



Appeal Decision

Hearing (Virtual) held on 16 July 2024

Site visit made on 18 July 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2024

Appeal Ref: APP/C1435/W/23/3330488

Ten Acres, Halland Park Farm, Eastbourne Road, Halland, East Sussex BN8 6RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Pope and Mrs Davies-Pope against the decision of Wealden Council.
 - The application Ref is WD/2022/3023/F.
 - The development proposed is described on the application form as the erection of a mobile home for rural workers to support and manage the Ten Ponds fishery business.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed development relates to the setting of listed buildings. Accordingly, I have had regard to the statutory duties set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The Council appear not to have notified Historic England, as should have been the case where it considers that the proposed development would affect the setting of a Grade II* listed building. As I have concluded that the proposed development should be dismissed, little would be gained by delaying the decision to undertake that notification. Had my decision been otherwise, I would have provided an opportunity for the notification to take place.

Background and Main Issues

4. The appeal site comprises a parcel of land containing a series of ponds and small outbuildings. There is no dispute between the appellant and Council in respect of the use of the site for fishery purposes. I have no reason to disagree with those findings. I will therefore focus solely on the proposed development which relates to the erection of a mobile home on the site.
5. The main issues are:
 - whether or not there is an essential functional need for a rural worker to live on the site;
 - whether the proposed development would preserve the settings of nearby listed buildings; and
 - the effect of the proposed development on protected species.

Reasons

Essential need

6. The appeal site consists of managed grassland, woodland and a series of large ponds. An area of hardstanding exists near to the site entrance. The surrounding area is predominantly rural in nature, with a range of residential and commercial buildings positioned to the south and southeast.
7. The proposed dwelling is a single-storey two-bedroom mobile home. It would be positioned on an area of the site that is currently undeveloped. It would be accessed via the existing site entrance and an extended access track, with a parking and turning space.
8. Saved Policy DC2 of the Wealdon Local Plan (LP, 1998) sets out that new permanent dwellings outside the development boundaries will be permitted for those employed in agriculture or forestry, or exceptionally in another enterprise where a countryside location is necessary. This is subject to it being demonstrated that a number of criteria are met, including that there is a clearly established existing functional need.
9. Based on the evidence before me, the main need for someone to be on the site relates to: a) the welfare of fish; b) the security of the site; and c) the upkeep of the grounds and ponds.
10. Turning first to the welfare of fish, the appellant sets out that 4 of the 9 existing ponds currently contain fish. The appellant estimates that one of the ponds contains approximately 400 fish, although the total number across the ponds is unknown.
11. The appellant has set out that the fish require particular attention, including feeding, which may involve visits once or twice a day depending on the species. In addition, the oxygen levels of the water require observation and adjustments. The appellant currently travels to the site from their home (approximately 6 miles away) by car to carry out these activities. This involves a travel time of around 15 minutes. The appellant also informed me at the hearing that they had managed fish for many years elsewhere.
12. I am in no doubt that the fish need daily attention and that the appellant is well equipped to do this. However, I have not been provided with any substantive evidence that would demonstrate an essential need for someone to live permanently on the site (which would include both overnight and year round) for welfare reasons, particularly as the current arrangements have been ongoing for a number of years.
13. I acknowledge the reference to a previous incident that resulted in a nearby farming practice having polluted 3 of the ponds, poisoning a number of fish. This would no doubt have been a stressful time for the appellant. However, it would appear to me that this was a one-off incident and one which does not justify a permanent presence on the site.
14. The appellant argues that there is a need for someone to be on the site at all times for security reasons. In particular, for the security of the fish from poaching and the theft of machinery and equipment kept there. However, the appellant confirmed at the hearing that no specific incidents had occurred (to their knowledge) at the site to date. The appellant also set out that no working

CCTV or alarms exist on the site. Overall, the evidence before me does not demonstrate that all alternative security options have been fully explored.

