new access and parking.

12. I recognise that further development has occurred in the area from Paddock Wood towards Matfield, however, this is a significant distance from the appeal site and appear to be constructed on the direct outskirts of Paddock Wood (a separate settlement). As such, they are distant from the appeal site and their development as a village suburbia has limited relevance. In any event, I must consider the appeal scheme on its own merits, and in the context of the current policy regime which requires such additions to respond to local distinctiveness.
13. The Tunbridge Wells Borough Local Plan (2006) (LP) Policy LBD1 notes that development which is outside the LBD boundaries will only be permitted where it accords with relevant policies. LP Policy EN25 notes that such development must satisfy several criteria, which includes the proposal having a minimal impact on the landscape character of the locality, not having a detrimental impact on landscape setting and there being no existing buildings or structures suitable for conversion or re-use. Tunbridge Wells Borough Local Development Framework Core Strategy (2010) (CS) Core Policy 4 requires the conservation and enhancement of rural landscapes, including locations within the High Weald AONB. CS Core Policy 6 sets out, amongst other aspects, that new housing will be delivered on allocated sites. Its reference to the provision of housing in rural areas/villages relates to affordable housing which should be well related to the LBD. CS Core Policy 14 notes that new development will generally be restricted to sites within the LBD, which are appropriate to the scale and character of the settlement. Furthermore, it sets out that a policy of restraint will operate to maintain the landscape character of the countryside.
14. As the objective of the LBD is to restrict the encroachment of built form into the surrounding rural landscape, and I have found that the proposed development would harm the character and appearance of the area and the AONB, it would be contrary to the development plan's objective of protecting rural areas from inappropriate and intrusive development. In reaching this view, I have considered that the existing outbuildings are fragile, and it may be costly to restore them, however, the economics of this decision is not an issue which affects whether they are suitable for conversion or re-use. Also, while it may be more affordable to split the garden to share the cost of maintenance, the garden even in an unmaintained form would still be a benefit to the character and appearance of the area and the AONB. In addition, the proposal would not provide affordable housing and is not on an allocated site. As such, it would not be in accordance with the above policies and the development plan's overall approach to restrain development in the countryside. As the LBD boundary is defined by the adopted development plan, the date when the boundary was published is not determinative as to whether the proposal complies with relevant, extant policies.
15. I therefore find that the proposed development would not be in an appropriate location, having particular regard to the character and appearance of the

surrounding area and development plan policies. Accordingly, the proposal conflicts with LP policies EN1, with regard to the need for design proposals to respect the context of the site, LBD1 and EN25, and CS Core Policies 4, 6 and 14 as referenced above. It would therefore also not comply with the requirement for development to achieve well-designed places or conserve and enhance the natural environment, contrary to the National Planning Policy Framework (2021) (Framework).

Other Matters

16. I recognise that the pre-application consultation for the proposed development was affected by Covid 19 and that this outline application was submitted instead. However, this is not determinative as to the acceptability of the appeal proposal.
17. The parties have both referred to a previous appeal scheme at the appeal site (16/06993/FULL) for a detached guest suite, which I recognise has similar issues to this appeal, albeit for a different form of development. The appellant has submitted that this decision has limited relevance, due to the duration of time that has passed since that appeal was determined and the grant of planning permission for other larger developments in the area. In any event, I am not aware of the particular circumstances of the previous appeal, and I have determined the proposed development on its merits, based on the evidence before me.
18. Furthermore, as the appeal site is on the outskirts of the village of Matfield, the Council has submitted that the proposed development would negatively impact properties in the area by facilitating further traffic onto a rural lane. I recognise that the reliance on private vehicles may be lessened through the use of delivery services, the distances to the local shop, pub and village hall being walkable, the availability of the mobile library and takeaways, and that a bus service is available in the locality. However, the proposed development would still be sufficiently distant from services and facilities such that there would, despite the above factors, be a high reliance on the private car to access day to day requirements, which will result in further harm to the AONB due to the increase of vehicular traffic.
19. The appellant has referred to other developments in the area of Matfield, specifically Fernham Homes (45 units) and Rydon Homes (20 units) which were also granted permission outside of the LBD. Further reference is made to other developments along Friars Lane which have a modern appearance. The appellant submits that this is an indication of the double standard taken by the Council in relation to development, with regard to appearance and the local need for small houses. Additionally, the appellant has referenced the lifting of agricultural restrictions at other properties in the area. I am not aware of the particular circumstances of those cases and in any event, they do not fundamentally alter the requirement for the proposed development to harmonise with the rural character of the local area. Accordingly, I must consider the appeal scheme on its own merits, and in the context of the current policy regime.

Planning Balance

20. The appellant has described a series of outbuildings on the appeal site (comprising former stables, garage and stores) as heritage assets. Accordingly,

it is proposed that the optimal use of those assets would involve the demolition of some of the outbuildings, but also the retention and maintenance of their side of the high wall. While I recognise that these features have been in situ for some time, the Council has not identified them as designated or even non-designated heritage assets and there is no evidence before me which indicates otherwise. As such, the appeal proposal cannot reasonably be described as failing to secure the optimal viable use of designated heritage assets and therefore I give this matter limited weight.

21. I have considered the benefits that would arise from the proposed development. The provision of employment whilst the building is being constructed and the creation of a new single household would provide some economic benefits. There would be some environmental benefits of the building being of an eco-friendly Scandia-Hus construction. The provision of a single dwelling towards the housing need would also provide a social benefit, especially given that the available evidence indicates that two bedroom properties are particularly needed and the proposed bungalow would provide for the needs of elderly and disabled people. I have also considered the benefits of the appellant being able to stay in the area to maintain their social contacts, the freeing up of a 4 bed family home for use and the creation of an independent access point which may relieve pressure on the access through Lavender House's property (notwithstanding the retention of the existing access point). However, having taken these considerations into account, and given the scale and nature of the development proposed, I find that the benefits would be relatively limited and thus neither outweigh the harm I have identified nor the conflict with the development plan.
22. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which includes disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. The negative impacts of dismissing this appeal will arise from not making a custom-built bungalow available to the appellant. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view, the adverse impacts of allowing the scheme would be disproportionate having regard to the development plan and the issues identified above.
23. The Council has identified that it can only currently demonstrate a housing land supply of 4.83 years. Therefore, as the Council cannot demonstrate a five-year housing land supply, in line with paragraph 11d) and footnote 8 of the Framework, the policies which are most important for determining the application are deemed to be out-of-date. In such circumstances, the Framework sets out that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, as detailed in footnote 7, provides a clear reason for refusing the development proposed. AONBs are included within the list of policies that protect areas or assets of particular importance and which provide a clear reason for refusing the development. I have found that the appeal proposal would harm the AONB. There is therefore a clear reason for refusing the development proposed. The Framework policy relating to the natural environment in paragraph 176 also indicates that great weight should be given

to conserving and enhancing landscape and scenic beauty in AONB, such that any development should be limited. As such, the Framework's presumption in favour of sustainable development does not apply to this appeal. The development would result in harm to the natural environment, contrary to a number of policies from the development plan as referenced above.

Conclusion

24. I have found that the appeal scheme conflicts with development plan policy and thus find that it would be contrary to the development plan as a whole. No material considerations have been demonstrated which would outweigh the planning development conflict. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

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INSPECTOR