



Appeal Decisions

Virtual hearing held on 12 October 2023

Site visit made on 30 August 2023

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2023

Appeal A Ref: APP/C1435/W/22/3307015

The Walled Garden, Hammerwood, RH19 3QE

- 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 Rob Bradstock against the decision of Wealden District Council.
 - The application Ref WD/2021/1190/F, dated 2 May 2021, was refused by notice dated 17 March 2022.
 - The development proposed is described as “the removal of an existing static caravan and introduction of three temporary structures to be used as temporary to be used as temporary sleeping accommodation, temporary daytime accommodation and temporary teaching space”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to the erection of three residential pods, one of which would replace an existing wooden-clad caravan which sits adjacent to a listed wall in the north- west corner of the site. This is described as temporary accommodation. Although the time period for the development is not explicitly mentioned in the application form, it was agreed during the hearing that a 3-year period for any consent would be considered reasonable.
3. I undertook a site visit on the 30th of August. Following this, to enable a discussion of the merits and facts of the case, a virtual hearing was held on the 12th of October.
4. The appellant and the Council are in agreement that a 5-year supply of housing land cannot presently be demonstrated in the district.

Main Issues

Accordingly the main issues for the appeal are:

- The location of development and whether the proposed development is reasonably necessary for the agricultural holding;
- The effect of the proposal on the character and appearance of the area, in particular, the effect of the works on the significance of the heritage assets of “The Walled Garden”, which is a Grade II Listed Registered Park and the Grade I listed Hammerwood House;

Reasons

The Need for a Rural Workers Dwelling

5. Policy GD2 of the Wealden Local Plan (WLP) seeks to resist development outside settlement boundaries unless it is in accordance with other policies in the Plan. Policy DC17 of the WLP seeks the same, specifically in relation to housing. The parties agree that the age of the Plan and the absence of a five-year supply render both policies out of date, and this reduces the weight that can be attributed to conflict with them.
6. Policy EN1 of the WLP seeks to pursue sustainable development by considering the environmental impacts of the location of development. Strategic Objective SPO7 of the Wealden Core Strategy (CS), also seeks to locate new development in sustainable locations in order to reduce the need to travel. In this regard WCS6 of the CS sets out a hierarchy for the provision of housing in rural areas and makes provision for housing within identified settlements in line with available service provision. Although these policies are of some age, they are nonetheless consistent with the aims of the National Planning Policy Framework (the Framework) in seeking to direct development away from countryside locations.
7. The appeal site lies to the north of Hammerwood House, around half a mile from the A264. It lies outside the development boundary of any settlement and is considered to be in countryside. The hamlet of Hammerwood lies closer to the site, but it has no notable services and I was advised at the hearing that it is not served by public transport.
8. The Framework seeks to locate significant development in locations which are sustainable by limiting the need to travel and offering a choice of transport modes. It also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In this case, although a dwelling in this location would not be isolated, residents would be required to travel some distance by car to access services which would perpetuate an unsustainable pattern of development. Furthermore, a future dwelling would not be well related to existing built form, lying some distance from any existing property.
9. Policy DC2 of the Wealden Local Plan 1998 (WLP) allows for housing beyond settlement boundaries in a limited number of circumstances. These include dwellings that are reasonably necessary for agricultural or forestry workers. The policy sets out a number of criteria, including that a functional need for the dwelling is demonstrated.
10. The application is supported by a planning statement which set out that the business comprised keeping a flock of 30 sheep, a 20 acre woodland estate and the use of a further 30 acre estate. The appellant intends to grow the flock and extend the woodland management side of the business, including the milling section. I was told at the hearing that the flock has since grown to 100 sheep, that the appellant now keeps pigs within the woodland and that his business includes maintenance and other forestry jobs in the local area.
11. In this regard, from what I was told at the hearing, the enterprise comprises a number of low-key strands, not all of which are wholly related to the holding on which the dwelling is proposed. The appellant has provided no financial records

to demonstrate that the business is viable, or that the income derived from the holding is sufficient to support a full-time agricultural worker.

