



Appeal Decision

Site visit made on 20 July 2023

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/C1435/W/22/3298288

2 Warren Farm Cottages, Warren Farm Lane, Eridge TN3 9JR

- 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 Mrs R Osberg against the decision of Wealden District Council.
 - The application Ref WD/2021/0479/FR, dated 20 February 2021, was refused by notice dated 19 November 2021.
 - The development proposed is retrospective change of use of annexe currently used as garage/workshop and art studio to separate self-contained dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form describes the proposal as a change of use to separate self-contained dwelling and states the use commenced in October 2020. The evidence also indicates that separate Council Tax has been paid and during my site visit I observed the signs on the gate which appear to indicate separate addresses from that of No 2 Warren Farm Cottages. The Council considered the proposal as a separate dwelling. I will determine this appeal in the same way, as that is what was applied for, notwithstanding that some of the evidence suggests the property could not be used independently.

Main Issues

3. The main issues are:
 - whether the site is an appropriate location for a dwelling taking into account local and national spatial planning policy;
 - the effect of the proposal on the character and appearance of the area; and
 - the effect on the Ashdown Forest Special Area of Conservation (SAC), Ashdown Forest Special Protection Area (SPA), and Site of Special Scientific Interest (SSSI). I will refer to these together as the protected habitats.

Reasons

Spatial Strategy

4. The spatial strategy for the District is set out in the Saved Policies of the Wealden Local Plan 1998 (the LP) and the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 (the CS). It

directs development to within the defined boundaries of those settlements that have the greatest amount and range of employment and facilities and are best served by public transport. Development outside defined boundaries is generally resisted under Saved Policy GD2 of the LP and Policy WCS6 of the CS unless it meets criteria set out by other Policies. Saved Policy EN1 and Policies SPO7 and WCS14 of the CS seek to ensure development is sustainable in terms of the effect on the environment and encourages development to be concentrated where the need to travel by private car is reduced. These policies, whilst of some age, broadly reflect Government guidance as set out in the National Planning Policy Framework 2021 (the Framework).

5. The appeal site is outside any defined development boundary and in the countryside for planning policy purposes. A separate dwelling would therefore be contrary to Policy SPO1 of the CS and Saved Policies GD2 and DC17 of the LP which resist new housing development in the countryside unless it has some justification for a rural location, none of which have been demonstrated in this case.
6. There are bus stops; a church and a public house on the main A26 at Eridge Green. The station at Eridge is some 2.9km away along the A26. There is a wider range of day-to-day services in Royal Tunbridge Wells and Crowborough some 6 to 7km away.
7. The speed of traffic along the A26 and the lack of footpaths and lighting means it is not conducive for walking or cycling. Moreover, access to the A26 is some 0.6km along a narrow winding road with relatively few passing places and some parking congestion caused by visitors to Eridge Green Nature Reserve. There are no footways or street lighting and the trees and hedges and overgrown verges along the route further discourage walking or cycling, particularly during hours of darkness or during inclement weather, so it is likely that most journeys by residential occupiers would rely on the private vehicle. I also note that the Framework recognises that opportunities to maximise sustainable transport solutions varies between urban and rural areas but this site is noticeably less accessible than many.
8. The Council granted planning permission for the erection of an outbuilding with annex to be used as garage/workshop and art studio in the garden of No 2 notwithstanding it was not physically attached to the dwelling. Saved Policy DC8 allows for the conversion of buildings outside development boundaries to residential use subject to criteria. Of these the Council considers the commercial re-use criteria is not compliant with the Framework so the weight attached to Saved Policy DC8(1) should be limited and I see no reason to disagree.
9. However, it is not clear whether or not the permitted use commenced, and as built the appeal building is different to that permitted. Saved Policy DC8(2) requires that conversions should not rely on significant extension. Had the building been built as permitted the use as a separate dwelling in the way shown on the submitted plans would not be feasible due to restricted floor space at first floor. Accordingly, I find some conflict with Saved Policy DC8(2).
10. Taking all of the above into account I conclude that the site would not be an appropriate location for a new dwelling in terms of local and national spatial planning policy as it conflicts with those parts of Saved Policies GD2, EN1 and DC17 of the LP; Policies SPO1, SPO7, WCS6 and WCS14 of the CS and those

principles of the Framework that seek to direct development to the most accessible locations and to reduce reliance on the private vehicle. Nevertheless, some support is garnered from Saved Policy DC8 as the building already exists although there is some conflict with criteria (2).

Character and appearance

11. The appeal site and surroundings are in the High Weald Area of Outstanding Natural Beauty (AONB) which is afforded the highest level of protection to safeguard the natural beauty of its landscape. Its special character derives amongst other things from the extensive survival of woodland and traditional mixed farming including scattered buildings such as farms and houses with villages and towns of Medieval origin located at historic focal points or along ridge top roads.
12. Warren Farm Cottages are semi-detached houses and there are some other dwellings along Warren Farm Lane and at Warren Farm. Accordingly, the site is not isolated in terms of Paragraph 80 of the Framework. It is situated in farmland, woodland and is close to the Eridge Rocks Site of Special Scientific Interest (the Eridge Rocks SSSI).
13. A separate dwelling is likely to create an intensification of domestic activity, vehicles and paraphernalia. However, the permitted scheme, which includes a studio, would be likely to result in additional vehicles and activity and it seems to me that much residential paraphernalia would be likely to be in the largely enclosed rear gardens that would be available and not overly intrusive. The building that exists has a greater roof pitch and taller roof and appears somewhat more dominant in relation to No 2. However, given the fall-back of the permitted building, and as the external materials reflect those of the extension at No 2, I consider there would be no material harm arising from the larger building. Accordingly, I consider there would be no material urbanising and harmful effect in the locality.
14. For the reasons set out above I consider that the landscape and scenic beauty of the AONB would not be harmed. Therefore, there would be no conflict with Saved Policies EN6 and Policy SPO1 of the CS; Paragraph 176 of the Framework which requires great weight to be given to harm to the AONB; or Policy WCS14 which takes into account those principles of the Framework that restrict development. Nor would there be conflict with those parts of Saved Policies EN27 and DC8(1) which seek to ensure development respects the character of adjoining development.

