



Appeal Decision

Site visit made on 8 November 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2023

Appeal Ref: APP/C1435/W/22/3313198

The Stables, Eridge Road, Steel Cross, Crowborough, East Sussex TN6 2XA

- 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 Prestige Homes of Sussex Ltd against the decision of Wealden District Council.
 - The application Ref WD/2022/2638/F, dated 11 October 2022, was refused by notice dated 7 December 2022.
 - The development proposed is the construction of 2no dwellings utilising access approved under application WD/2020/1549/O.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site is within the High Weald Area of Outstanding Natural Beauty. The first reason for refusal acknowledges this but incorrectly refers to Policy EN8 of the Wealden Local Plan 1998 (WLP), which relates to the Low Weald. The appellant noticed this error and the Council confirmed that Policy EN6 of the WLP, which is the corresponding policy for the High Weald, should apply in this case. I am satisfied that neither party has been prejudiced by this error nor by me taking Policy EN6 into consideration.
3. The Council's second reason for refusal relates to the recreational disturbance the proposal would be likely to have on the Ashdown Forest Special Protection Area (SPA). Between the application being refused and the appeal coming before me a planning obligation has been completed which the Council confirms provides sufficient mitigation to overcome their concerns in this regard. As a result, the Council no longer wishes to pursue the second reason for refusal. I return to this matter later in my decision.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area and in particular the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

5. The appeal site comprises an open field located behind two recently constructed detached dwellings. These two new dwellings form the north eastern end of a loose ribbon of development on the fringes of Crowborough. The appeal site is outside of the settlement boundary and within the open countryside.

6. The entrance to Crowborough Rugby Club, its buildings and pitches are on the opposite side of Eridge Road to the appeal site. Nevertheless, the combination of gaps between buildings, the boundary planting along this part of Eridge Road, the large mature trees set within verges, other established vegetation and views of the open countryside beyond, give the area an open, spacious and highly verdant character.
7. Policies GD2 and DC17 of the WLP, generally seek to direct development towards particular areas and protect the open countryside from development. Policy WSC6 of the Core Strategy Local Plan 2013 (CSLP) informs the wider approach to development in the district's rural area and gives qualified support to the expansion of some parts of it. Despite the Council's spatial strategy and objectives having been adopted many years ago, they appear to be broadly consistent with the aims of the National Planning Policy Framework (the Framework).
8. However, the CSLP acknowledged that earlier development boundaries would not deliver the level of housing required and would have to be breached. Subsequent breaches of settlement boundaries together with the Council's current lack of a 5 year supply of deliverable housing land suggest to me that whilst the proposal conflicts with the spatial strategy policies, I should afford this conflict limited weight.
9. Spatial Objective SPO7 of the CSLP seeks to reduce the need to travel by car. However, the Council acknowledges that the site is in close proximity to Crowborough, which is said to have a wide provision of basic day to day services. The appellant similarly draws my attention to the proximity to facilities and I noted on my site visit that the site is served by a footpath that provides connectivity to nearby bus stops as well as Crowborough itself. It does not seem to me that the proposal necessarily conflicts with SPO7.
10. Notwithstanding the above, the site is also within the AONB. Paragraph 176 of the Framework explains that great weight should be given to conserving and enhancing the landscape and scenic beauty of an AONB and that it has the highest status of protection in relation to these issues. Policy EN6 of the WLP and Spatial Objective SPO1 of the CSLP are broadly consistent with the Framework in respect of the AONB and therefore in relation to this matter carry full weight in my assessment of the proposal.
11. The design of the proposed houses would be in keeping with the two recently built dwellings. They would be large detached, two storey buildings with hard standing areas to the front of each and would be served by an extension to the existing access road. The remainder of the site would largely form the gardens to the two proposed dwellings, save for the access which would be extended through the centre of the site, to serve the agricultural land beyond.
12. The field in which it is proposed to construct the dwellings is not highly visible in the wider landscape. However, the proposal would introduce two entirely new buildings into undeveloped, open countryside. Whilst I acknowledge that public views of the proposed dwellings would not be extensive, they would be clearly visible from Eridge Road. They would also be noticeable to the occupants and visitors of neighbouring properties.
13. Furthermore, the additional activity, domestic curtilages and light spill associated with the dwellings mean that when taken as a whole, the

development would clearly be seen as extending residential development further into the countryside. New planting could help to screen the development. However, this would be a form of mitigation of harm rather than an enhancement of the landscape. In any event the purpose of landscaping is to integrate a development into its surroundings, not to hide something which is otherwise unacceptable.