12. Furthermore, no persuasive evidence is provided of a purposeful search for other suitable accommodation in the area. Whilst I have been provided with evidence of a search for property within a mile of the site, the distance used is extremely small, with no cogent evidence that the appellant has considered any other options in the wider area.
13. The appellant argues that a permanent presence is needed on site in the interests of security of vehicles and equipment. I noted on site that these were presently stored in the open and appeared to have been there for some time. Whilst I am conscious that theft from farms is a very real and growing issue, I have been provided with no convincing evidence that other site security measures could not be employed at the site, or that a committed thief would be deterred by the presence of the pods.
14. I have considered whether the livestock on site would require a 24 hour presence. Lambing occurs for a limited period during the year and care of the numbers of ewes involved, even if they ran to the hundred or so I was advised of at the hearing, would not equate to a full-time enterprise. The number of pigs on site, which I was advised are free-range, would also appear to be relatively low. Taking into account the absence of any substantial detail in the written submissions, and the different information that I was given at the hearing which to my mind is indicative of the fluid nature of the enterprise, I have insufficient information on which to conclude that there is a functional need for full-time occupation of the site to care for livestock.
15. I have taken into account the temporary nature of the application and whether a temporary permission would enable the enterprise to become better established and allow the opportunity for the appellants to demonstrate a permanent need. However, at this point I have to consider the nature of the scheme that is proposed. The residential element comprises three individual wooden clad pods. One of the pods is indicated for use as a classroom and home office, one is described as evening accommodation and the third as daytime accommodation. All are relatively modest in scale, and are located some distance from each other. I was advised at the hearing that the logic for this was to separate living space from work-space. I find this explanation unconvincing. There is no cogent case to demonstrate the need for a teaching/office space on the site. Neither is there a persuasive case as to why living and sleeping space should be provided in separate units some distance apart. As such, there is a deficiency of evidence before me to lead me to the view that the accommodation proposed would not be functionally necessary, even on a temporary basis.
16. I therefore conclude that the proposal would fail to comply with policy DC2 of the LP. It follows that it would represent an unsustainable form of development in the countryside and so would conflict with local plan policy EN1, CS policy WCS6 and strategic objective SPO7 which together seek to avoid development in the countryside in favour of development in accessible locations and with guidance in the Framework which has similar aims. The proposal would also conflict with Saved Policies GD2 and DC17 of the WLP.

17. The Council has also referred to a number of other policies including SPO13 of the CS. As this primarily relates to design matters, I find no conflict with this policy in relation to the first matter.

Character and Appearance and Impact on Heritage Assets

18. The proposed “pods” would be located within the Walled Garden of the Grade I listed Hammerwood House. The Walled Garden is itself part of a Grade II listed Registered Park which forms part of the wider setting of Hammerwood House, a Grade I listed building. The site also lies within the High Weald Area of Outstanding Natural Beauty (AONB).
19. Hammerwood Park covers a substantial area, extending to some distance south of the Hammerwood House. As a designed landscape its significance lies in both the verdant setting it provides to the main house, and as a surviving example of extensive residential parkland. The Park is diverse in character, being made up of a number of interconnecting elements which have evolved over time. The part of the garden which comprises the appeal site lies to the far north of the Registered Park within an area believed to have been used as a kitchen garden during the last century. The garden walls remain largely intact, although the area within them is no longer used for cultivation and now form an open field within the wooded landscape. The walls are a striking feature, and although the site is no longer in the same ownership as the main estate, their presence is a visual reminder in the otherwise pastoral landscape of a connection with the Hammerwood Estate.
20. The residential pods would be located immediately adjacent to the rear boundary of the Walled Garden. They would be linked by a footpath, with toilet facilities provided in a separate unit. The Walls would remain intact and the pods would be located within an area currently laid to grass, having previously, at some stage, been in cultivation. It is possible that within this space small domestic scaled structures would originally have been present as part of the kitchen garden. However, the function of such structures, as part of the operation of a kitchen garden in association with the main house would have been evident. In this case, although the proposed pods would be relatively modest in size and rustic in appearance, and they would be located within only part of the Walled Garden site, their use for residential occupation would result in a domestic presence. This would be evident through activity associated with normal comings and goings, lighting at night, and through the normal presence of domestic paraphernalia in and around each pod. This use would inevitably erode the existing pastoral character of the site and so within the immediate context of the site would appear intrusive. This would be harmful to the significance of the asset.
21. I take into account that the adjoining land is currently used for the storage of plant and materials associated with the applicant’s business and that some residential occupation of the site is ongoing. Although the pods themselves would be contained within the partial enclosure of the Walled Garden, they are required in connection with this use and so would be associated with the activity that takes place in and around them. In this regard the proposal would increase the spread of activity across the site. This would have a small but nonetheless harmful effect upon the planned setting of the Park. Furthermore, insofar as the structures would alter the character of the space by introducing a

- separate residential use, this would erode the historic linkage of the kitchen gardens with the main Hammerwood House and so harm its significance.
22. I noted on site that views into the site are relatively limited. It is also true that the harm identified would extend to only part of the overall Registered Park, but as the whole asset is listed I have no grounds for concluding that harm to a more recently constructed part of it is less significant than an alteration to more established part. However, I note that the harm to the Registered Park would be relatively contained and would be characterised as on the lesser end of "less than substantial". It would also give rise to only a very minor level of harm to the setting of the Grade I listed Hammerwood House.
23. The Framework indicates that where less than substantial harm is found, then this should be weighed against the public benefits of the scheme. The proposal would provide an additional dwelling in a district with no 5-year supply of housing land. The single dwelling would be provided within 3 separate temporary buildings for a period of three years and this would limit the contribution it would make to the district's housing supply. The proposal would also support a rural enterprise. However, as set out above I have no financial or other firm details of the viability of the business this limits the weight I can attribute to an economic benefit. These benefits would be insufficient to outweigh the harm that would accrue to heritage assets.
24. I take into account that a wooden clad caravan is already located on the site and would be very similar in appearance to one of the proposed pods. At the hearing it was agreed that although the existing caravan was being used for residential occupation, and that an application could be made for its retention, it was not considered to be lawful. In this regard I do not consider that the retention of the existing structure provides any valid fallback for the appellant.
25. The Framework is clear that heritage assets are an irreplaceable resource and that in considering the impact of development on the significance of heritage assets, great weight should be given to the asset's conservation. The significance of the Park is derived in part from both its verdant and pastoral character and its relationship with Hammerwood House. The proposal would lead to harm to both of these attributes. I therefore attribute great weight to the harm which would arise to the significance of the Grade I Hammerwood House and Hammerwood Park Grade II Registered Garden. It follows that it would conflict with strategic objective SPO2 of the CS which seeks to ensure that the intrinsic quality of the historic environment is protected.
26. The Council have referred to a number of other policies and objectives which relate to the impact of the proposal on the character and appearance of the area and the character and quality of the landscape of the High Weald AONB. The intrusive appearance of the proposal would lead to some limited harm to the countryside which would be in conflict with policy EN27 of the LP which seeks to ensure the appearance of development is appropriate to local context. However, as the effects of the proposal would be relatively localised I am satisfied that the proposal would not cause harm to the wider landscape. Of the policies and objectives put to me I find policy EN6 to be most relevant but find no conflict with it.

Other Matters

27. The site lies within 7km from the Ashdown Forest SPA and SAC, which is a European Designated Site. In relation to the potential effects of the proposal on the SPA and SAC, within the identified zone of influence, future residents of proposed development have the potential to cause recreational disturbance which could impact upon the qualifying features of the protected sites. Whilst I note that the proposal does not provide any form of mitigation in this regard, as I have already concluded that the developments would not be acceptable for the reasons set out above, the matter does not, in the event alter my overall conclusions.
28. During the hearing my attention was drawn to potential legal impediments in relation to access to the site. These matters would not, to my mind, preclude the grant of permission in this case and notwithstanding my conclusions above have not weighed against the proposal. I also note concerns regarding potential noise and groundwater pollution, and the potential effects of the proposal on surface water flows off-site. However, these matters, in the event do not add to my concerns set out above.

Conclusion

29. The proposal would be in an inaccessible location and there are no persuasive grounds to indicate that development in the countryside would be appropriate in this case. The proposal would also harm the significance of the Grade I Hammerwood House and Grade II Hammerwood Park. The identified benefits of the development do not indicate that the proposal should be determined otherwise than in accordance with the development plan taken as a whole.
30. Accordingly, for the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr and Mrs Bradstock

Mr Alex Bateman BA (Hons) MSc MRTPI

Appellants

Agent

FOR THE LOCAL PLANNING AUTHORITY

Mr Declan Redman

Senior Planning Officer

Wealden District Council

INTERESTED PARTIES:

Mr Saunders

Mr Pinnegar

Local Resident

Local Resident