



Appeal Decision

Site visit made on 30 January 2024

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/U1430/W/23/3321721

**The Granary, Lower Hill Farm, Watermill Lane, Bexhill, East Sussex
TN39 5JB**

- 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 P Coleman against the decision of Rother District Council.
 - The application Ref RR/2022/2058/P, dated 16 August 2022, was refused by notice dated 2 December 2022.
 - The development proposed is the conversion of an agricultural and commercial storage building to create a detached dwelling with car parking provision (resubmission of RR/2021/2074/P).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was issued in December 2023. The main parties have been given the opportunity to make any comments on the implications of the revised Framework to this appeal and I have taken into account those comments.

Main Issues

3. The main issues are:
 - whether or not the development plan would support the proposal in this location,
 - whether or not the proposed dwelling would be located so that occupants could access services and facilities by a range of transport modes,
 - the effect of the development on ancient woodland, and
 - whether or not the proposed dwelling would provide future occupants with acceptable living conditions, having particular regard to outdoor amenity space.

Reasons

Location

4. The development plan includes the Rother Local Plan Core Strategy (adopted September 2014) (the Core Strategy), the Rother District Council Development and Site Allocations Local Plan (adopted December 2019) (the DaSA) and the Crowhurst Neighbourhood Development Plan 2018-2028 (Final Version May 2019) (the Crowhurst NDP).

5. Policy OSS2 of the Core Strategy and Policy DIM2 of the DaSA sets out the approach to the location of development across the plan area and that new development shall be focused within the defined settlement boundaries. In particular, Policy DIM2 of the DaSA explains that in the countryside (the area outside of defined settlement development boundaries) development shall be normally limited to that which accords with specific Local Plan policies or that for which a countryside location is demonstrated to be necessary. Policy CS1 of the Crowhurst NDP has a similar approach, including with the identification of a village development boundary.
6. Policy RA3 of the Core Strategy provides criteria for the circumstances when the creation of new dwellings in the countryside can be allowed.
7. The proposal would be located outside any defined settlement in land which is countryside for planning purposes. The proposed conversion of the building to create a dwelling would not fall within any of the allowances for a new dwelling in the countryside as identified in Policy RA3 of the Core Strategy, and thereby would conflict with the policies which define the location of housing across the development plan area.
8. As a consequence, I conclude that the scheme would not be supported by the development plan strategy for the location of new housing. In particular, there would be conflict with Policies OSS2, OSS3, RA1 and RA3 of the Core Strategy, Policy DIM2 of the DaSA and Policy CS1 of the Crowhurst NDP.
9. The Council has also objected on the basis that the scheme would conflict with paragraph 84 of the Framework because it would not meet with any of the circumstances that can allow an isolated home in the countryside. Regardless as to whether the location should be considered to be isolated within the meaning of paragraph 84, the external changes to this building, which has a simple and understated agricultural appearance, to a dwelling with the related domestic appearance and surrounding residential paraphernalia, would not enhance the immediate setting. As a consequence, the scheme would not meet with any of the circumstances that could justify a dwelling as set out in paragraph 84 of the Framework.

Access to services and facilities by a range of transport modes

10. Policy TR3 of the Core Strategy seeks that new development should minimise the need to travel and supports good access to employment, services and communities facilities.
11. Furthermore, the Framework requires that the planning system should actively manage patterns of growth in support of promoting sustainable transport objectives. These objectives include identifying and pursuing opportunities for development proposals to promote walking, cycling and public transport use. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account.
12. The site is located in a rural area generally north of Bexhill. It is accessed off Watermill Lane, which is a rural road with no footway or street lighting. The road curves in places, with sections where there are banks which could hinder walkers stepping back from oncoming traffic. The appeal site is a reasonable distance to the north of the A2691 and the related connections to the wider

road network. Services and facilities at Bexhill and in the surrounding villages and towns are, therefore, somewhat separated from the site and the other dwellings found in proximity to the site and along other parts of Watermill Lane.

