



Appeal Decision

Site visit made on 22 February 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2024

Appeal Ref: APP/U1430/W/23/3321202

Land opposite The White Cottage, Brownbread Street, Ashburnham, TN33 9NX

- 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 R Williams against the decision of Rother District Council.
 - The application Ref RR/2022/813/P, dated 28 March 2022, was refused by notice dated 10 November 2022.
 - The development proposed is retention of pond and associated earth works. Retention of hardstand next to pond and summer house. New planting of indigenous species throughout the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 NL. 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.
3. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been materially amended. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach. I will refer to the updated paragraph numbers in this decision.
4. The Council's first reason for refusal specifically refers to the effect of the summer house on the NL. The description of development on the application form does not seek permission for the summer house, nor is there any evidence before me the appellant has sought this. It therefore does not fall to be considered in this appeal and Development and Site Allocations Local Plan (16 December 2019) (LP) Policy DHG9 does not relate to the development under consideration.
5. There also appears to be some dispute between the parties as to the status of the hardstanding adjacent to Brownbread Street. For the avoidance of doubt, I have assessed the proposal on the basis that it is for the two structures marked concrete platform on drawing number 2106/2A. This is based on what

is shown on the existing plan (drawing number 2106/1A) and the description of the proposal in the supporting letter submitted with the application.

Main Issues

6. The main issues are the effect of the development on:

- the natural beauty of the High Weald NL; and
- biodiversity.

Reasons

7. The site lies within the High Weald NL which is designated for the purposes of conserving and enhancing natural beauty. 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.
8. The appeal site lies on the opposite side of the road to The White Cottage. The topography of the surrounding area is undulating, with Brownbread Street sat at the same height as the highest point of the appeal site. The development had been carried out at the time of my site visit. The plans before me include a section of how the site appeared previously. The gradual change in levels has been replaced with a more steep drop from the summer house to the pond, then a more level area until the stream near the site boundary. The changes in the topography of the site contrast sharply with the more gentle roll of the surrounding landform. As a result, the site now appears uncharacteristic of the NL and this harms its natural beauty.
9. The hardstandings are constructed from materials which are not sympathetic to the natural beauty of the surrounding area. They introduce a further level of development which is uncharacteristic of the undeveloped and natural appearance of the NL. The appellant has proposed to paint the hardstandings green. However, this would not address the harm that arises from the introduction of clearly artificial structures to the natural beauty of the area.
10. Substantial hedgerows and dispersed areas of woodland are important characteristics of the area. However, the fact that the development is not readily visible as a result of the hedgerow around the site does not make the development acceptable or mitigate the adverse effects on the natural beauty of the area.
11. The development has an adverse effect on the natural beauty of the High Weald NL. It would therefore be contrary to Rother Local Plan Core Strategy (2014) (CS) Policy OSS4, RA3 and EN1, and LP Policies DEN1 and DEN2 which taken together and insofar as they relate to this appeal, require development to maintain and reinforce the landscape character of the area, in particular that of the High Weald NL. There would also be conflict with the advice in paragraphs 180 and 182 of the Framework which require planning decisions to maintain the character of the undeveloped coast and attach great weight to conserving and enhancing landscape and scenic beauty.

Biodiversity

12. The appeal has been accompanied by a Preliminary Ecological Appraisal (PEA). This identifies that the habitats on the site, other than in relation to the pond, are virtually the same as those prior to the works being carried out. It also sets out that the pond constitutes an ecological enhancement particularly given the wider loss of ponds in the agricultural landscape.
13. However, there is a lack of baseline data for it to be robustly demonstrated that this is the case. Furthermore, no data was sought from the Sussex Biodiversity Records Centre. As the works have been carried out and the Council's concerns include demonstrating that biodiversity enhancement can be achieved, this is an omission which does not support the appellant's case.
14. The PEA considers it would not be necessary for the new planting of indigenous species to be carried out as colonisation by native species is occurring. The appellant's statement of case suggests this colonisation will be allowed and confirms that a hedgerow will be planted. However, their final comments say the proposed planting of indigenous species would be a positive outcome. The proposed development has not been formally amended in this respect. This lack of clarity as to the proposed works and their associated ecological benefits, along with the limitations of knowing the baseline biodiversity at the site, means that I cannot be certain that the proposal would enhance biodiversity.
15. It therefore has not been demonstrated that the development has not had an adverse effect on biodiversity or that there has been a biodiversity enhancement. It is contrary to LP Policy DEN4 and CS Policy EN5 which, taken together and insofar as they relate to this appeal, require development to support the conservation and enhancement of biodiversity and avoid adverse impacts.

Other Matters

16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
17. Suttons is a Grade II Listed Building. Its significance is derived from its architectural interest as a vernacular building. It has well defined amenity space and lies within a generally open, countryside setting. The works are a short distance from the site, but intervisibility is limited by the slight curve in the road and the changing levels within the appeal site. The works do not affect the open setting of the listed building, which would therefore be preserved.

Conclusion

18. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations, including the Framework, of sufficient weight to suggest the decision should be taken 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