14. Overall, siting two dwellings into the field to the rear of the existing houses would represent an erosion of undeveloped countryside. Even in the absence of longer-range views, there would still be harm that would undermine the area's open and verdant qualities. Whilst this effect would be localised, the result could not be said to either conserve or enhance the landscape and scenic beauty of the AONB.
15. I have been referred to other permissions in the locality. I saw some of these on Eridge Road as part of my site visit. These sites appeared to be contained by existing built form and have a residential context on either side. In my opinion, they have a different setting from the appeal site, which has a more noticeable sense of being part of the surrounding countryside. That some of the sites have a cul-du-sac type layout similar to what would result if this appeal were allowed is not in itself a reason to allow the appeal.
16. I was not provided with the full details as to why other more remote sites or the development of 103 dwellings off Green Lane were approved. However, it appears that there may have been particular factors associated with those sites that led to the planning balance favouring an approval.
17. Clearly each case must be considered on its own merits with regard to the specific circumstances of the site and its surrounds. This is what I have done in this case. As such these other decisions do not lead me to allowing this appeal.
18. I conclude on this main issue that the proposal would have a long-term adverse effect on the character and appearance of the area, including the landscape and scenic beauty of the AONB.
19. Whilst I afford the strategic spatial policies limited weight, the proposal would nevertheless be contrary to Policies GD2 and DC17 of the WLP and Policy WSC6 of the CSLP and their collective objective of directing development to existing settlements and protecting the countryside. Furthermore, there is conflict with Policies EN1 and EN6 of the WLP and Policy WSC14 and Spatial Objective SPO1 of the CSLP which, amongst other matters, require development within the district, and within the AONB in particular, to conserve or enhance the natural beauty and character of the landscape and thus represent sustainable development.
20. The proposal would also be contrary to the Wealden Design Guide 2008 which, amongst other things, notes the vulnerability of settlement fringes in the High Weald AONB and seeks to ensure development respects landscape character and local distinctiveness.
21. The proposal would also be contrary to Paragraph 176 of the Framework, which insofar as it is relevant to this appeal, places great weight on the protection of the AONB and seeks to limit development within such areas.

Other Matters

22. The appeal site is within 7km of the Ashdown Forest SPA. This is afforded protection under The Conservation of Habitats and Species Regulations 2017 (the Regulations) and is designated for being home to populations of breeding Dartford Warbler and Nightjar, which are rare and vulnerable birds. One of the principal threats to those birds is disturbance from visitors and, as the proposed development would increase the local population, there is a pathway for effects on the SPA.
23. The appellant has completed an obligation which contains mitigation measures that the Council considers would address the adverse effects of the proposal on the integrity of the SPA. However, as I am dismissing the appeal for other reasons it is not necessary for me to consider further the implications of the proposal on the integrity of the SPA or the provisions of the Conservation of Habitats and Species Regulations 2017.

Conclusion

24. The Council has acknowledged that it cannot demonstrate a 5-year supply of deliverable housing sites. Paragraph 11 d) i) states that permission should be granted unless the application of policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development.
25. Footnote 7 of paragraph 11 identifies an AONB as one such protected area. I have concluded that the proposal would give rise to harm to the High Weald AONB. This harm alone therefore provides a clear reason for dismissing the appeal. There is therefore no need for me to undertake the test set out in paragraph 11 d) ii). The presumption in favour of sustainable development does not apply.
26. The proposal is contrary to the development plan taken as a whole. Material considerations, including the provisions of the Framework, do not indicate that the proposal should be determined other than in accordance with the development plan.
27. Therefore, for the reasons set out above, the appeal should be dismissed.

Stewart Glassar

INSPECTOR