13. The distance along, and condition of, Watermill Lane means that occupants of the site would be unlikely to walk to and from services and facilities in the area. In my judgement, cycling would also not be an attractive proposition for most occupants to access destinations such as for employment, schools and retail because of the distance and road conditions. The evidence indicates that there is no bus service that runs along Watermill Lane and options for occupants of the site to directly use public transport would appear to be very limited. In all likelihood, occupants of the proposed dwelling would be heavily dependent on the private vehicle and there would not be reasonable options to access services and facilities by a range of transport modes. Even taking into account that options for sustainable transport solutions in rural areas will likely be more limited than in urban areas, the location of the development and its lack of genuine alternative transport modes to the car would be contrary to the approach in Policy TR3 of the Core Strategy and the Framework.
14. The move to more electric vehicles, with on-site charging, could reduce the carbon emissions if those were the types of vehicles used by occupants of the site. Such vehicle use is likely to increase, however, the combustion engine will, in all likelihood, be a feature of travel for some time, and the location of an additional dwelling in this part of Watermill Lane would still lead to deliveries and other vehicles visiting the site, some of which are likely to be from combustion engine driven vehicles. In any case, occupants of the proposed dwelling in this location would not have the benefit of reasonable and genuine options for walking and cycling to access services and facilities which the Framework seeks to encourage.
15. The evidence indicates that the building has a lawful use as an agricultural and commercial store. On this basis, this use would generate traffic movements in this rural area. However, I have little detailed information as to the level of those movements. In any case, the type of movements associated with the proposed dwelling are likely to be different to a commercial storage use which potentially could help to serve a rural area. Occupants of a dwelling are likely to need, at times, to access schools, health care and retail, and a site more accessible to such services and facilities would reduce the length of vehicle journeys and/or potentially provide more sustainable transport options. Consequently, I attribute limited weight to the likely level and pattern of existing vehicle movements to and from the building in justification for the proposed dwelling.
16. Drawing these matters together, I conclude that the proposed dwelling would be located so that occupants would not have reasonable access to services and facilities by a range of transport modes. In this respect the scheme would conflict with Policies PC1, OSS3, SRM1 and TR3 of the Core Strategy and the Framework which seeks to ensure that new development should minimise the need to travel and support good access to employment, services and communities facilities.

Ancient woodland

17. There is a belt of ancient woodland that is located to the very broadly north of the appeal site. This section of designated woodland extends close to the north west corner of the building. The building, including a section of the proposed living accommodation within it, would be within 15m of the ancient woodland. Although not designated, a treed area continues along the western side of the building with the canopy overhanging the roof.
18. I am conscious that the Framework explains that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. I have also taken into account the standing advice from Natural England and the Forestry Commission on ancient woodland.
19. In this case, the evidence indicates that the building is lawful and can be used for agricultural and commercial storage purposes. There is a rear entrance in the corner of the building closest to the boundary with the ancient woodland and there is some informal storage uses in this area as well. This use and the location of the building, therefore, already exerts some effect on the adjoining woodland.
20. The proposed internal layout of the building has been designed so that the storage use in the corner of the building remains and there would be no residential amenity areas or residential access on the west and north sides. The residential amenity spaces would be limited to those on the east and southern sides of the dwelling. This layout would significantly reduce the potential for any encroachment or effect of residential activity upon the woodland. Occasional maintenance of the sides of the proposed dwelling would be unlikely to have an effect on the woodland. A sympathetic lighting scheme could be required as a condition of any approval to ensure that a satisfactory night time environment would be provided. Notwithstanding that part of the living accommodation would come within a 15m buffer zone of the ancient woodland, this would be within an existing building and would, based on my analysis above, and my observations at the site visit, not cause any harm to this section of woodland.
21. There may need to be some trimming back of branches overhanging the building and part of the frontage amenity area, but this would be in relation to trees beyond the ancient woodland and should not materially affect the health and biodiversity value of this stretch of trees, in any case.
22. The submissions also include proposals for the management of the ancient woodland within the appellant's control and this would be a beneficial aspect of the scheme.
23. It follows from the above that I conclude that there would be no harm to the ancient woodland and, therefore, there would be no loss or deterioration to this irreplaceable habitat. As a consequence, the scheme would not conflict with Policies EN1 and EN5 of the Core Strategy, Policy DEN4 of the DaSA and the Framework which set out the approach, amongst other things, to the protection and enhancement of habitats.

