



Appeal Decision

Site visit made on 12 August 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/P1425/W/24/3338986

Bramleys, Jackies Lane, Newick, East Sussex BN8 4QX

- 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 & Mrs A Gregory against the decision of Lewes District Council.
 - The application Ref. is LW/23/0536.
 - The development proposed is subdivision of curtilage and erection of a detached dwelling and garage, with a new access from the highway.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the rural character of the open countryside, including the effect on natural habitats and designated Ancient Woodland.

Reasons

3. The appeal proposal is for the subdivision of the existing curtilage of Bramleys, a substantial detached dwelling in an area of the countryside that lies outside the settlement boundary for Newick Village. The Officers' Report includes reference to Policy DM1 of the Lewes District Local Plan Part 2 (2020) which seeks to protect the distinctive character and quality of the countryside and will only permit development where it is consistent with a specific development plan policy or where the need for a countryside location can be demonstrated.
4. However, the report also recognises that the planning balance for the principle of the site's residential development in the form of a new dwelling is affected by the Council's failure from March 2021 and still ongoing to demonstrate a five year land supply for new housing. Government policy on this issue is set out in paragraph 11 & footnote 8 of the National Planning Policy Framework December 2023 ('the Framework'). This explains the circumstances under which there is a presumption of sustainable development in respect of decisions on applications, including for housing.
5. The Framework is a significant material consideration in this appeal and includes Sections that in part are relevant to this appeal. These are 2: Achieving Sustainable Development; 4: Decision Making; 5: Delivering a Sufficient Supply of Homes; 11: Making Effective Use of Land; 12: Achieving Well-Designed and Beautiful Places, and 15: Conserving and Enhancing the

Natural Environment. The evidence of the appeal parties and in particular for the appellants refers to the Framework in some detail and I have had regard to all the relevant policies.

6. Leaving the Framework temporarily aside, the Council accepts that the housing land supply position weighs in the appellants' favour as the principle of new housing on a site outside settlement boundaries may be accepted if criteria in the adopted Interim Policy Statement on Housing Delivery ('the IPSHD') are considered to have been met.
7. In respect of the criteria, the Officers' Report agrees that in five of them (criteria nos. 2, 4, 5, 6 & 8) the appeal scheme either complies or has the potential to comply. And as for the most part I have no disagreement with this assessment, such compliance weighs in favour of the scheme. Further favourable weight can be given in the matter of whether paragraph 84 of the Framework precludes the appeal development, as I agree with the appellants' Statement of Case that the proposed dwelling should not be regarded as 'isolated' under Government policy as since interpreted by the Courts.
8. However, there are other significant aspects of the main issue that remain to be taken into account. Turning firstly to the three remaining IPSHD criteria, it is accepted for the appellants that the site does not wholly satisfy criterion no. 1 in that it is not contiguous with the settlement boundary of Newick. In addition, I am unable to give significant weight to any argument of precedent as regards other sites selected in the Strategic Housing Land Availability Assessment ('the SHLAA') in locations outside the boundary, as individual judgements would have been made by the Council on their respective merits.
9. In any event, personal decisions to propose development of individual small sites on an ad hoc basis and made for a variety of different reasons (this appeal being a case in point) are likely to be less allied to a managed evolution of the development pattern of an area than sites identified through the SHLAA. In making this point however, I also acknowledge that Local Plan Part 1 Policy SP2 allows for dwellings on unidentified small-scale windfall sites during the plan period.
10. Moreover, in the case of the appeal site with its proposal for a substantial detached dwelling, its development would represent an incremental but nonetheless important change to the rural character of the area adjoining Jackies Lane. In this context, the Council's endorsement of compliance with criterion 2 on the basis that *'the proposed dwelling would be broadly in keeping with the grain of development on this side of Jackies Lane'* is in itself not incorrect. However, without any qualification or caveats it does rather undermine the Council's argument of non-compliance with criterion 7.
11. The objectives of criterion 7 are a key determinant in consideration of this appeal. The further intensification and consolidation of this loose ribbon of existing development can only further harmfully erode the rural character of the locality and its 'substantial landscape sensitivity' as recognised in the 'Newick A' Character Area defined in the Lewes District Landscape Capacity Study. Although not strictly out of keeping with its surroundings, a house of the large scale proposed on a predominantly open site that does not obviously read as a domestic curtilage would nonetheless be significant in its visual impact and have an associated 'suburbanising' effect on the rural character of Jackies

Lane. In itself Bramleys is a single site but potentially one that would prompt further such development on similar areas of land.

12. In this regard, whilst I have noted the appellant's reference to 'previously developed land' as weighing in favour of the proposal, I consider it to be more of a technical than a substantive point given that the Bramleys' original curtilage was extended following a permission for the change of use from agricultural to residential land. As this permission preceded the adoption of the Local Plan Parts 1 & 2, this consent may have not been clearly recognised by the Local Planning Authority as having the potential to increase the perceived appropriateness of sporadic residential development in a sensitive rural landscape.
13. Criterion 3 is the remaining test of the IPSHD and requires proposed development to have safe and convenient pedestrian and cycle access to community facilities and services within the adjacent settlement. Whilst recognising the need for such access is limited to the houses adjoining Jackies Lane, the absence of street lights and pavements is clearly indicative of an absence of safety and convenience. Indeed, a local resident and the Parish Council have expressed concerns as to highway safety if permission for the appeal dwelling were to be granted.
14. Whilst in itself not a deciding factor, this weighs against the appeal being allowed, especially as it is reasonable to assume that Bramleys as a large detached dwelling would be subsequently occupied by a good-sized family. It is also the appellants' evidence that the proposed house would be 'multi-generational'. The cumulative comings and goings of the two families over the years would be significant and inevitably increase the accident risk in Jackies Lane. In this context a consultee on the application has referred to two accidents in recent months. Paradoxically, any highway improvements including street lighting to mitigate the risk are likely to harm the rural character and appearance of the road.
15. Whilst the summary of the evidence and my assessment in the above paragraphs relate mainly to the first refusal reason, the other aspect of concern in the Council's decision is the effect of the development on natural habitats and sensitive landscape, including Ancient Woodland and the proximity to the Chailey Common SSSI. This impact would be less one of a direct and immediate impact from the site's development, but rather more one of the long term increase in human activity as a result of another large dwelling.
16. The Officers' Report explains that had the principle of the development been acceptable, further information would have been sought in order to secure mitigation including Biodiversity Net Gain. However, a significant amount, of this information has already been forthcoming in the Preliminary Ecological Appraisal of January 2024. I consider that the combination of conditions and, if necessary, legal agreements would have ensured that there would be no harmful conflict with either Local Plan Policy CP10 or with the aforementioned Section 15 of the Framework.
17. The evidence for the appellants refers to the personal family circumstances considered to necessitate a bespoke family dwelling and that as a 'Self-Build' project the development should be supported. As regards the former, there is no evidence that the existing dwelling of Bramleys couldn't be adapted to meet

these needs, albeit with further alterations and extensions subject to the necessary permissions.

18. Finally, in terms of Self-Build, I acknowledge that this is referenced by paragraph 83 and footnote 29 of the Framework, with the latter referring to 2015 legislation requiring Councils to provide assistance to this form of development. However, the motivations for self-build fall broadly into the categories of either ensuring that a dwelling is more affordable for the builder/occupier or conversely of a 'Grand Design'. The proposed dwelling would clearly not qualify in either of these categories.

Planning Balance and Conclusion

19. Because the Council has a shortfall of housing supply the tilted balance in paragraph 11 and footnote 8 of the Framework applies. In this case, whilst the relevant policies must be considered as being out of date I find that permission should not be granted because under paragraph 11 d) ii, the adverse impact of the appeal scheme in this countryside location would significantly and demonstrably outweigh the benefit of the increase of one dwelling to the District's housing supply, when assessed against the policies in the Framework taken as a whole.
20. The appeal is dismissed accordingly.

Martin Andrews

INSPECTOR