The Planning Inspectorate

Appeal Decision

Site visit made on 13 October 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 27 November 2023

Appeal Ref: APP/U1430/W/23/3314179
Land at Broad Oak Meadow, Chitcombe Road, Broad Oak, East Sussex TN31 6EU

- 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 Adam Barker (BW Homes) against the decision of Rother District Council.
- The application Ref RR/2022/539/P, dated 25 February 2022, was refused by notice dated 13 July 2022.
- The development proposed is erection of 5 dwellings (2 x 4 bedroom and 3 x 3 bedroom), with new access, parking and landscaping.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The third reason for refusal on the decision notice referred to insufficient evidence in relation to the effect of the proposed development on protected species. Following the submission of further evidence, the main parties agree that this is no longer a point of contention, and the Council does not seek to defend this reason for refusal. As such, it is no longer a main issue of the appeal.

3. Both main parties have referred to the application as outline or some matters as indicative within their evidence. The application form is for full planning permission and the appellant has clarified in their appeal statement that it is a full application. I have therefore assessed the appeal on this basis.

Main Issues

4. The main issues are:

   - whether the site is a suitable location for a residential development having regard to local and national planning policy, and
   - the effect of the proposal on the character and appearance of the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

Appropriate location

5. Policy OSS2 of the Rother Local Plan, Core Strategy (CS), September 2014 explains that development boundaries differentiate between areas where most forms of new development would be acceptable and where they would not. It is not disputed that the site is outside of the development boundary and therefore within the countryside for the purposes of the development plan.

6. The supporting text for CS policy OSS2 explains that the boundaries focus development to protect against intrusive development beyond the substantially built-up areas. Therefore, as the site is outside of the development boundary the implication is that the site is outside of a substantially built-up area in the High Weald AONB. Paragraph 176 of the National Planning Policy Framework (the Framework) advises that great weight should be given to conserving and enhancing the landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.

7. The Framework goes on to explain that the scale and extent of development within AONBs should be limited. CS policy RA3 outlines the forms of development that would be acceptable in the countryside, including the creation of new dwellings in extremely limited circumstances. One of these circumstances is as a 'rural exception' site to meet a local affordable housing need. Properties in Rother are becoming increasingly unaffordable despite the measures set out in numerous versions of the Housing Delivery Test Action Plan. The Housing Land Supply & Housing Trajectory Position Statement[1] advises to address the issues of undersupply, that "consideration is given to allowing exception site planning policy to allow for an element of market housing" as well as the identification of more "small site" development opportunities including for custom and self-build housing. Moreover, the Council has identified issues with housing delivery on medium sized sites, therefore, by implication, small sites could be delivered more quickly to help address the shortfall of deliverable housing land supply.

8. The provision of 5 market dwellings and no affordable houses would not meet a local affordable housing need, neither would it provide an 'element' of market housing. Therefore, the proposal would be contrary to CS policy RA3 and the provision of dwellings in the countryside would not be supported by either the development plan or the Framework; neither would it be wholly in accordance with the guidance contained within the documents identified above.

9. The appeal site is only a short distance from the centre of Broad Oak. Future residents would be able to access services in Broad Oak via a footpath which connects to the site. There is also a bus stop in proximity to the site which provides services to nearby settlements. I consider that the site is in an accessible location, and this is not disputed by the Council. This is consistent with paragraph 105 of the Framework. Nonetheless, the site's accessibility does not justify the proposal as the development boundaries are, in part, designated to protect against intrusive development in the countryside.

10. Overall, the site is not a suitable location for a residential development having regard to local and national planning policy. It would therefore be contrary to CS Policies OSS2 and RA3 for the reasons given above. It would also be contrary to CS policies OSS1 and RA2, and DASA policy DIM2. These policies set out the overall spatial development strategy for Rother and the general strategy for the countryside and indicate that new development shall be focused to within defined settlement boundaries.

11. Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan (DASA), December 2019, are referred to within the first reason for refusal but do not strictly relate to the location of proposed development.

