



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: 5th January 2024

Appeal Ref: APP/U1430/W/23/3323506

Handsel Lodge, Junction Road, Staplecross, East Sussex TN32 5SH

- 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 and Mrs R Hines against the decision of Rother District Council.
 - The application Ref RR/2022/2596/P, dated 28 October 2022, was refused by notice dated 16 January 2023.
 - The development proposed is 'use of the building as a dwellinghouse along with associated works, gardens and parking. Use of existing access'.
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Decision

1. The appeal is allowed and planning permission is granted for 'use of the building as a dwellinghouse along with associated works, gardens and parking. Use of existing access' at Handsel Lodge, Junction Road, Staplecross, East Sussex TN32 5SH in accordance with the terms of the application Ref RR/2022/2596/P dated 28 October 2022 subject to the conditions in the attached schedule.

Preliminary Matters

2. In November 2023, 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. The legal and policy status of AONBs is unchanged, but I have therefore referred to the High Weald National Landscape ('the HWNL') in my decision.
3. In December 2023, the Government published a revised version of the National Planning Policy Framework ('the Framework'). There have been changes to paragraph numbers but the parts of the Framework most relevant in this case have not significantly changed and I am satisfied that the revised version of the Framework does not raise new considerations necessitating further submissions from the parties.

Main Issues

4. The main issues are:
 - i) whether or not the proposed dwelling would be in a suitable location having regard to its location in the countryside, its effect on the supply of sites of economic value and accessibility to services, facilities and transport links; and
 - ii) the effect of the proposal on the landscape, character and appearance of the High Weald National Landscape.

Reasons

Location of Development

5. Policy OSS2 of the Rother Local Plan Core Strategy 2014 ('the CS') sets out that development boundaries around settlements differentiate between areas where most forms of development would be acceptable and where they would not. There is no dispute between the main parties that the appeal site is outside of any development boundary and that it is within the countryside in planning policy terms.
6. Within the countryside, Policy OSS1 of the CS generally restricts new development to that for which a countryside location is necessary or appropriate to promoting sustainable land-based industries and sensitive diversification, primarily for employment uses. Policy RA3 of the CS further sets out that the creation of new dwellings in the countryside will be allowed in extremely limited circumstances. These circumstances are stated to include dwellings to support farming and other land-based industries, the conversion of traditional historic farm buildings, the one-to-one replacement of an existing dwelling of similar landscape impact, or as a 'rural exception site' to meet an identified local affordable housing need. There is no compelling evidence that any of these circumstances would apply to the appeal scheme and this is not therefore a location where the creation of a new dwelling would generally be supported.
7. On the other hand, Policy RA3 does offer support for suitable employment and tourism opportunities in the countryside. The appeal building was vacant at the time of my visit. Internally, I saw features such as a kitchen and bathroom with bath but the Council indicates that its most recently authorised use was as two light industrial/business units. At appeal stage, the appellant raises some doubt as to whether this use was implemented, but I note reference to business rates having been paid in respect of the building, and while this may have ceased some years ago, I have not been made aware of any other lawful use having commenced since.
8. On this basis, the proposal for a dwelling in this location would result in the loss of the employment opportunity provided by the last authorised use. The appellant asserts that the building is redundant and has little or no economic or other value at present. However, Policy EC3 of the CS provides that premises last in employment use will be retained in such use unless it is demonstrated that there is no reasonable prospect of continued use for employment purposes or it would cause serious harm to local amenities. Policy DCO1 of the Development and Site Allocations Local Plan 2019 ('the DASA') further includes a requirement for proposals involving the loss of sites of social or economic value to demonstrate that there is no reasonable prospect of a continued use.
9. The information before me indicates that the appeal building has not been in active employment use for some time, since at least 2019. Be that as it may, Policy DCO1 of the DASA sets out that demonstrating no reasonable prospect of a continued use should be backed by evidence of a comprehensive and sustained marketing campaign which clearly indicates a lack of demand for the existing use or an alternative commercial or community facility where appropriate, and evidence that the unit is not or is not capable of being financially viable.

10. The appellant has provided a letter from a commercial agent setting out their view that potential industrial or office occupiers are unlikely to consider the building to be suitable and that commercial use of the building would not be viable. The appellant also asserts that use for tourism would not be suitable or viable referring to the availability of other lets nearby, difficulties in letting these units and the costs associated with refurbishment. However, I have no evidence to show that marketing of the building has taken place, nor substantive details in respect of the financial viability of the existing or potential alternative commercial or community uses. The requirements specified by Policy DCO1 of the DASA have not therefore been met and I find that there is insufficient evidence to robustly demonstrate that there is no reasonable prospect of employment or an alternative commercial or community use of the building.
11. Noting the apparent length of time that it has been vacant, the contribution made by the building to the local economy in actual terms has been limited, and the small scale of the building further means that the harm caused by the loss of the employment opportunity and economic value would be very limited. However, I find for these reasons that the proposal for a dwelling in this location would be contrary to Policies OSS1, OSS2, RA3 and EC3 of the CS and Policy DCO1 of the DASA.

