



Appeal Decision

Site visit made on 4 May 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 7 July 2023

Appeal Ref: APP/M2270/W/22/3308174

Mount Ephraim Farm, Freight Lane, Cranbrook, Kent TN17 3PG

- 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 Gareth Thompson against the decision of Tunbridge Wells Borough Council.
 - The application Ref 22/00586/FULL, dated 18 February 2022, was refused by notice dated 25 April 2022.
 - The development proposed is demolition of disused agricultural outbuildings, and the erection of a new 3 bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of disused agricultural outbuildings, and the erection of a new 3 bedroom dwelling at Mount Ephraim Farm, Freight Lane, Cranbrook, Kent TN17 3PG in accordance with the terms of the application, Ref 22/00586/FULL, dated 28 February 2022, and the plans submitted with it, subject to the conditions within the attached schedule.

Background and Main Issue

2. The main issue is whether the appeal site is an appropriate location for the proposed development having regard to the development strategy and accessibility of services.
3. It is agreed by the council and the appellant that planning permission, ref. 19/00657/FULL, for the conversion of one of the agricultural outbuildings, which is the subject of this appeal, to a dwelling has been implemented. I have not been provided with any substantive evidence to suggest that the development wouldn't be fully constructed if this appeal was dismissed. For these reasons I consider that there is a greater than theoretical possibility that the development would take place.
4. The appeal site is located within the High Weald Area of Outstanding Natural Beauty (AONB). As per paragraph 176 of the National Planning Policy Framework (the Framework) great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.
5. I consider that the proposed development would conserve the landscape and scenic beauty of the AONB as it would be viewed in the middle of a cluster of residential development, alongside similar properties. I am also mindful that the council agree with this conclusion and have not sought to refuse permission on the proposed development's effect on character and appearance. The council's concerns relate only to the location of the proposed development.

Reasons

6. Both the proposed development and the extant planning permission, ref. 19/00657/FULL, would lead to the erection of a three-bedroom dwelling. Whilst the proposed development would lead to a slightly larger property it has the same number of bedrooms and is therefore likely to accommodate the same number of people, and would generate a similar number of vehicular journeys, as the permitted dwelling.
7. The council contends that harm would be caused by the demolition of the agricultural building and the need to dispose of the waste, which wouldn't occur during the construction of the permitted dwelling. It also identifies support within local policy and the Framework for the reuse and conversion of existing buildings. The appellant contends that the proposed development would lead to a house built to Passivhaus standards and would therefore be more energy efficient than the permitted dwelling.
8. Nevertheless, I have no substantive evidence before me on the amount of waste to be disposed of as part of the proposed development, neither do I have evidence on the proposed energy performance of either dwelling or why the permitted dwelling could not be built to Passivhaus standards. I therefore conclude that the environmental effect of both the proposed development and the permitted dwelling is likely to be similar.
9. It is acknowledged by both parties that the appeal site is outside of the Limits to Built Development as defined within the Tunbridge Wells Borough Local Plan (LP), March 2006. LP Policy LBD1 indicates that development outside of the Limits to Built Development will only be permitted where it would be in accordance with all relevant policies contained in the LP.
10. The parties have referred to Policy STR1 of the of the Tunbridge Wells Local Plan, Submission Local Plan 2020-2038 (SLP), October 2021. Those policies do not yet form part of the development plan and in accordance with paragraph 48 of the Framework, I have not been provided with substantive evidence which allows me to understand the extent of any unresolved objections. Consequently, I have afforded SLP Policy STR1 limited weight. In any event, for the reasons that follow, this has not influenced the outcome of the appeal in any way, and I am satisfied that no party has been prejudiced by my approach.
11. LP Policy EN25 requires all proposals for development outside of the Limits to Built Development to conform with the criteria detailed in the policy. Criterion 4 identifies where built development is proposed there would be no existing building or structure suitable for conversion or reuse. As one of the agricultural barns benefits from planning permission for its conversion to residential use, it would be considered suitable for conversion.
12. LP Policy H10 supports the replacement of an existing dwelling outside of the Limits to Built Development. Nevertheless, the appellant has indicated that the proposed development would include the demolition of agricultural buildings. Whilst the planning permission for a conversion to a residential use has been implemented, from the evidence before me and observations on site the building is not currently being used as a dwelling. LP Policy H10 therefore does not weigh in favour of the proposed development.