Living conditions

24. Policy DHG7 of the DaSA requires, in relation to private external space, that appropriate and proportionate levels of private usable external space will be expected. This policy also advises that for dwellings, private rear garden spaces of at least 10 metres in length will normally be required. The Framework requires that places are created with a high standard of amenity for existing and future users.
25. In this case, the development would provide a fairly sizeable four bedroom dwelling with the corresponding potential to accommodate a number of adults and children. The layout shows no rear amenity area or side garden to the west of the building. As explained above, outdoor amenity space would be provided to the east of the dwelling and to the southern, frontage area.
26. The space to the eastern side of the building would be a modest area, and in conjunction with its fairly slim width, the use of this area would be reasonably limited in its options for use by occupants. Furthermore, this area would be further compromised because it would be positioned between the dwelling and the storage building which would abut part of this side garden. This would result in sections of this side area being overshadowed for parts of the day by the buildings. Also, the storage building, because of its position and appearance, would provide quite a dominant feature and would, in my view, detract from the quality and enjoyment of this outdoor area. I do not consider that landscaping or other details could address these fundamental issues with this space.
27. Parts of the outdoor frontage space would be taken up by the vehicle parking and turning area. Users of the outdoor amenity areas to the sides of this parking would in all probability need to sit, play or garden in proximity to parked vehicles. In part of the eastern section, there would be the underground sewage treatment plant and the western section would be under or near the canopy of trees. I am not satisfied that these fairly limited frontage spaces, even if well landscaped or rearranged in some way, would provide suitable and effective outdoor play or amenity space for this dwelling.
28. While the lack of a rear garden may, in itself, not be decisive in this case, overall, the proposed outdoor spaces would be fragmented and all would be compromised in some way. Even when considered collectively, the total area and quality of the outdoor amenity area would not provide an appropriate and proportionate level of private usable external space that should be expected to serve a fairly sizeable four bedroom house. The satisfactory provision of outdoor amenity spaces to a dwelling is an important component to ensure occupants have suitable living conditions. For the reasons explained the external amenity space would not be satisfactory, and would fail to meet the Framework requirement to provide a high standard of amenity for future users.
29. Consequently, I conclude that the proposed dwelling would not provide future occupants with acceptable living conditions, having regard to the likely poor quality and size of the outdoor amenity space. For this reason, the scheme would conflict with Policy OSS4 of the Core Strategy, Policy DHG7 of the DaSA and the Framework which require, amongst other things, that development provides a high standard of amenity for future users.