Accessibility to services, facilities and transport links

12. There are bus stops and some services including a post office/convenience store, primary school and pub/restaurant in Staplecross to the east of the appeal site. However, most of the shortest route to reach these on foot from the site would be along a bridleway between Junction Road and Staplecross which lacks lighting and formal surfacing. In addition, much of the local road network including the section of Junction Road between the site and the bridleway is subject to the national speed limit and comprises fairly narrow carriageways without lighting or separate footways or cycleways. These factors would discourage walking or cycling for all but the most willing and able, particularly at night or in poor weather. In combination with the distances involved and the fairly limited range of services that are available in the vicinity, I consider that most occupiers of the site would be unlikely to regularly walk or cycle in order to meet day to day needs.
13. In response to the Council's evidence indicating that there is no bus route along Junction Road, the appellant has provided details of 'FlexiBus'; an on-demand public transport service operated in areas of East Sussex not covered by a regular bus service. The material provided indicates that FlexiBus services are generally not suitable for regular trips such as school trips or commuting to work, and in the absence of further details of the trips that would be possible and timings, I have some doubts about the potential for future occupiers to regularly rely on travel by bus on a regular basis. That said, I recognise that the Framework comments that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. While I have limited details, it appears that there would be some potential for occasional travel by bus.
14. Even so, I find given the above factors that opportunities for occupiers of the site to access services and facilities by walking, cycling or public transport would be limited, and they are likely to be largely, albeit not entirely, reliant on private vehicles. I note the appellant's reference to provision of electric vehicle

charging points, but while they state that the Government has adopted legislation supporting electric car travel, I can have little certainty that occupiers of the site would actually use electric vehicles and so I cannot be sure that journeys would not add to overall emission levels.

15. As a consequence, the proposal would be contrary to Policies OSS3, TR3 and SRM1 of the CS insofar as they include requirements broadly seeking to minimise the need to travel and support good access to employment, services and community facilities and to promote sustainable travel patterns. It would also be contrary to objectives in the Framework seeking to prioritise walking, cycling and public transport use and to support a move to a low carbon future.
16. Nevertheless, the last authorised use of the building as light industrial/business units would also be likely to result in a reliance on travel by private vehicle by staff/visitors to the site. I have no firm details of the number of vehicle trips that would be likely to be generated by either the last authorised use or the proposed dwelling. As a consequence, I cannot be sure that there would not be an increase in trips, let alone that there would be a reduction as contended by the appellant. However, the dwelling would be a relatively small two-bedroom property and it seems to me that any increase in trips in comparison to use of the building as 2 separate light industrial/business units would be likely to be limited. Journeys to reach services in nearby settlements would also be likely to be short. In this context, I consider that the adverse environmental effects of trips associated with the proposal would be very minor.

Conclusion on the Location of the Development

17. For these reasons, I conclude that the proposed dwelling would not be in a suitable location. Its location within the countryside would result in conflict with Policies OSS1, OSS2 and RA3 of the CS, and it has not been demonstrated that the effect of a dwelling in this location on the supply of sites of economic value would accord with Policies EC3 of the CS and DCO1 of the DASA. There would also be some dependency by occupiers of the development on private vehicles and conflict with Policies OSS3, TR3 and SRM1 of the CS, albeit that the harm in this regard would be minor.

Landscape Character and Appearance

18. The High Weald AONB Management Plan 2019-2024 ('the HWMP') outlines that the outstanding beauty of the HWNL stems in part from its essentially rural and human scale character with a high proportion of natural surfaces. Groups of traditional farm buildings with distinctive steep clay tile and hipped roofs are common and vernacular architecture utilising materials distinct to the area together with the mosaic of small woodlands and small fields with sinuous edges contribute to the character, appearance and distinctiveness of the area.
19. The appeal building is part of a small, loose cluster of buildings accessed from Junction Road which are set within surrounding woodland and open fields. The proposal does not include alterations to the form, materials or fenestration detail of the appeal building and it would retain a corrugated metal roof with a very shallow pitch. This would not reflect the local vernacular for a dwelling which is typically clay tile roofs with reasonably steep pitches. I also accept that the building is positioned closer to Junction Road than other dwellings nearby and that activity associated with the residential occupation of the site would be likely to be appreciable.

