



Appeal Decision

Site visit made on 21 February 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/M2270/W/23/3329320

Woodsden, Water Lane, Hawkhurst, Cranbrook TN18 5AP

- 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 Ms P Ennis against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 22/03623/FULL.
 - The development proposed is demolition of an existing building and erection of a single residential dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. There was no description of development on the application form. I have therefore taken the description from the covering letter submitted with the application.
3. The appellant has submitted an amended plan showing changes to the fenestration and materials of the proposed dwelling. The Procedural Guide: Planning appeals – England is clear that the appeal process should not be used to evolve a scheme and that where amendments are proposed, it will be considered whether, exceptionally, to accept them. While the proposed amendments are minor, there are no exceptional circumstances that would justify my considering a different scheme to that which was before the Council and upon which interested parties were consulted.
4. On 22 November 2023 all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became National Landscapes (NLs). I have therefore referred to NLs in my decision and specifically referred to the High Weald AONB as the High Weald National Landscape. However, for the avoidance of doubt, as the legal designation and policy status of AONBs are unchanged, I have continued to refer to the AONB where relevant.
5. The Council's officer report refers to policies in its emerging Local Plan. However, the proposal is not explicitly assessed against them, nor do the reasons for refusal refer to those policies. I have therefore determined the appeal with regard to the policies referred to in the Council's reason for refusal.

Main Issues

6. The main issue is the effect of the proposed development on the character and appearance of the area including the High Weald NL.

Reasons

7. The site falls within the AONB which is designated for the purposes of conserving and enhancing natural beauty and section 85(1) of the Countryside and Rights of Way Act 2000 (CRoW) places a duty on me to seek to further these purposes. Paragraph 182 of the Framework confirms that great weight should be given to conserving and enhancing landscape and scenic beauty of the AONB, and that the scale and extent of development should be limited. It also lies within the Beneden Wooded Farmland Landscape Character Area.
8. The High Weald AONB Management Plan (MP) and the Borough Landscape Character Area Assessment (October 2011) Supplementary Planning Document (SPD) both identify dispersed farmsteads as characteristic of the area. The Council refers to the site as falling within a farmstead setting and I have no reason to disagree with this. The appeal site is somewhat removed from the main cluster of buildings of the expansive site. The grounds are maintained, with tree planting within the wider site and generally landscaped boundaries. It includes an existing, single storey building of a simple, traditional appearance which would be demolished to allow for the proposed development to take place.
9. The SPD notes that buildings are generally not prominent in the farmland and are hidden by landform. The proposed dwelling, with its increased height, would become more prominent. It would be clearly visible to users of the public rights of way that pass in proximity to the site. Longer views of the building would be limited due to the surrounding topography and landscaping pattern. However, it would nonetheless be more obtrusive than the existing development.
10. Both documents also identify increasing suburbanisation of the rural area as a concern in eroding the character of the area. The MP highlights the failure of development to respect the character of the NL including with respect to design and materials. The proposed dwelling would have a suburban appearance arising predominantly from the use of render, irregular fenestration pattern and use of dormers. There is no substantive evidence before me to demonstrate that the proposed dwelling has had regard to the strong local vernacular identified in the SPD.
11. The proposed layout shows private amenity space to be provided to either side of the dwelling. While there would be potential for the domestic paraphernalia that would accompany a dwelling, much of the effect could be mitigated through the use of landscaping. The MP identifies irregular field patterns as characteristic of the area. An appropriate landscaping condition could address this matter in a way that would be sympathetic to the rural character of the area. There is also no substantive evidence before me which demonstrates that the replacement building has not been sited as close as reasonably practicable to the existing building, nor that the slight alteration in its position would result in any further harm. However, these would not outweigh the harms I have identified above.
12. The proposed dwelling would therefore have an adverse effect on the character and appearance of the area including the High Weald NL. It would be contrary to Tunbridge Wells Borough Local Development Framework Core Strategy Development Plan Document (2010) Core Policies 4 and 14, and Tunbridge Wells Borough Local Plan (2006) Saved Policies LBD1, EN1, EN25 and H10

which, taken together and insofar as they relate to this appeal and as supported by the Borough Council's Landscape Character Assessment 2017, require development to maintain landscape character and quality and not be more obtrusive.

Other Matters

13. It is not in dispute that there is a fallback position for residential use of the existing building. That permission remains extant for some time, and I have no reason to doubt that the appellant would implement that permission. However, this fallback is for the change of use of the existing building with very few alterations to the external appearance of the building. This proposal would therefore not result in the harms I have identified. The fallback position therefore does not weigh in support of the appeal proposal.
14. I have had regard to the intention that the proposed dwelling would be occupied by carers for the occupier of Woodsden. I am mindful of the advice contained in the Planning Practice Guidance (PPG) that in general planning is concerned with land use in the public interest. It is probable that the appeal proposal would remain long after the appellants' personal circumstances cease to be material. Future occupation of the proposed dwelling would not necessarily entail a similar situation and there is no mechanism before me to ensure this would be the case. I therefore attach limited weight to the personal circumstances of the appellant in the context of this appeal.
15. Section 149(1) of the Equality Act 2010 is that a public authority must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
16. There is the potential for my decision to affect persons with a protected characteristic. The negative impacts of dismissing this appeal could arise from the difficulties in providing support to the existing occupier of Woodsden. However, having due regard to this, and to the principles set out in s149, in my view the adverse effects of dismissing the scheme on those with protected characteristics would be proportionate, having regard to the potential adverse effects of allowing the development.

Planning Balance and Conclusion

17. The parties are in dispute as to whether the Council can demonstrate the four year housing land supply they are required to demonstrate by paragraphs 77 and 226 of the National Planning Policy Framework. However, even if I were to find that there was not a four year supply, the harm to the NL I have identified means that there are policies in the Framework that provide a clear reason for refusing the development proposed. Therefore, under paragraph 11d)i of the Framework, the proposal would not benefit from the presumption in favour of sustainable development and it is not necessary for me to assess the proposal against the policies of the Framework.
18. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight, including the policies of the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and

having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR