



# Appeal Decision

Site visit made on 18 July 2023

**by Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 23 August 2023**

**Appeal Ref: APP/U1430/W/22/3298948**

**Barns Site, Land Adjacent to Steeplands, Pottery Lane, Brede TN31 6HE**

- 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 Angela Patel against the decision of Rother District Council.
- The application Ref RR/2020/70/P, dated 8 January 2020, was refused by notice dated 25 February 2022.
- The development proposed is described as "the erection of a 4 bedroom detached dwelling and detached garage on the site of the old barns, these barns are now derelict and have been unused for many years."

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development cited in the planning application form differs to that contained within the decision notice and the appeal form. There is no evidence any change was formally agreed. For the purposes of the appeal and in the interest of clarity I rely upon the description on the application form for the purposes of the appeal as detailed in the heading above.

## Main Issues

3. The main issues are:
  - (i) whether the site is a suitable location for the proposed development having regard to the provisions of local and national policy and the accessibility of services and facilities;
  - (ii) the effect of the proposal on the character and appearance of the area, with specific regard to the High Weald Area of Outstanding Natural Beauty (AONB); and
  - (iii) highway safety.

## Reasons

### *Location of development*

4. The appeal site is a narrow strip of land adjoining existing dwellings at Steeplands on Pottery Lane. The appeal site is set back from the road, with existing mature trees and hedgerows along the boundary with the highway. The land rises slightly towards the rear, where it drops down to extensive open fields to the north providing a rural feel to the surrounding area. The proposal seeks to construct a two-storey detached, 4-bedroom dwelling with a half-hipped roof.

5. The appellant refers to the High Court judgement<sup>1</sup> regarding paragraph 80 of the National Planning Policy Framework (the Framework), contending that as the proposed development would be adjacent to the other dwellings in the vicinity at Steeplands, the physical location of the proposal would not result in a new isolated home in the countryside, which the Framework seeks to avoid. I have taken account that there are other dwellings in the vicinity of the appeal site at Steeplands and therefore given its grouping with these other dwellings, the site would not be isolated in the context of paragraph 80 of the Framework.
6. The Framework further advises, at paragraph 79 that housing development in rural areas should be located where it will enhance or maintain the vitality of rural communities and identify opportunities for villages to grow and thrive, especially where this will support local services. The Framework also seeks to promote alternative forms of transport other than the private car.
7. Policy OSS2 of the Rother District Council Local Plan Core Strategy (RCS), adopted 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 (RLP), adopted December 2019, states 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. The creation of new dwellings in the countryside is allowed only in extremely limited circumstances. RCS Policy RA3 lists a number of such circumstances, of which none apply in this instance.
8. The proposal would represent a new dwelling in the countryside, as the site is situated outside of the closest recognised settlement boundaries of Brede and Cackle Street villages. The parties agree that the nearby villages of Brede and Cackle Street provide very limited services and facilities. From my observations the range of services within these small villages are unlikely to meet the day-to-day needs of future occupiers of the proposed dwelling.
9. The closest facilities are located in the larger village of Broad Oak. However, access to Broad Oak on foot or by bicycle would require future occupiers to walk or cycle along Pottery Lane, which does not have a pavement, and is predominantly unlit, until they reach Cackle Street (A28), which I observed has a 30mph speed limit. The lack of footpaths or streetlighting would make it less attractive for people to walk, especially for small children going to school.
10. I have limited substantive evidence before me to indicate that the site is well served by public transport, although there is a bus stop located approximately 630m from the appeal site on Cackle Street with services into Broad Oak. However, whilst this would be an available alternative to the private car, I have not been provided with any details of the frequency of the bus service. This leads to uncertainty that it would be a realistic substitute to the convenience of a private car. Therefore, there would be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services. This is an adverse matter to which I afford significant weight.

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<sup>1</sup> Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 61

11. The proposed development would not provide a suitable location for housing, having regard to the accessibility of services and facilities. In this respect, it would not accord with RCS Policies OSS2, OSS4, RA2, RA3, and TR3 and RLP Policy DIM2 which, amongst other things, seek to direct development to towns and villages, to restrict development in the countryside, and to protect the existing character and appearance of the countryside.
12. The development would also conflict with paragraph 105 of the Framework which seeks to maximise sustainable transport solutions. As such, I cannot conclude that the proposed dwelling would be located where it would enhance or maintain the vitality of rural communities as envisaged by paragraph 79 of the Framework and it would not be the sustainable development that it seeks to promote in rural areas.

#### *Character and appearance*

13. The appeal site is located within the High Weald AONB. Paragraph 176 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONBs. The High Weald AONB is characterised by rolling countryside, of a pastoral nature, punctuated by small areas of woodland, small towns, villages and hamlets.
14. Whilst the appeal site is located outside of the villages of Brede and Cackle Street, it is sited close to an existing cluster of buildings, adjoining large open fields where views into the open countryside are available. The immediate area surrounding the site is primarily rural where the fields, hedgerows and woodland trees of varying maturity form a strong characteristic of the area that is designated as being within the High Weald AONB.
15. The proposed design, scale and spacing would reflect that of other properties in the wider area. The proposed position of the property would be tucked in amongst a backdrop of an established and verdant setting alongside the disused barns. Despite this position, the introduction of further built development in the form of a large, detached dwelling, would result in the further urbanisation of the site to the detriment of its rural character and its openness.
16. Though the dwelling itself would be set within the landscape and positioned similarly to the other dwellings at Steeplands in a modern high-quality design and finish, these attributes would not offset the unavoidable consequence of adding a building with its associated residential paraphernalia to a site where none exists at present.
17. Furthermore, I have not been provided with any substantive evidence that demonstrates whether the proposal would be effective in maintaining the landscape features such as trees and hedgerows within the site. In addition, there is limited information in respect to the protection of trees and hedgerows during the construction phase and any mitigation or enhancement measures in terms of landscaping. Without these details, such as root protection areas I cannot be sure the proposal would not decrease life expectancy of the established landscape features. As such, the imposition of a condition would not be appropriate in this case.