20. However, the building is an existing structure in the landscape and the current windows and doors are already fairly domestic in appearance. Its timber weatherboard exterior does reflect the typical palette of local materials and in my view the impression would be of a converted agricultural outbuilding. The relatively modest scale and single-storey height of the building would further limit its visual impact, and while proposed planting would be unlikely to conceal the building, it would help to soften views of it. As a result and despite its closer proximity to Junction Road, it would not be unduly prominent in comparison to other much larger dwellings that I saw in the area. I appreciate that the roof form and materials would be unusual for a dwelling, but having regard to these factors, I find that the appearance of the building would not be striking or obtrusive in the landscape and would not harmfully diminish the distinctiveness of the area.
21. In addition, the last authorised use of the building was as two light industrial/business units and while it may not be in current use, this would already allow for a more intense use of the site than may be associated with an agricultural building. There is also a large area of hardstanding to the front of the building and boundary treatment around the site. I appreciate that residential use may change the pattern and times of use of the site including into the evenings. However, a condition suggested by the appellant could restrict permitted development rights including for outbuildings which would minimise the visual impact of the proposal on the site. Moreover, it is not far from the existing dwelling at Handsel Farm and activity associated with a modest two-bedroom dwelling is in my view unlikely to result in significantly greater impression of urbanisation of the site or loss of tranquillity in comparison to the existing condition and last authorised use.
22. The appellant also indicates that the area of hardstanding within the site would be reduced. This could be secured through a planning condition and together with new planting would increase the proportion of natural surfaces, enhancing the setting of the building and the visual impact of development on the site.
23. Furthermore, I agree with the Council that the appearance of the building would benefit from some maintenance. The Council suggests that the building would appear more suitable for use on a temporary basis and that its condition would be likely to deteriorate further under residential use. However, there is little before me to suggest that the former use was a temporary use, and while the existing structure may have relatively thin walls, I have no firm reason to find that it could not be suitably converted internally. Moreover, it seems to me that residential occupation would be likely to ensure longer term care and maintenance of the building, benefiting its appearance and the effect of its presence and architecture on the landscape character and scenic beauty of the HWNL.
24. I have had regard to the purpose of conserving and enhancing the natural beauty of the HWNL in accordance with Section 85 of the Countryside and Rights of Way Act 2000. However, in view of the above factors and the existing character of the appeal site, I am satisfied overall that the proposal would not detract from the rural character or appearance of the area or the landscape or scenic beauty of the HWNL, nor would it detract from the intrinsic qualities of the countryside. Indeed, landscaping of the site and likely maintenance of the building offer scope, albeit limited, to enhance the site appearance. I therefore conclude that the landscape, character and appearance of the HWNL would be

conserved and I find no conflict with Policies OSS4, EN1 or EN3 of the CS or Policies DEN1 or DEN2 of the DASA. Amongst other things, these policies include requirements which broadly seek development that respects and contributes positively to local character and appearance and the conservation and enhancement of the landscape and scenic beauty of the HWNL. For the same reasons, I find no conflict with the Framework insofar as it sets out that great weight should be given to conserving and enhancing the landscape and scenic beauty of such areas, and the proposal would not undermine the objectives of the HWMP.

Other Matters

25. Both main parties refer to appeal decisions involving new dwellings in support of their cases. A decision at Land Adjacent to Holly Cottage refers to harm to the rural character and tranquillity of the area through the proposed dwelling and associated domestic activity, but the site in that case was described as a paddock with a small structure near one corner. It therefore differs from the current appeal which concerns the change of use of an existing building. Other appeal decisions that have been submitted consider the accessibility of development and the weight afforded to any harm in the overall planning balance, but these matters would depend on the detailed circumstances of each proposal and their location. There is little evidence of direct comparability with the particular circumstances of the appeal proposal which I have considered on its own specific merits according to the evidence before me.

Planning Balance

26. The Council is unable to demonstrate a 5-year housing land supply, with the main parties referring to a supply position of 2.79 years. The presumption in favour of sustainable development set out in paragraph 11 d) of the Framework is, therefore, engaged. In light of my findings on the second main issue, there are no policies in the Framework that protect areas or assets of particular importance which would provide a clear reason for refusing the development. The presumption therefore provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
27. The location of the dwelling within the countryside would lead to a reliance on private vehicles and would be contrary to Policies OSS1, OSS2, OSS3, RA3, TR3 and SRM1 of the CS. Insofar as they seek to actively manage patterns of growth and promote sustainable travel, these policies are broadly consistent with the Framework. However, I have found that the adverse environmental effects of trips associated with the proposal would be very minor. Furthermore, the lack of a 5 year supply of housing indicates that the development plan strategy of focusing development within defined development boundaries is not currently meeting housing needs. As a consequence, the weight that I afford to the conflict with these policies on account of the location of the dwelling in the countryside is reduced.
28. In addition, the information before me suggests that the appeal building has not been in authorised use since at least 2019 and I have found that there would be scope for enhancement of its immediate setting through landscaping and a reduction in existing hardstanding. Although the degree of enhancement would be very limited, development that would re-use redundant or disused

buildings and enhance its immediate setting is one of the circumstances specified in the Framework as an exception to a general expectation that development of isolated homes in the countryside should be avoided.

29. The proposal would result in the loss of the last authorised employment use of the building and there is insufficient information to robustly demonstrate that this loss would accord with Policies EC3 of the CS and DCO1 of the DASA. However, the apparent length of time that the building has been vacant and the small scale of the proposal mean that the harm would be limited. Moreover, there is little substantive evidence before me to show that small business units are in low supply as has been asserted.
30. In contrast, the shortfall in the housing land supply position is substantial and points to a clear need for new housing. Furthermore, the Council has not disputed the appellant's evidence that there has been a persistent shortfall for a number of years, nor that delivery has also been consistently below requirements according to the results of the Housing Delivery Test. The proposal would make a small but still important contribution to the supply of housing to meet local needs. In the context of the shortfall and with regard to the Framework which includes objectives seeking to significantly boost the supply of housing, I afford significant weight to the benefit of additional housing delivery.
31. The proposal would also make effective use of land which has been previously developed and the use of an existing building to contribute to meeting needs for housing would offer a saving in embodied carbon in comparison to a new build structure. The saving may be small and there may be an expectation on all development to reduce carbon emissions, but I nevertheless afford some limited weight to this as an environmental benefit.
32. The adverse impacts of the development would be modest, and in the context of paragraph 11 d) of the Framework, I find that these adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies and is a material consideration that weighs significantly in favour of the proposal. While the development would result in some conflict with Policies OSS1, OSS2, OSS3, RA3, TR3 and SRM1 and EC3 of the CS and Policy DCO1 of the DASA, I conclude that there are thus material considerations which indicate that the appeal should be allowed, notwithstanding the conflict with the development plan.

Conditions

33. I have considered suggested conditions against the tests within the Framework. I have made minor amendments where necessary for clarity, brevity or to ensure compliance with the relevant tests.
34. In addition to the standard time limit, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. Further details of hard and soft landscaping and provision for replanting are necessary in the interests of the character and appearance of the area. I have however combined the Council's suggested conditions. Given that the proposal concerns a change of use of an existing building, I have also amended the condition to require that details of landscaping are submitted before occupation of the development and include an implementation programme so that it is

clear when actions need to be carried out. I have also imposed conditions relating to accessible and adaptable dwelling and water efficiency standards which are necessary to meet development plan policy requirements.

35. Having regard to the location of the site within the HWNL and my findings on the second main issue which reflect the existing building and site condition, I consider a condition as suggested by the appellant to restrict certain permitted development rights for extensions and alterations that could otherwise apply is necessary and clearly justified in the interests of the character and appearance of the area.

Conclusion

36. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 7364/22/LBP, 7364/2 and 7364/P2.
- 3) The development hereby permitted shall not be first occupied until details of both hard and soft landscape works, including boundary treatments and an implementation programme, have been submitted to and approved in writing by the Local Planning Authority. The landscaping works shall be carried out in accordance with the approved details and implementation programme.

Any trees, shrubs or other plants which within a period of 5 years from the date of the planting die, are removed or destroyed or become seriously damaged, diseased or defective shall be replaced in the next planting season with another tree, shrub or plant of similar size and species to that originally planted.

- 4) The development hereby permitted shall not be first occupied until details demonstrating that it has been constructed to achieve water consumption of no more than 110 litres per person per day have been submitted to and approved in writing by the Local Planning Authority.
- 5) The development hereby permitted shall not be first occupied until Part M4(2) (accessible and adaptable dwellings) of Schedule 1 of the Building Regulations 2010 (as amended) has been complied with.
- 6) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no development permitted under Schedule 2, Part 1, Classes A, C, D or E shall be carried out to, or within the curtilage of, the dwellinghouse hereby permitted.

End of Schedule