Protected Habitats

15. Policy WCS12 of the CS seeks to avoid adverse effects on the integrity of the Ashdown Forest protected habitats. Natural England (NE) have confirmed that exclusion zones can help protect heathland sites from a combination of adverse impacts, including human recreation and additional urbanisation effects.
16. The proposal would not directly impinge on the protected habitats. However, the appeal site is within 7km of the Ashdown Forest. Together the SPA, SAC and SSSI qualifying features include the presence of European dry heath, North Atlantic wet heath, great crested newts, the Dartford Warbler and European Nightjar. The main identified threats arise from vehicular associated atmospheric pollution to the heathland habitats and disturbance by humans

and recreational activities, development pressure and the loss of nesting/feeding habitats.

17. NE advice is that no mitigation measures are needed under the specific requirements of the Habitats Regulations¹ in the District is respect of atmospheric pollution.
18. The appellant is willing to enter into a legal obligation to secure a financial contribution towards Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring which is an approach generally supported by NE in relation to visitor pressure. The contributions would be used to improve maintain the visitor experience at the nearby strategic SANG in order to displace recreational trips away from the SPA in line with the tariffs in the Council's Ashdown Forest Mitigation Zone Background Paper and for monitoring. The Council has indicated that should such a deed be supplied the refusal reason relating to protected habitats would not be pursued.
19. I have insufficient information on which to base an Appropriate Assessment; no indication as to the extent of financial contribution that would be provided or the mechanism to secure it/ensure it is used appropriately; and no confirmation from NE about the acceptability of such an approach in this case. Accordingly, as the competent decision-maker I cannot confidently conclude that the proposal, alone or in combination with other proposals, would not have a harmful effect on the protected habitats. Accordingly, there would be conflict with Saved Policies EN1, EN7 and EN15(1); Policies WCS12 and WCS14 of the CS; Circular 06/05² and those principles in Section 15 of the Framework which together seek to prevent an adverse effect on the Ashdown Forest.
20. The Eridge Green Nature Reserve and SSSI, which comprises ancient woodland on clay with outcrops of sandstone, has a small public carpark for visitors. The Council does not object in relation to this and I see no reason to suppose harm to the Eridge Rocks SSSI would arise from use of the appeal building as a separate dwelling.

Other Matters

21. The Council advises it cannot demonstrate a five-year supply of deliverable housing land and the evidence indicates the land supply is low at some 3.66 years. Accordingly in terms of Paragraph 11 of the Framework, which is a material consideration, those policies most important for the appeal are deemed to be out-of-date. However, Footnote 7 clarifies that impacts on designated sites such as an AONB or protected habitats may still limit the acceptance of housing.
22. It is not clear that the permitted use commenced or the extent to which it operated so I give the assertion that there were trips by visiting 4-5 students at least once a week little weight in the context of this appeal. Just lodgers
23. The Warren Farm planning application³ dwellings would be further from day-to-day services and facilities than the appeal scheme. I have limited information but it appears from the Officer Report that considerable weight in that recommendation is afforded to restoring heritage assets and removing large

¹ Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

² Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System

³ WD/2021/0384/F

unsightly buildings which would enhance the AONB neither of which would apply in the appeal before me. From the limited information available to me the policy considerations which led to a colleague dismissing appeal reference APP/C1435/W/22/3293027 appear to be slightly different. Neither of these cases therefore lead me to any different conclusions in the appeal before me.

24. There is a gravel parking area in front of the appeal building which seems to me provides sufficient parking for the appeal building and No 2. Had my conclusions on the main issues been otherwise I would have sought a plan indicating how the parking could be shared but, in the circumstances, it is not necessary or appropriate for me to do so.
25. There may be a covenant which prevents sub-division of No 2 and the appellant asserts that all services are inter-linked and managed from No 2. However, covenants are private matters; there is no mechanism to prevent the separation of services; and even if there was this would not necessarily preclude occupation as a separate dwelling in planning terms.
26. Personal reasons mean the owners do not wish to occupy the properties themselves but personal circumstances are not normally a reason for granting planning permission; nor would the definition of self-build and custom-build housing set out in the Glossary to the Framework be met.

Planning Balance and Conclusion

27. The proposal would add a single much needed dwelling to the supply of housing in an existing building. There would be short term economic benefits from construction employment and additional spend from residents in the local economy. There would be no harm to the character and appearance of the area. These matters carry substantial weight in favour of the proposal in the context of the relatively poor supply of available housing land albeit somewhat tempered by its small scale and as the building is unauthorised.
28. There would be no detrimental impact on living conditions of occupiers of nearby properties: this is to be expected of all developments and is a neutral factor in this appeal.
29. On the other hand, the site is not ideally located in terms of accessibility to day-to-day facilities and conflicts with the spatial strategy for the District. More particularly I have found that I cannot conclude that the development would not be harmful to protected habitats. These matters attract significant weight and outweigh the benefits associated with the proposed development.
30. The proposal would therefore conflict with the development plan taken as a whole and there are no other considerations, including the Framework, which outweigh this conflict. I conclude the appeal should be dismissed.

S Harley

INSPECTOR