18. By reason of the urbanising effects of the proposal, and lack of information in respect to the retention of landscaping, the proposal would be harmful to the character and appearance of the area. The proposal would fail to conserve and enhance the landscape and scenic beauty of the High Weald AONB, to which the Framework attaches great weight. Consequently, the proposal would not accord with the relevant sections of RCS Policies EN1, RA2 and RA3 and Policies DEN2 and DIM2 of the Rother District Council Development and Site Allocations Local Plan (RLP), adopted December 2019, and Paragraph 176 of the Framework which seeks to protect and enhance valued landscapes.

#### *Highway safety*

19. The proposed access would utilise an existing field access from Pottery Lane (C21). The C21 is subject to national speed limits (60mph). The access to the appeal site is separated from the roadside by well-established hedgerows. Concern has been raised regarding the adequacy of the visibility splays of the proposed access at the junction with the public highway.
20. East Sussex County Council as Highways Authority (HA) highlights that the Design Manual for Roads and Bridges (DMRB) 2019 recommend that on a road subject to a 60mph speed limit, a new access requires visibility splays of 2.4m x 215m in both directions, however in some circumstances a minimum splay of 2.4m x 160m can be acceptable. Both parties agree that these visibility splays cannot be achieved as part of the proposed development.
21. The Manual for Streets (MfS) 2007 states that it is preferable to use actual recorded 85th percentile figures of traffic speeds on existing roads when generating an accurate design of visibility splay. MfS provides guidance on visibility requirements and Stopping Sight Distances (SSDs) for streets where 85th percentile speeds are up to 37mph. At speeds above this, the recommended SSDs in the DMRB are more appropriate.
22. However, I have not been provided with any evidence of speed surveys, in order to justify any reduction in the 60mph visibility splay requirement. Instead, the appellant suggests mitigation measures, such as the installation of convex road safety and surveillance mirrors to assist in visibility and safety. Based on the information before me, it has not been demonstrated that the reduced visibility splays would not be detrimental to highway safety. Whilst I acknowledge that there is an existing access, no information has been provided to demonstrate the frequency of its use, albeit noting that any intensification would be limited given the scale of development.
23. The HA further raise concerns in respect to highway safety given the provision of the off-street parking and ability to enter and exit the site in a forward gear. Whilst the proposal would provide off-street parking and a garage, I have not been supplied with any evidence in respect to the provision of swept path analysis to ensure safe access and egress or the ability to turn on site. Given the relatively tight forecourt area, I therefore cannot be certain that either parking provision or access arrangements would be safe and meet the required standards and allow vehicles to enter or leave the site in forward gear, as reversing out of the site would have a negative impact on highway safety.
24. The appellant highlights that the development would improve the visibility of the existing access, however I have not been provided with any substantive

evidence that the proposed development is the only option available to secure such improvements.

25. For the above reasons, I conclude that the proposed site access would be unacceptable in highway safety terms, with particular regard to the adequacy of the proposed visibility splays and adequate turning facilities within the site. The proposal would therefore conflict with RCS Policy CO6 and RLP Policy TR4 which together, amongst other things, require safe and achievable access and seek to ensure developments do not harm highway safety. Furthermore, the proposal would be contrary to the guidance contained in Paragraphs 110 and 111 of the Framework, which amongst other things, seek to ensure that developments are not permitted if there would be an unacceptable impact on highway safety.

### **Other Matters**

26. The Council cannot demonstrate a 5-year housing supply (2.79 years of housing supply as of November 2022). The appeal scheme would provide a windfall development which in providing a new 4-bedroom family dwelling would make a modest contribution to Rother District Council's housing undersupply. As such, this attracts moderate weight in favour of the development.

### **Planning balance and Conclusion**

27. It is common ground that the Council is currently unable to demonstrate a 5-year supply of deliverable housing sites (HLS) and therefore the policies most important for determining the application are considered to be out-of-date, commonly referred to as the tilted balance. However, as I have found harm to the AONB, in accordance with paragraph 11.d) i. of the Framework including footnote 7 to that paragraph the application of policies which protect the AONB, a designated area, provide a clear reason for refusing the development and the tilted balance does not apply. Accordingly, the presumption in favour of sustainable development does not apply.
28. Furthermore, there would be negative environmental and social effects arising from the unsuitable location in terms of the lack of accessibility to local services and facilities and also to highway safety.
29. The proposal would result in some small social and economic benefits, including the support future occupiers would give to local businesses and services. The proposal also benefits from a sufficiently sized unit. To these benefits I apportion modest weight given the limited scale and nature of the proposed development. However, these benefits would not outweigh the harm that I have identified above.
30. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

*Robert Naylor*

INSPECTOR