



Appeal Decision

Site visit made on 19 December 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 December 2023

Appeal Ref: APP/U1430/W/23/3314102

Paygate Whatlington Road, Battle, East Sussex TN33 0NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs A J Gerken against the decision of Rother District Council.
 - The application Ref RR/2022/2492/P, dated 14 October 2022, was approved on 9 December 2022 and planning permission was granted subject to conditions.
 - The development permitted is erection of extension and internal alterations.
 - The condition in dispute is No 4 which states that: *'The windows and doors hereby permitted shall not be installed until details of the glazing for the windows and doors have been submitted to and approved in writing by the Local Planning Authority. The details shall include information on the glass technology to be utilised to prevent or significantly reduce light transmission through the glazing at night, which could be in the form of electrochromic glass or 'smart glazing'. The windows and doors shall be installed and thereafter retained in accordance with the approved details'.*
 - The reason given for the condition is: *'To prevent light pollution and to protect the dark night skies and local ecology of the surrounding countryside, in accordance with Policies EN1 and EN5 of the Rother Local Plan Core Strategy and Policies DEN1 and DEN7 of the Development and Site Allocations (DaSA) Local Plan'.*
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Decision

1. The appeal is allowed and the planning permission Ref RR/2022/2492/P for erection of extension and internal alterations at Paygate Whatlington Road, Battle, East Sussex TN33 0NA granted on 9 December 2022 by Rother District Council is varied by deleting condition No 4.

Preliminary Matter

2. After the appeal was made, all Areas of Outstanding Natural Beauty ('AONBs') were renamed 'National Landscapes', and the High Weald AONB within which the appeal site is located became known as the High Weald National Landscape. I have therefore referred to the High Weald National Landscape in my decision. However, the change in terminology does not alter the legal designation, policy status or the relevant considerations in this case.

Background and Main Issue

3. The National Planning Policy Framework ('the Framework') outlines that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
4. Planning permission ref RR/2022/2492/P ('the Permission') was granted subject to conditions. The appeal relates to the appellant's request to remove

Condition 4 which seeks use of technology to prevent or significantly reduce night-time light transmission from the glazing to the extension. The Council considers that Condition 4 is necessary to protect dark skies and local ecology.

5. The main issue is whether or not Condition 4 is necessary in the interests of protected species and the landscape and scenic beauty of the High Weald National Landscape having regard to light pollution.

Reasons

6. The appeal dwelling is located outside of the development boundary for Battle within the countryside and the High Weald National Landscape. It sits between neighbouring dwellings to the south side of Whatlington Road. However, the rear elevation of the dwelling faces towards land that is predominantly open and undeveloped. The lack of lighting to this part of the countryside provides for intrinsically dark skies which contribute to the landscape and scenic beauty of the National Landscape and the characteristic sense of tranquillity.
7. The extension approved under the Permission has been constructed and includes a two-casement window and a set of three glazed bifold doors to the rear elevation. The window is not significantly larger than a rear window that formerly served a utility room off the kitchen. The glazing to the bifold doors is not excessive, but it does span a much larger area than a former three-casement window to the kitchen. Nevertheless, the extension includes an overhang above the bifold doors of greater depth than the eaves overhang that was present prior to the extension. The significant depth of the overhang would act as a barrier, directing light down towards the ground and limiting upward light spill from the bifold doors. Furthermore, I saw that glazed doors to a first floor balcony are now partly inset within the roof to the extension. While I acknowledge that the sections of roof to either side of the balcony are not quite as high as the top of the glazed doors, they are of fairly significant height and project some way from the first-floor rear elevation. It seems to me that their presence would notably restrict outward light spill from the glazed doors in comparison to the situation prior to the extension.
8. I note that the glazing to the extension sits a little further south than the former rear glazing and the window is slightly closer to the boundary with Petley Cottage. However, these differences in position are modest. Noting also the position of the dwelling between Gatehouse Cottage and an outbuilding and Petley Cottage beyond and the glazing to these buildings, including substantial areas of glazing that I saw to the ground floor of Gatehouse Cottage, I find that there would not be any appreciable spread of sources of light in this part of the countryside.
9. I am mindful of the duty under Section 85 of the Countryside and Rights of Way Act 2000 to have regard to the purposes of conserving and enhancing the natural beauty of National Landscapes. The Framework also sets out that great weight should be given to conserving and enhancing the landscape and scenic beauty of these areas.
10. However, while I acknowledge the increase in the total area of glazing to the rear of the dwelling which has outlook over open countryside, I find given the specific factors above and seen in the context of the adjacent properties, that the development without Condition 4 would not in this case cause a tangible increase in overall light spill from the rear of the dwelling to the surrounding

landscape. The existing dark skies and tranquillity of the area would not be meaningfully diminished and the landscape and scenic beauty of the National Landscape would be conserved. Similarly, and with particular regard to the overhang which would limit upward light spill, I am satisfied that there would not be detriment to light-sensitive protected species that may be present in the area.

11. Accordingly, I conclude that Condition 4 is not necessary in order to protect dark skies and local ecology and it would therefore fail to meet the tests set by the Framework. The proposal without Condition 4 would not conflict with Policy EN1 of the Rother Local Plan Core Strategy 2014 ('the CS') or Policies DEN1 or DEN2 of the Development and Site Allocations Local Plan 2019 ('the DASA') insofar as they include requirements broadly for development that is sympathetic to landscape character, that maintains dark skies and the tranquillity of more remote areas and that conserves and enhances the landscape and scenic beauty of the National Landscape. Nor would there be conflict with Policy EN5 of the CS or Policy DEN7 of the DASA which require protection for biodiversity and habitats, including in respect of lighting, and minimisation of light pollution. As a consequence, Condition 4 should be removed.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed and the Permission should be varied by deleting Condition 4.

J Bowyer

INSPECTOR