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# Appeal Decision

Site visit made on 6 March 2024

**by N Perrins BSc (Hons), MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 April 2024**

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**Appeal Ref: APP/D3830/D/23/3330972**

**Little Park Farm, Marchants Close, Hurstpierpoint BN6 9UZ**

- 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 Miss Emma Poland against the decision of Mid Sussex District Council.
  - The application Ref DM/23/2001, dated 31 July 2023, was refused by notice dated 2 October 2023.
  - The application sought planning permission to remove condition No 14 of planning permission DM/22/0204 (Removal of former dairy, mobile home and other outbuildings and construction of 2 dwellings (revisions to approved scheme DM/21/2367) now including garages and alterations to eastern unit to accommodate rooms within the roof space.
  - The condition in dispute is No 14, which states that: Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 or as amended in the future, no enlargement, improvement or other alteration of the dwelling houses hereby approved, whether or not consisting of an addition or alteration to their roofs, nor any other alteration to their roofs, shall be carried out, (nor shall any building or enclosure, swimming or other pool be provided within the curtilage of the dwelling houses) without the specific grant of planning permission from the Local Planning Authority.
  - The reason given for the condition is: To prevent the overdevelopment of the site and to accord with Policies DP26 and DP34 of the Mid Sussex District Plan 2014-2031 and Policies AS1 and AS2 of the Ansty, Staplefield and Brook Street Neighbourhood Plan.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. A revised version of the National Planning Policy Framework ('the Framework') was published in December 2023. I have not considered it necessary to invite observations from the main parties because the changes to the Framework were not relevant to the main issues for the appeal.
3. The reason given for the condition in the original decision notice Ref DM/22/0204 refers to Policies in the Ansty, Staplefield and Brook Street Neighbourhood Plan, which the Council have confirmed is an error as the site falls within the Hurstpierpoint Neighbourhood Plan (2015) (HNP) area. I have been provided with a copy of the relevant HNP policy, Policy HurstC1.

## Background and Main Issue

4. Planning permission was granted for the erection of two dwellings under Ref 22/0204, which included a condition removing permitted development rights<sup>1</sup> for any enlargement, improvement or other alteration of the dwelling house, whether or not consisting of an addition or alteration to the roof as well any building, enclosure, swimming or other pool within the curtilage of the dwelling house. The Council considers the condition necessary to accord with relevant policies in the Mid Sussex Local Plan 2014-2031 (2018) (MSLP) and Hurst C1 of the HNP. The appellant, however, objects to the condition as they consider it to be unnecessarily restrictive.
5. The main issue, therefore, is whether condition 14 is reasonable and necessary to preserve the rural character and setting of the site and surrounding area including the setting of the adjacent Grade II\* listed building known as 'Little Park'.

## Reasons

6. The National Planning Policy Framework (the Framework) at Paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Paragraph 56 of the Framework goes on to state 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.
7. In this case, planning permission has been approved for the detached dwelling at the site known as 'The Meadows', which is located on a site formerly known as 'Little Park Farm'. The appeal property has been built and sits within open grounds that comprise both domestic curtilage and adjacent paddock / orchard beyond. The site is located outside the defined settlement boundary within the countryside.
8. Planning permission was approved for the appeal property as a departure from the Development Plan regarding provision of new dwellings in the countryside. The purpose of the condition was due to the location of the site in the countryside outside the settlement boundary, and the Council wanting to ensure any future development at the site can be assessed on its merits with due regard given to its impact on the rural character and setting of the location.
9. The site is partially screened by established boundary trees albeit visible from the path that is adjacent to the northern boundary. Other than the dwelling and parking area, the site is open and has a rural character reflective of its countryside location. Moreover, whilst the site forms part of a small cluster of dwellings that lead from Marchants Close, it is on the edge of this and abuts the open and undeveloped countryside beyond. The GDPO where applicable can enable substantial additional development to be built without planning permission. For example, the GDPO allows outbuildings to be built that could cover 50% of the rear garden area. Given the open and rural edge character of

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<sup>1</sup> As set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) as amended

the site, there is potential for permitted development rights to have an adverse impact on the rural landscape character of this countryside location overtime.

10. It was for these reasons that condition 14 was attached to the original permission so that any proposed changes could be assessed for their impact on the countryside character through a planning application. Given the rural location of the site, this was reasonable condition to have been attached at the time the permission was granted.
11. The information before me does not indicate that there has been any material change of circumstances in planning policy since the original permission to justify the removal of condition 14 at this point in time. The condition continues to serve a useful purpose in respect of maintaining the rural character of the site and its setting in accordance with the aims of the development plan. Nor does the condition prohibit future planning applications to be submitted and approved where the designs accord with the relevant planning policies. I am therefore satisfied that there remains clear justification for the removal of permitted development rights in this location.
12. I do, however, have considerable sympathy for the appellant's concerns that the Council will never allow any further development at the site. In this context, I have reviewed the planning history including reference to the previous appeal decision to allow a porch extension, which demonstrates that further additions to the dwelling have been approved at the site. In this regard, the development plan includes Policies DP12 and DP26 of the MSLP and HurstC1 of the HNP that allow for well-designed development in the countryside. These policies continue to apply to the appeal site, which I hope reassures the appellant that any future additions to the property could, as a matter of principle, be considered favourably subject to a suitable design being achieved.
13. I have also had regard to the duty under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) that requires special regard to be made to the desirability of preserving a listed building or its setting, which is relevant due to the appeal site being within the setting of the adjacent Grade II\* listed 'little park' building. I observed on my site inspection that the appeal property was located some distance from the adjacent listed building and being on lower ground and with mature screening in between.
14. I, therefore, agree with the previous Inspector's conclusions that there is not a meaningful visual relationship between the appeal property and the setting of the adjacent listed building to which permitted development at the site is likely to have any impact. I note the parties are also not in dispute on this point; I therefore conclude that the removal of condition 14 would not result in harm to designated heritage assets and, therefore, would not conflict with Policy DM34 or Chapter 15 of the Framework. Finding no harm in this regard, however, is a neutral factor that does not override the need for the condition for the ongoing protection of the rural character of the countryside.

## **Conclusion**

15. For the foregoing reasons, condition 14 remains necessary and reasonable and accords with the Policies DP12 and DP26 of the MSLP and HurstC1 of the HNP. I therefore conclude that the appeal should be dismissed.

*N Perrins*

INSPECTOR