

Appeal Decision

Site visit made on 19 August 2024

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2024

Appeal Ref: APP/U1430/W/23/3335728

**Land to north west of Cadborough Farm, Udimore Road, Rye TN31 6AA
(Easting - 590751 : Northing - 119828)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Clifton Homes against the decision of Rother District Council.
 - The application Ref is RR/2023/1064/P.
 - The development proposed is described as 'Outline application with all matters reserved except access for a self-build/custom build scheme of six dwellings, alongside associated infrastructure.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is submitted in outline with all matters except for access reserved for future consideration. I have dealt with the appeal on this basis treating any details of other matters shown on the plans as illustrative.
3. A signed legal undertaking pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. The Council has confirmed that this addresses their second reason for refusal. I comment further on the matter later in my decision.
4. In November 2023, all designated Areas of Outstanding Natural Beauty became National Landscapes. However, the National Planning Policy Framework (the Framework) continues to refer to them as Areas of Outstanding Natural Beauty (AONBs). In this decision I have used the term AONB, consistent with the evidence and the Framework. The legal designation and policy status of such areas is unaffected, whichever term is used.

Main Issue

5. The main issue is whether the appeal site is an appropriate location for the proposed development having regard to local and national policies for the distribution of housing and the character and appearance of the area including the setting of the High Weald Area of Outstanding Natural Beauty.

Reasons

Location

6. The Rother District Local Plan Core Strategy, 2014 (Core Strategy) establishes the overall spatial strategy for the district. It seeks to focus new development at Bexhill, whilst allowing for development elsewhere. In the case of Rye, there is policy support for the development of sites that help maintain its small market town role and which are consistent with its environmental constraints and setting.
7. Policy RA2 sets out the overarching strategy for the countryside which is to support rural businesses and strictly limit new developments to that which support local agriculture, economic or tourists needs and maintains or improves rural character. Policy RA3(iii) states that the creation of new dwellings will only be permitted in extremely limited circumstances.
8. Consistent with the above, Policy E1 of the Rye Neighbourhood Plan 2019 (RNP) seeks to focus development within the development boundaries of Rye, as defined on the Policies Map. Outside of these areas the policy prioritises the protection of the town's setting although new development outside of the development boundary may be permitted for which a countryside location is necessary, or which accords with other specific development plan policies.
9. The site is not within the town's development boundary. There is no evidence before me to indicate that the development accords with the wider spatial strategy for the area or that it meets any of the policy exceptions and demonstrates that a countryside location is needed.
10. Consequently, the proposal would conflict with the locational requirements of Policies RA2 and RA3 of the Core Strategy and Policy E1 of the RNP which seek to control development in the open countryside.

Character and Appearance

11. Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan 2019 (DaSA) together with Policies EN1 and RA2 of the Core Strategy seek to ensure, amongst other things, that development within or affecting the setting of the AONB conserves and seeks to enhance its landscape and scenic beauty, as well as maintaining and reinforcing the landscape character of the area and sense of tranquillity. In these respects, the approach is broadly consistent with the policies of the National Planning Policy Framework (the Framework) which seek to ensure that: great weight is given to conserving and enhancing the landscape and scenic beauty of the AONB; the impacts of development within the setting of the AONB are avoided or minimised; and that the intrinsic character and beauty of the countryside is recognised.
12. The appeal site itself is an undeveloped area of land on the western fringe of Rye. Whilst it is not subject to any specific landscape protection or designation, the open countryside just beyond it is within the AONB. There is a clear intervisibility between these two areas of countryside. Therefore, the site acts as something of a transition between the edge of Rye and the AONB and so makes a positive contribution to the setting of both of them.

13. As far as this appeal is concerned, because the site is outside of the AONB it does not have the same level of protection as afforded to land within the designated area. Whilst I must have regard to the setting of the AONB, this does not preclude development from being permitted, provided adverse impacts on the AONB are avoided or minimised.
14. There is general agreement between the main parties that longer range views of the site are mostly limited. There are two main longer range viewpoints to the east, from where the development could most readily be seen.
15. From these viewpoints, a linear arrangement of dwellings on site would be seen to follow the progression of housing up Udimore Road. I am mindful that whilst this is an outline proposal, a linear arrangement of the houses appears the only realistic layout for achieving six dwellings on the site.
16. However, it would clearly extend built form out onto higher land and into the countryside. Even if the houses were restricted in their heights, there would be a discernible extension of the town into the surrounding countryside.
17. Given the visual link between the site with the surrounding countryside, there would be some localised harm arising to the landscape. Notwithstanding this, given the evidence before me and having viewed the site from the eastern side of Rye, I am satisfied that the overall effect on the wider views of the landscape, including the AONB, would not be significant.
18. In closer views, when approaching the site from the west along Udimore Road, the town is set to the east and at a lower level, with mainly the nearest houses and some buildings on the other side of the valley visible. When approaching the site from the east, it is very much seen as being on higher land than the housing around it and beyond the built up area of the town.
19. In these respects, Wellington Avenue and Oast house Drive provide a well-defined edge to this part of the town. Therefore, by virtue of the site's shape and elevated position, as well as appearing very obviously beyond the defined edge of the town, the proposal would become a very noticeable suburban intrusion into the countryside.
20. Whilst Cadborough Farm is on the opposite side of Udimore Road, its relationship with and visual impact on the surrounding countryside is very different from a cul-du-sac of six houses, together with their associated activity and paraphernalia. As such, I do not find that the existence of Cadborough Farm provides a justification for this proposal and the harm it would have on the character of the area.
21. I am mindful that all but one of the houses would be single storey, there would be a design passport for the site and a landscaping scheme such as that set out in the appellant's submissions could be implemented. However, such factors would not overcome the obvious disconnect with the established settlement boundary and incursion of development into the countryside. Furthermore, planting and landscaping should generally seek to complement a proposal and not in itself make an otherwise inappropriate development

acceptable. As such, potential boundary planting is not a reason to allow the appeal.