13. The appeal site is a moderate distance from the centre of Cranbrook which accommodates multiple services and public transport connections which could be utilised by future residents. Whilst part of the route from the appeal site to Cranbrook is along residential roads with street lighting, a good proportion of the route would be along unlit narrow roads with no street lighting. Although it would be possible to walk to Cranbrook, given the nature of surrounding roads future residents would be disincentivised from using sustainable methods of transport. Future residents would therefore be reliant on the use of private motor vehicles, particularly in winter months and during inclement weather.
14. The appeal site is not an appropriate location for the proposed development having regard to the development strategy and accessibility of services and it would be contrary to LP Policy LBD1 for the reasons given above. The proposed development would also be contrary to Core Policy 14 of the Tunbridge Wells Borough Local Development Framework, Core Strategy Development Plan Document (CS), June 2010 which indicates that new development will generally be restricted to sites within the Limits to Built Development.
15. CS Core Policy 6 concerns overall housing land supply, affordable housing, dwelling size and mix, and Gypsies, Travellers and Travelling Showpeople accommodation as such it does not weigh in favour or against the proposed development.
16. Notwithstanding, consideration is given to the fallback presented by the dwelling permitted by planning permission, ref. 19/00657/FULL. As above, it is likely that the proposed development would accommodate the same amount of people as the permitted dwelling and would therefore generate a similar number of vehicular journeys. Whilst the development strategy doesn't support new residential development in this location, the proposed development would be built in place of a permitted dwelling. The proposed development and the permitted dwelling are likely to have a similar environmental effect. For these reasons, the proposed development would not lead to any additional harm, beyond that generated by the permitted dwelling and is therefore acceptable.

Other Matters

17. I have not been provided with substantive evidence outlining the potential extent of the damage caused by construction vehicles to the internal access road. Without further evidence I cannot conclude that it would not be appropriate for construction vehicles. It would therefore not be reasonable to condition the maintenance of the road as part of a planning permission for the proposed development. Likewise, the removal of any redundant utilities' infrastructure is not necessary for this planning permission.
18. This planning appeal decision is without prejudice to the determination of planning applications for larger housing developments in proximity to the appeal site.

Conditions

19. In the interest of certainty, conditions specifying timescales to implement the permission and the approved plans are necessary. Conditions requiring details of the materials of the external surfaces and landscaping scheme to be submitted to and approved by the local planning authority are necessary to

ensure that the proposed development does not harm the character and appearance of the area.

20. A condition specifying the implementation of the landscaping scheme and replacement of damaged and/or dying vegetation is required in order to ensure the scheme is implemented and maintained appropriately whilst the vegetation matures.
21. Conditions requiring details of the proposed foul disposal scheme and surface water drainage system and refuse storage to be submitted to and approved by the local planning authority are necessary to ensure that the proposed development drains appropriately and to ensure suitable facilities are provided.
22. A condition requiring details of the mitigation measures to protect biodiversity and provide on-site enhancements is necessary in order to ensure protected species are not affected by the development and to take the opportunity to provide a biodiversity gain in line with paragraph 120 of the framework. A condition requiring details of external lighting to be submitted to and approved in writing by the local planning authority is necessary in order to ensure that the proposed development would not affect bats.
23. To prevent the spread of contamination a condition is necessary to ensure remediation measures and a verification report are agreed and implemented, if contamination is found.
24. A condition requiring the parking spaces to be constructed prior to occupation and maintained free of development for the duration of the development is not necessary. There is sufficient space to park in proximity to the appeal site and whilst parking spaces would be beneficial, parking off site would not cause a highway safety concern.
25. Paragraph 21a-017 of the Planning Practice Guidance advises that conditions restricting the future use of permitted development rights or change of use may not pass the test of reasonableness or necessity. The council sought to restrict the use of Part 1, classes A, B and E and Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). The site is located within an AONB and is identified as Article 2(3) land within the GPDO. The Order restricts the scope of what is permitted development within Article 2(3) land. I have not been provided with substantive evidence explaining why the scope of permitted development should be further restricted in this instance. A condition removing the right to permitted development identified within Part 1, classes A, B and E and Part 2 Class A of the GPDO would therefore not be reasonable.

Conclusion

26. The proposed development conflicts with the development plan when considered as a whole. However, the fallback position of the dwelling permitted by planning permission, ref. 19/00657/FULL, is a material consideration. As the proposed development would have a similar effect as the permitted dwelling it is acceptable.

27. Therefore, for the reasons given above I conclude that the appeal should be allowed, and planning permission is granted.

J Hobbs

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans 209-P01; 209-P10; 209-P11; 209-P12; 209-P13; 209-P14; 209-P15; 209-P16; 209-P17; 209-P18; 209-P19.
- 3) Prior to the commencement of development, details of the foul disposal and surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and be fully implemented prior to the occupation of the dwelling and retained thereafter.
- 4) Prior to the commencement of development, details of measures for mitigating the effect of the construction works on biodiversity and enhancement works as detailed within the Preliminary Ecological Appraisal dated February 2022, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and enhancement measures shall be retained thereafter.
- 5) No above ground works shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and these materials shall be retained thereafter.
- 6) No above ground works shall take place until a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 7) Prior to the occupation of the dwelling, details for the storage of refuse shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the refuse storage shall be retained thereafter.
- 8) Prior to the occupation of the dwelling, details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no additional external lighting shall be installed thereafter.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be

reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed.