



Appeal Decision

Site visit made on 11 September 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th October 2023

Appeal Ref: APP/U1430/W/22/3308344

The Olde Piggery, Eight Acre Lane, Three Oaks TN35 4NL

- 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 Bill Coney against the decision of Rother District Council.
 - The application Ref RR/2022/155/P, dated 17 January 2022, was refused by notice dated 6 April 2022.
 - The development proposed is described as "Permission to site 3no. Storage containers (8ft X 20ft), including use of existing site building as a Builders store. (retrospective)"
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw during my site visit that three storage containers were located on the site and the existing building was in use to store building materials. This appears to accord with the plans before me. I have therefore considered the appeal on the basis that the development has already taken place, as did the Council.
3. The appellant's statement says the storage containers are temporary, but the planning application did not refer to a request for temporary consent. The Council did not consider this element of the proposal to be temporary and neither have I.
4. A new version of the National Planning Policy Framework (the Framework) was published on 5 September 2023. The section on Areas of Outstanding Natural Beauty has not changed, so there has been no injustice caused by the new Framework.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the surrounding area, including the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (HW AONB).

Reasons

6. The appeal site comprises an open grassed area and the remains of a former agricultural building with associated hardstanding. The site adjoins dense woodland on two sides. Trees and shrubs line part of the border with Eight Acre Lane and part of the border with an adjacent site, affording glimpses into the site when deciduous vegetation is not in leaf. There are also clear views into the site from Eight Acre Lane through the wide entrance. The surrounding area is rural and comprises mainly fields and woods, with the small settlement of Three Oaks to the north and a few other developments along Eight Acre Lane.

7. Paragraph 176 of the Framework says great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. Having regard to the HW AONB Management Plan 2019-2024 (HWMP), the HW AONB comprises a mosaic of small fields interspersed with farmsteads and villages, surrounded by hedges and abundant woods and arranged around a network of historic routeways. Its outstanding beauty derives from its essentially rural and human scale character, high proportion of natural surfaces, and tranquillity. The appeal site makes a positive contribution to this landscape and scenic beauty through its primarily rural character within a relatively tranquil, wooded area.
8. The development has introduced three large, metal containers to the site, which, owing to their size and materials, look out of place in the rural setting. Although sited to be largely concealed from direct views through the entrance of the site, they are visible from other perspectives through gaps in the vegetation. The remains of the existing building are surrounded by the paraphernalia of a builder's yard, including building materials, equipment, machinery and rubble. This also contrasts markedly with the wooded and rural surroundings. Overall, the development and the activity associated with it have had an urbanising effect which detracts from the area's intrinsically rural character and tranquillity.
9. I accept the existing vegetation around the perimeter of the site and the access gate remain unaltered. I also acknowledge some additional planting has occurred. Nonetheless, the existing and new planting do not fully mitigate the harm I have identified because the development remains visible and it has changed the character of the site to its detriment.
10. I therefore conclude the development has had a harmful effect on the character and appearance of the surrounding area, including the landscape and scenic beauty of the HW AONB. This is contrary to Policies OSS4, RA2, EN1 and EN3 of the Rother Local Plan Core Strategy 2014 and Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan 2019. These policies seek development of high design quality that respects and reinforces local character; conserves the intrinsic value and locally distinctive rural character of the countryside; and conserves and seeks to enhance the HW AONB, having regard to its character components. It is also contrary to Objectives S2 and S3 of the HWMP, which seek to protect the historic pattern and character of settlement and ensure development reflects the character of the High Weald in its scale, layout and design. It is also contrary to paragraph 176 of the Framework.

Other Matters

11. The development supports the operation of a local builder's business, which in turn generates employment and helps to support the local economy. However, given the modest size of the development, this does not outweigh the harm to the landscape and scenic beauty of the AONB I have found.
12. The appellant has drawn attention to the planning permission granted under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) for the change of use of agricultural buildings to flexible commercial uses, including Class B8. However, such a planning permission is subject to certain conditions and limitations. There is very little evidence about whether those would be complied with in this case. Moreover, I have not been appointed to determine whether such a

planning permission exists and there is a separate procedure under s191 of the 1990 Act under which this matter could be considered. I therefore give the possible GPDO planning permission very little weight.

13. I note the appellant would be happy to accept the conditions proposed by the Council. Other than a standard plans condition, these would restrict the use of the building and site to activity falling within the B8 storage use class and limit hours of operation. Whether or not the development falls within the B8 use class, neither restricting activity to storage uses nor limiting the hours of operation would mitigate the detrimental appearance of the storage containers. Therefore, these conditions would not overcome the harm to character and appearance and to the HW AONB I have found.
14. I have considered the arguments that the development makes good use of an existing building, and that this building will be maintained if it can be used as a builder's storage space. There is little evidence to substantiate this. When I visited the site, the building was in dis-repair and materials and equipment were located on open land. Similarly, there is little to support the suggestion that, without planning consent for the development, the site would attract fly tipping and other unlawful activity.
15. Whilst I acknowledge there are other businesses located on Eight Acre Lane, there is little before me about the particular circumstances of the sites involved. In any case, each development must be considered on its individual merits, and I have considered this appeal based on the evidence before me.
16. The Council has raised no concern with access, light pollution or the effect on neighbouring occupiers. I see no reason to disagree. Nonetheless, compliance with the development plan in these respects is a neutral factor.

Conclusion

17. I have found that the development conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

C Carpenter

INSPECTOR