Other Matters

30. The appellant has drawn my attention to a number of decisions, including appeal decisions, which it is argued provide similar or applicable circumstances and which indicate that the balance of considerations with this appeal should fall in favour of approval.
31. With the Whatlington appeal decision¹ a single dwelling was proposed. That Inspector explained that the scheme would infill a space between dwellings within an existing cluster of development and, while not a defined settlement, appears to be reasonably close to Whatlington and in a general area which had some limited facilities. The Inspector found that the location would not accord with the policies for the location of development and while there was a dependence on the private vehicle this harm would be moderately mitigated, for instance, there was a limited bus service in the area. There are circumstances, such as the relationship to Whatlington and that the accessibility would be moderately mitigated that would appear to differentiate the particular circumstances of that proposal from the present appeal scheme. Consequently, I do not consider that the Whatlington appeal decision is especially influential as an example that is directly applicable to the present development. I attach the Whatlington decision limited weight.
32. The appeal decision at Cooden² allowed a scheme for up to 85 dwellings. While this site was located outside the settlement boundary the Inspector concluded that future occupants would have ease of pedestrian movement with acceptable access to local facilities and public transport services providing a genuine choice of transport modes. This is clearly different from the present appeal and with a scheme for 85 units, including affordable housing, there is a different set of circumstances to weigh in the planning balance. I attribute this decision at Cooden limited weight in the considerations in this appeal.
33. With the appeal at Mayfield³, the site was in a different Council planning area and the Inspector was required to consider a different set of policies, including those for the conversion of buildings in the countryside. The Inspector considered the location scored poorly for accessibility, but that the proposal did satisfy one of the exceptions to policies of restraint for residential development in the countryside and this, together with the housing land supply position, led to the balance in favour of approval. The detailed set of considerations are different in that case from the present appeal and, therefore, I attribute it limited weight in support of the present appeal scheme.
34. At the final comments stage, further appeal decisions were referenced. With the appeal decision at Mountfield⁴, the Inspector considered that the proposed two dwellings would be located in the small village of Mountfield, which had some very limited facilities and that a community bus provided a few services during the week. He considered that the balance fell in favour of approval, but again I consider that there are features with that proposal, such as the location within a village, albeit one without a settlement boundary and therefore in the countryside, that mean that the characteristics of the location and access to

¹ APP/U1430/W/21/3285269 - Land at Benham Cottage, Woodmans Green Road, Whatlington TN33 0NU – 19 August 2022

² APP/U1430/W/19/3234340 - Land at Clavering Walk, Cooden, Bexhill on Sea – 13 February 2020

³ APP/C1435/W/20/3249689 - Barn at Huggetts Farm, Stonehurst Lane, Five Ashes, Mayfield, East Sussex TN20 6LL- 13 August 2020

⁴ APP/U1430/W/18/3218578 - Land at 2 Crossing Farm, Eatenden Lane, Mountfield TN32 5LR – 5 June 2019

some services by sustainable means is different. That planning balance is very much site specific based on the nature of that scheme and I am not satisfied that this is a directly comparable case that would lead me to a different conclusion on the present appeal. I afford the Mountfield appeal limited weight in support of the present proposal.

35. The other appeal case which has been highlighted is at Netherhay Barn⁵. This dwelling was explained to be not well placed for future residents to access services and facilities other than by the private vehicle, although this harm would be moderately tempered by some limited sustainable options. However, while being in the countryside the site was, nevertheless, said to be located on the edge of a large settlement and viewed as being on the edge of a cluster of development. In the planning balance the scheme met approval from that Inspector but it seems that the locational circumstances were different to the present appeal site with its position within Watermill Lane. I am not persuaded that the circumstances are so similar to justify a different conclusion to be reached in this case. I therefore attribute this appeal limited to moderate weight in favour of the present scheme.
36. It is clear that with the Council unable to demonstrate a five year housing land supply, and also failing the Housing Delivery Test, it is vulnerable to proposals for development outside settlement boundaries, and therefore within locations in the countryside for planning purposes. These appeals demonstrate that this is the case and that it is probable that some sites on land designated as countryside will be required to be developed if housing requirements are to be met. Notwithstanding this position, all proposals will have their own circumstances and balance of harms and benefits, and not every site for housing will be acceptable. I undertake the planning balance in terms of the issues in this appeal below, and engage the presumption in favour of sustainable development, as did these other Inspectors. However, the overall planning balance needs to be assessed in the circumstances of each case, and while I have had regard to all these appeals, they each have their individual situation and I have determined this appeal on its merits.