15. In respect of the management and maintenance of the grounds, I am informed that most of the operations at the site are carried out by the appellant. It was confirmed at the hearing that this currently involves being at the site for at least 3 days per week. Activities include the maintenance of the grounds and ponds, such as grass cutting, the repair of leaks, responding to floods and vermin control. I am in no doubt that the site requires regular maintenance, and that this has been improved since the owner took the site on. However, I do not have any evidence to demonstrate that this requires someone to live permanently on the site.
16. I note the appellant's desire to develop a business at the appeal site, with the existing operations being small scale and, principally, on a hobby basis. This would include the breeding and selling of a greater number of fish, the use of more ponds and the introduction of a smokery. It was argued at the hearing that it is this greater level of activity that could not take place without a permanent presence on site as activities would be more intensive and require night-time monitoring. Additional activities would include, for example, the management and harvesting of eggs and the transfer of fish to different ponds as they grow.
17. Some letters of support have been provided to show interest in take-up. However, there is no clear evidence before me setting out a firm intention and ability to develop and sustain the enterprise and that this has been planned on a sound financial basis. Such evidence is required under Policy DC2. It was argued at the hearing that a business plan, which includes financial information, had been submitted in support of the proposal. However, this is not before me, and does not appear to have been before the Council. As such, I cannot take this into account in making my decision.
18. Irrespective of the above requirements, Policy DC2 also requires that any dwelling is suitably located, and that this integrates well with existing buildings, is not intrusive in the landscape and its general design is appropriate to the character of the area. The building would be positioned within a currently undeveloped and open part of the site and, despite some existing landscaping, would be visible from parts of the surrounding area. It would be positioned in relative isolation from other built form in the locality. Such a development would likely appear incongruous in this respect, and out of keeping with the surrounding area. At the hearing, it was argued that the building would be part sunken into the landscape, the gradient of which changes across the site. Even were this the case, which is not clearly illustrated on the submitted plans, there is no justification as to why the building would be positioned within the open part of the site.
19. The appellant argues that the structure could not reach more than 3 metres in height by reason of a private agreement at the time of the sale of the site. However, I have no evidence before me of this agreement or covenant and, in any case, the restriction in height is not the only factor relating to the design impact of the proposed development. I acknowledge that areas of hardstanding already exist at the site. However, this does not have the same visual impact as a solid structure by reason of its scale and massing.

20. It is noted that some landscaping is proposed to mitigate the impact of the proposed dwelling. However, this would take some time to mature and, in any case, landscaping cannot be relied on in perpetuity to provide the same level of screening.
21. Overall, based on the totality of evidence presented to me, it has not been adequately demonstrated that there is an essential need for a dwelling to accommodate a rural worker at the appeal site. Consequently, the proposed development would conflict with the relevant provisions of Policies SPO1, SPO13 and WCS14 of the Core Strategy (CS, 2013) and saved policies GD2, EN8, EN27 and DC2 of the Wealdon Local Plan (LP, 1998). These policies, in summary, seek to avoid inappropriate development in the countryside and promote high quality design that respects its context. This is in a similar vein to the National Planning Policy Framework (the Framework) insofar as the protection of landscapes and high quality design is concerned.

Heritage assets – special interest and significance

Halland Park Farmhouse

22. Halland Park Farmhouse is a Grade II listed building¹. It dates, principally, from around 1770 and is set within a large, landscaped garden plot. It is enclosed and largely obscured by mature vegetation. Based on the evidence before me, the special interest and significance of the listed building is largely derived from its historic and architectural interest. Important contributors in these regards are its age, surviving historic fabric and the use of traditional materials and building techniques.
23. Pertinent to this appeal, the building's special interest and significance are also derived, in part, from its setting. The grounds of the house have an historic, visual and functional connection with the heritage asset. These grounds are clearly defined by boundary treatments that separate it from the adjoining buildings and access roads. These grounds form the asset's immediate setting, and it is from here that the asset is best appreciated. This immediate setting contributes considerably to the asset's special interest and significance.
24. Beyond this, the surrounding area, of which the appeal site forms a part, is made up of a mixture of developed land and open landscape. The surrounding built form is indicative of the site's former agricultural use, featuring multiple agricultural or former agricultural buildings, but also its evolution over time through the addition of commercial developments and residential conversions. Several interventions have occurred, including the severance of former agricultural buildings from the farmhouse. This has, to some extent, degraded the integrity and heritage merit of this wider setting.

Notwithstanding this, the historic agricultural character nonetheless remains discernible. The wider setting also allows an appreciation of the historic functional and physical relationship between the listed building and surrounding land. This wider setting contributes somewhat to the special interest and significance of the listed building.

¹ List Entry Number: 1043102

The Ruins (named 'the Ruins of the old house known as Halland House in the grounds of Halland Park House, Laughton' hereafter referenced as 'the Ruins')

25. The Ruins is a Grade II listed building². It dates from 1595 and was formerly known as Halland House. The ruins are enclosed and largely obscured by surrounding built form and mature vegetation. Based on the evidence before me, the special interest and significance of the listed building is largely derived from its historic and architectural interest. Important contributors in these regards are its age and surviving historic fabric.
26. The listed building's immediate setting is formed of the farmhouse and associated, enclosed grounds. These grounds contribute to the asset's special interest and significance. The surrounding area, of which the appeal site forms a part, forms the asset's wider setting. There is limited visibility of the asset from outside its immediate setting and no clear visibility between the asset and the appeal site. This lack of intervisibility moderates the contribution this wider setting makes to its special interest and significance.

Barn (named 'Barn at Halland Park Farm to Southwest of the Farmhouse' hereafter referenced as 'The Barn')

27. The Barn is a Grade II* listed building³. It dates from the 17th century and is set within a garden plot, enclosed by boundary treatments. Based on the evidence before me, the special interest and significance of the listed building is largely derived from its historic and architectural interest. Important contributors in these regards are its age, surviving historic fabric and former use as a coach house and barn.
28. The enclosed grounds of the Barn, now comprising garden land and a parking area, have an historic, visual and functional connection with the heritage asset. These grounds form the asset's immediate setting, and it is from here that the asset is best appreciated. This immediate setting contributes considerably to the asset's special interest and significance.
29. Beyond this, the surrounding area, which includes the appeal site, forms the wider setting of the heritage asset. As with the farmhouse and ruins, the wider setting allows an appreciation of the historic functional and physical relationship between the listed building and surrounding land. This wider setting contributes somewhat to the special interest and significance of the listed building.

Godfreys

30. Godfreys is a Grade II listed building⁴. It dates from the 17th century and is set to the northeast of the appeal site and the collection of listed buildings mentioned above. Based on the evidence before me, the special interest and significance of the listed building is largely derived from its historic and architectural interest. Important contributors in these regards are its age, surviving historic fabric and traditional building techniques.
31. The immediately surrounding area, formed of the enclosed grounds of Godfreys, have an historic, visual and functional connection with the heritage

² List Entry Number: 1193327

³ List Entry Number: 1353376

⁴ List Entry Number: 1043286

asset. These grounds form the asset's immediate setting, from which the asset is best appreciated. This immediate setting contributes considerably to the asset's special interest and significance.

32. The wider surrounding area, including the appeal site, forms the asset's wider setting. The wider setting allows an appreciation of the historic functional and physical relationship between the listed building and surrounding land. However, the limited intervisibility between the listed building and the wider setting (including the appeal site) moderates the contribution this wider setting makes to its special interest and significance.

Heritage assets – appeal proposal and effects

33. The position, scale and nature of the proposed development, together with the limited intervisibility between the appeal site and the nearby heritage assets, would mean that the visually and physically separate relationship between the appeal site and those assets would be maintained. The historic and architectural interests of the assets would remain unaffected. The retention of a reasonable separation distance and intervening landscaping features, in particular, would reinforce this. Ultimately, the immediate and most of the wider settings that contribute to the significance of those assets would remain undisturbed by the proposed scheme.
34. Taking these factors into account, I conclude that the proposed development would not compromise the settings of Halland Park Farmhouse, The Ruins, The Barn or Godfreys, rather it would have a neutral effect that would not determinably alter how the assets would be experienced and would not adversely affect the ability to appreciate the significance of the assets. Consequently, the settings of the listed buildings, and the contribution they make to the significance of the assets, would be preserved. The proposed development would therefore be in accordance with the requirements of Section 66(1) of the Act and the relevant provisions within the Framework which seek to conserve and enhance the historic environment. The proposed development would also accord with the relevant provisions of CS Policies SPO2 and WCS14. These policies, in summary, seek to protect heritage assets.
35. As there would be no harm to the significance of these designated heritage assets, it is not incumbent on me to consider any wider public benefits that the proposals may bring in this respect.

Protected species

36. The appeal site is located within a red impact risk zone for Great Crested Newts. The Council explained at the hearing that the red impact risk zone indicated a 'higher' level of risk.
37. A Preliminary Ecological Appraisal (PEA, dated April 2023) is submitted in support of the appeal proposal. This concludes that the site, overall, has a moderate potential for Great Crested Newts (GCN). It is also recommended that a GCN survey takes place.
38. Whilst I accept that the historic use of the site as a fishery may not typically be a conducive habitat for newts, there is no clear evidence before me, such as a site specific newt survey, to demonstrate that the site accommodates any GCNs, or that this can, categorically, be ruled out.

39. In this regard, paragraph 186 of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. That no specialist consultees objected on this basis does not change my conclusion.
40. The appellant raised that Natural England sought to visit the site previously to test the site for the presence of newts. However, this was not linked to the appeal scheme before me, and in any case was not undertaken.
41. The appellant also suggested at the hearing that this matter could be dealt with by condition. However, as the submitted PEA specifically identifies the need for a survey to be conducted to identify the presence or absence of newts, a possibility of a presence is therefore identified. The Planning Practice Guidance indicates that where a significant impact could arise, surveys should be carried out in advance of an application being made. Without clarification, it is not possible to satisfactorily demonstrate that the proposed development would have an acceptable effect on the protected species.
42. Overall, there is insufficient evidence before me to demonstrate that the proposal would have an acceptable effect on a protected species, in particular GCNs. The proposal would therefore conflict with the relevant provisions of CS Policy WCS12, which, amongst other things, seeks to prevent a net loss of biodiversity and ensure a comprehensive network of habitats. This is in a similar vein to the Framework insofar as the protection and enhancement of biodiversity is concerned.

Other Matters

43. I accept that the site has been used as a fishery for many years. As set out above, this is not a matter in dispute and does not change my conclusions on the main issues.
44. I also accept that the proposed development would have some benefits, including economic and environmental benefits through supporting the use of veterinary practices, feed and machinery suppliers, the investment in the site, and the reduction in trips from further afield. However, these matters do not lead me to an alternative conclusion on the main issues.

Conclusion

45. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Robert Gifford von Schiller	Appellant's Agent
Will Pope	Appellant
Julie Davies-Pope	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Scott Carey	Assistant Team Leader
Zac Pursall	Technical Support Officer