Findings

22. There is a clear intervisibility and visual relationship between the site, the town of Rye and the AONB and I find that the proposal would not relate well to either the surrounding landscape or established pattern of development. Whilst the overall effect would be localised, the proposal would cause harm to the character and appearance of the area including the setting of the High Weald Area of Outstanding Natural Beauty.
23. The proposal would therefore be contrary to policies EN1 and RA2 of the Core Strategy and Policies DEN1 and DEN2 of the DaSA which, amongst other things, seeks to ensure that development does not cause harm to the character and intrinsic value of the countryside or the setting of the AONB.
24. The proposal would also conflict with the Framework which similarly seeks to ensure that new development contributes to and enhances the natural and local environment by recognising the intrinsic character and beauty of the countryside and that development within the setting of the AONB avoids or minimises adverse impacts on it.

Legal Undertaking

25. The appeal is accompanied by a legal undertaking that would secure the custom and self-build nature of the development plus a commuted sum towards affordable housing provision to maintain policy compliance. A monitoring fee is also included within the terms of the agreement.
26. Having regard to the evidence before me, I am satisfied that the submitted legal undertakings are necessary to make the development acceptable, are directly related to the proposal and fairly and reasonably related in scale and kind to the development. As such, they would accord with the requirements of the Framework and Community Infrastructure Levy Regulations 2010.

Other Matters

27. The Council's spatial strategy is not achieving the level of housing growth expected by national policy. As part of the appeal process, the Council indicated that as of April 2023, it had 3.09 years housing land supply. In this context, the delivery of 6 houses is an important benefit. Similarly, there appears to be a need for affordable housing and the proposal would deliver a contribution towards this through the planning agreement.
28. The main parties disagree on the level of demand for, and required provision of, self build housing in the district. However, from the evidence before me it is clear that the proposal would make a contribution towards meeting a current demand for such sites in the area. The legal agreement would secure this form of development and I have therefore considered the scheme as a self-build development, which would increase housing choice in the area. This is a matter which weighs positively in favour of the proposal.
29. The site is located on the fringes of Rye, and future residents would be able to access the town and contribute to the local economy and to the vitality of

the community. In the shorter term, the proposed development would also bring associated economic benefits such as construction expenditure and jobs. There would be some social benefits from the additional housing, and the affordable housing contribution. These all represent further positive benefits of the proposal.

30. Access is a matter for consideration at this stage of the planning process. The Highway Authority, whilst highlighting some concerns regarding the precise positioning of the access and the provision of visibility splays does not object to the proposal on highway safety terms. It would be possible to secure the necessary further details through a planning condition. However, compliance with the required highways provisions would be neutral in the overall balance.
31. There are a number of other matters on which it is said there are no objections, such as archaeology, flooding, ecology as well as in relation to neighbouring occupiers. However, these would represent a lack of harm and so would similarly be neutral in any balance.
32. The appellant also points to there being only one objection in relation to the appeal. However, this in itself does not mean that the current scheme is acceptable and does not in any event absolve me from making an assessment as to its effects in regard to the main issue of the case.
33. I have been presented with the previous appeal decisions on the site. However, each case must be considered on its own merits and I have made my decision based on the specific circumstances of the scheme, including the evidence before me and my own observations.

Planning Balance

34. As the Council cannot demonstrate a five-year housing land supply and because there are no policies in the Framework which offer a clear reason for refusal, Paragraph 11(d)(ii) of the Framework is engaged.
35. The Framework's policies seek to boost the supply of housing. The scheme would deliver 6 new, self-build houses, and an affordable housing contribution. The site would be accessible by other means than the car and there would be other economic and social benefits associated with the proposal. Collectively these benefits attract considerable positive weight.
36. Furthermore, it is apparent that a policy-led solution to housing needs is not being achieved and seems unlikely to be achieved for quite some time. I therefore place only moderate weight on the conflict with the Framework in this regard and its policies seeking to accommodate new housing within the confines of established boundaries.
37. Nevertheless, the provision of housing should not be at the expense of the environmental objectives of the Framework, which are to contribute to protecting and enhancing the natural, built and historic environment. The Framework is clear that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting and recognise the intrinsic character and beauty of the countryside. In this case, the position of the site and the harm that would be caused to the character and appearance of the area, including the effect on

the setting of the AONB, would be locally prominent and long lasting. This attracts significant weight.

38. This leads me to the view that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore does not apply.

Conclusion

39. Overall, the proposal conflicts with the development plan when taken as a whole and there are no material considerations, including the Framework, that outweigh that conflict. Therefore, the appeal is dismissed.

Stewart Glassar

INSPECTOR