Planning Balance and Conclusion

37. The scheme would not comply with the strategy for the location of development as set out in the development plan, the dwelling would be located so that occupants would be heavily dependent on the use of the private vehicle contrary to the approach to locational accessibility, and occupants would not have satisfactorily living conditions because of the concerns with the provision of the outside amenity space. These harms and related policy conflicts are such that the proposal would conflict with the development plan when considered as a whole.
38. The Council has confirmed that it is unable to demonstrate a 5 year supply of deliverable housing land. The information is that there is a fairly substantial shortfall, that it is persistent and likely to continue in the future. Furthermore, the evidence indicates that the Council has consistently failed to meet the requirements of the Housing Delivery Test. Given my finding in relation to the impact of the development on the ancient woodland, I am satisfied that there are no policies in the Framework that protect areas or assets of particular

⁵ APP/U1430/W/18/3201084 - Netherhay Barn, Whatlington Road, Battle, East Sussex TN33 0NA – 17 October 2018

importance that provide a clear reason for refusing the development, having regard to paragraph 11di of the Framework. In these circumstances, the presumption in favour of sustainable development, as set out in paragraph 11d of the Framework, is engaged. This advises 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.

39. Due to the Council's housing supply position, the location of the site outside the settlement of Bexhill and other villages is not definitive. There remains a pressing and urgent need for housing to address the deficit in this plan area and, as I have explained, it is likely that some countryside sites will be needed to meet this identified need. However, that does not mean that all sites are appropriate for development regardless of their location and circumstances. In this case, the site is not on the edge of or immediately adjoining a settlement or in reasonable proximity, in my judgement, to a limited range of services or facilities, but some distance away. I have found that not only is the site beyond the settlement boundary failing the relevant policies but the location results in a dependence of occupants on the private vehicle without reasonable and genuine alternatives.
40. In these circumstances, I afford substantial weight to the conflict with the policies of the development plan which determine the location and related accessibility of development, and which are broadly consistent with the approach of the Framework.
41. The policies in the development plan concerning the provision of development which should provide suitable living conditions are also generally Framework consistent and I attribute the conflict with these policies, in respect of the concerns with the outdoor amenity space, substantial weight.
42. On the other hand, the scheme would deliver a range of benefits. The proposal would provide a boost to housing supply on a windfall site in an area where the Council has not met Framework requirements for the supply and delivery of housing. The scheme would make effective use of the land on a site outside any designated area, such as the Area of Outstanding Natural Beauty that covers parts of the Council area. The development could be delivered by a small builder adding to the overall mix and offer of housing. The scheme would reuse an existing building, and because of the evidence indicating a mixed use of the site, can be considered to be delivered on previously developed land.
43. There would be social and economic benefits to the local economy during construction and in subsequent occupation, although these would be to a limited degree due to the scale of the proposal, and in respect of construction would only be for a limited time. As part of the scheme, management to improve the ancient woodland could be secured, and notwithstanding the size of the outdoor amenity space, given its present condition, an appreciable biodiversity net gain could be achieved.
44. The development incorporates a series of sustainability measures, including rainwater harvesting and solar panels, such that the occupation of the dwelling would minimise carbon emissions. I am also conscious that Crowhurst Parish Council do not object to the scheme in principle, subject to a number of practical issues which could be addressed by conditions in any approval.

45. These are all worthwhile benefits of the scheme, however, as only a single dwelling would be provided and even taking into account the proposed management of the ancient woodland, I consider that cumulatively the benefits should afford moderate weight in favour.
46. In conclusion on the harms from the scheme, with the location a reasonable distance from any settlement, with the identified accessibility concerns to services and facilities, and that the development would not provide satisfactory living conditions, I attribute the combined harms and related Framework conflicts substantial weight against the scheme.
47. When undertaking the paragraph 11d balance, I judge that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, the proposal would not constitute sustainable development within the meaning of the Framework and this weighs very heavily against the development.
48. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁶.
49. For the reasons given above, there are no material considerations of such weight that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR

⁶ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.