[1] Housing Land Supply and Housing Trajectory, April 2022 position statement, Rother District Council, October 2022

Character and appearance

12. The appeal site is largely free from development and provides a verdant break between the properties within Broad Oak, sporadic residential development within the countryside and the large area of woodland beyond. The site makes an important contribution to the setting of the western edge of Broad Oak. When travelling along Chitcombe Road toward the site, the tall, dense hedgerow indicates a change from the semi-rural setting of Broad Oak toward open countryside. In reverse, the transition from the hedgerow to ribbon development provides an entrance to Broad Oak.

13. The surrounding area is characterised by the undulating landscape, comprising largely of undeveloped fields and an area of woodland, interspersed by agricultural buildings and the occcasional dwelling. Given the presence of nearby loose ribbon development of residential properties set in spacious grounds it is semi-rural in character. The appeal site would be sensitive to change as it currently provides an important gap between the settlement and development in the countryside. Despite the presence of development, including a large pylon in proximity to the site, it makes a positive contribution to the landscape and scenic beauty of the AONB, not least due to the setting it provides to Broad Oak.

14. The proposal would introduce a significant amount of built development, residential activity and domestic paraphernalia to the site and would result in the loss of the important, undeveloped gap between residential development in Broad Oak and the wider countryside. Therefore, it would not reflect historic settlement patterns nor the character of this section of the AONB and would be at odds with the High Weald Housing Design Guide[2] (HWHDG).

15. The proposal would create a relatively isolated cul-de-sac which is not a common feature at the edge of the settlement, albeit there are some examples toward the centre of Broad Oak. Also, the proposed dwellings would not benefit from spacious grounds like nearby properties. As such, the proposal would not reflect the historical grain of development in the area, which would be at odds with the HWHDG. Moreover, dwellings would be sited further into the site than neighbouring properties. The access road and dwellings toward the back of the site would represent a significantly harmful incursion into an undeveloped section of the AONB.

16. The Landscape Appraisal/Study[3] assesses the visual effect of the proposal from multiple viewpoints. The study concludes that the proposal would have a low/slight adverse effect from most viewpoints and a moderate adverse effect and substantial adverse effect from viewpoints 4 and 3, respectively. Whilst this effect is common with any 'greenfield' development and the proposal would be most prominent on a small section of the highway opposite existing houses, it demonstrates that the proposal would not conserve the landscape and scenic beauty of the AONB.

17. The proposal seeks to minimise earthworks and retain existing vegetation wherever possible, and bolster this through additional planting, including the creation of a green buffer, and setting the residential development further into

[2] The High Weald AONB, An outstandingly beautiful Medieval landscape, High Weald Housing Design Guide, Building better, building beautiful in the AONB, November 2019.
[3] Landscape Appraisal/Study, Proposed Residential Scheme, Broad Oak Meadow, Chitcombe Road, Broad Oak, East Sussex, 24 January 2021, Ref. RCo397/LA/Rev01/PLANNING/24-01-22

the site. The proposal has also sought to retain important landscape features including a boundary tree close to the access. A landscape-led approach has been taken to largely screen the proposed development from public views. Nonetheless, the proposal would include the creation of a new wider access to replace the existing agricultural access. This would further erode the verdant boundary which makes an important contribution to the setting of Broad Oak. Moreover, regardless of the amount of screening it would represent a harmful intrusion into the AONB.

18. I note that the neighbouring property includes several outbuildings and structures within the garden which are sited in the rear garden. They have a harmful effect on the AONB and their presence does not justify further development which would be urbanising and intrusive into the protected area.

19. The proposal is empathetic to neighbouring design, in particular the roofscape references properties in the locality and the density of development is relatively low. Furthermore, the stepped street scene would be similar to development in Broad Oak. Also, the proposed sustainable urban drainage system would be appropriate for the character of the area and would be in accordance with the High Weald AONB Management Plan[4]. Nonetheless, this does not overcome the identified harm to the landscape and scenic beauty of the AONB.

20. As above, the Framework advises that great weight should be given to conserving and enhancing the landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. Furthermore, the Framework recognises the intrinsic character and beauty of the countryside and indicates that planning decisions should ensure that developments are sympathetic to local character. The advice outlined in the Framework is consistent with the development plan.

21. I conclude that the proposal would have a harmful effect on the character and appearance of the High Weald AONB. It would therefore be contrary to DASA policies DEN1 and DEN2 and objectives S2 and S3 of the High Weald AONB Management Plan. These policies and objectives indicate that all development within the High Weald AONB shall conserve and seek to enhance its landscape and scenic beauty, protect the historic pattern of settlements, and the siting, layout and design of development should maintain and reinforce the natural and built landscape character of the area, including the AONB.

22. Furthermore, the proposal would be contrary to CS policies OSS3, OSS4, EN1 and EN3, which are not listed in the reasons for refusal but referred to within the evidence. These policies indicate that all development should respect and not detract from the character and appearance of the locality, managing the natural landscape character is achieved by ensuring the protection and possible enhancement of the nationally designated landscape features, and new development shall contribute positively to the character of the site and its surroundings.

[4] The High Weald AONB, An outstandingly beautiful Medieval landscape, Management Plan 2019-2024, A statutory plan setting out local authority policies for management of the High Weald Area of Outstanding Natural Beauty

Other Matters

23. The plans demonstrate that the proposed access would offer sufficient visibility. As such, the proposal would not have an unacceptable effect on the safety of pedestrians, cyclists and vehicles using Chitcombe Road.

24. The proposal is in accordance with CS and DASA policies LNH1, TR3, TR4, DEN5, DHG3, DHG4, DHG7, DHG11, DHG12 and EN5. It would also be in accordance with parts of chapters 5, 11 and 12 of the Framework, as far as it would support the Government's objective of significantly boosting the supply of homes, also where it advises that planning decisions should support development that makes efficient use of land and ensure that existing trees are retained wherever possible. Nonetheless, this would not overcome the harm that would be caused by the proposal.

25. The Local Plan Monitoring Report indicates that the Council is performing poorly against the assessment criteria of "to meet local needs and support vibrant and viable mixed communities in the rural areas, whilst giving particular attention to the social, economic, ecological and intrinsic value of the countryside." The provision of a range of dwellings in a rural area would help address this self-assessed underperformance. Other benefits include the supply chain benefits and construction jobs; as well as environmental benefits including additional planting. Moderate weight is ascribed to these benefits given the scale of the proposal and the under delivery of housing in rural areas of Rother.

26. The site is in an accessible location within Flood Zone 1 and none of the trees on the site are subject to a tree preservation order. The proposal includes a number of sustainability measures such as the provision of highly insulated properties which could include cycle storage, PV panels and air source heat pumps alongside the provision of a sustainable drainage system. The proposal would lead to the payment of the community infrastructure levy and the council receiving additional money through the new homes bonus. The proposal would also lead to good sized internal livings areas, and the adequate provision of access within the site and car parking spaces. These aspects would be policy compliant, the absence of harm relating to these matters is a neutral factor.

Planning Balance

27. As above, the proposal complies with several policies contained within both the CS and DASA. Nonetheless, it would be harmful to the AONB which is afforded additional protection in the development plan and the Framework. Moreover, it would be at odds with the development strategy which seeks to direct development to the substantially built-up area. For these reasons, there would be conflict with the development plan, when read as a whole.

28. The Council can only demonstrate 2.79 years supply of deliverable housing land. Therefore, as per footnote 8 of the Framework, the policies which are most important for determining the application are out-of-date. In this instance, paragraph 11 d) i) is engaged and it advises that where the policies which are more important for determining the application are out-of-date, granting permission unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. Footnote 7 details that these policies include those relating to the AONB. As above, the proposal would cause harm to the AONB.

Therefore, the provision of paragraph 11 d) ii) of the Framework, as replicated within CS policy PC1, is not engaged.

29. Given the shortage of housing supply, the provision of new dwellings would be a benefit. However, the location in the AONB would not only harm the character and appearance of the area but would also be contrary to the strategic locational objectives of the development plan. The benefits of the proposal would not outweigh these collective harms.

Conclusion

30. The proposal conflicts with the development plan and there are no other considerations, including the shortfall in housing land supply, which indicate that the appeal should be determined other than in accordance with the development plan.

31. Therefore, for this reason, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR