
Appeal Decision

Site visit made on 13 November 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2024

Appeal Ref: APP/C1435/W/24/3338417

Eyres Barn, Duddleswell, Uckfield, East Sussex TN22 3BH

- 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 Ms C Wadkin against the decision of Wealden District Council.
 - The application Ref is WD/2023/1211F.
 - The development proposed is the replacement of asbestos pre-fab with a two bedroom bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the site's post code from the Council's decision notice and appellant's appeal form as it is more accurate than the one given in the planning application form.

Main Issues

3. The main issues are a) whether the appeal site is an appropriate location for housing having regard to local and national policies; b) the effect of the proposed development on the character and appearance of the area, with particular regard to the High Weald National Landscape; and c) whether the development would affect the integrity of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

Reasons

Location

4. The thrust of local and national policy is to ensure that development occurs close to existing services and facilities, which in turn reduces the need to travel and also protects the open countryside from inappropriate sporadic development.
 5. The appeal site is not within the development boundary of a settlement nor is it specifically allocated for housing. Therefore, despite there being a building on site and dwellings nearby, in planning policy terms the site is within the open countryside, where development is generally resisted.
 6. With regard to sustainable transport, national policy recognises that opportunities will vary between urban and rural areas. However, the appeal site's location would mean that in reality future residents would rely almost entirely on the use of a private vehicle as the most convenient means of
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carrying out their day-to-day activities. The absence of any sustainable transport options weighs against the proposal.

7. There is no evidence before me to indicate that the development meets any particular policy exceptions or demonstrates that a countryside location is needed. Therefore, taking all of the above into account, there is nothing to suggest that the appeal site is in a location where new housing should be permitted.
8. Consequently, the proposal would conflict with the requirements of Policies EN1 and EN27 of the Wealden Local Plan 1998 (Local Plan) and Policies SPO7 and WCS14 of the Wealden Core Strategy Local Plan 2013 (Core Strategy) which, amongst other things, require developments to have regard to a site's location, its effect on the environment and to reduce the need to travel by car. These policies also seek to ensure that development accords with the National planning Policy Framework (the Framework), which, having regard to its requirements and sustainability objectives, would similarly not identify the appeal site as being a suitable location for additional new housing.

Character and Appearance

9. The site is within the High Weald National Landscape, an area designated for its landscape and scenic beauty. The surrounding area is characterised by undulating and verdant landscape, interspersed by scattered buildings and individual properties.
10. Policies in both the Core Strategy and Local Plan are broadly consistent with Paragraph 182 of the Framework which requires that in National Landscapes great weight be given to conserving and enhancing landscape and scenic beauty. Such areas therefore have the highest status of protection.
11. The appeal site is located close to the B2026. There are dwellings and a tea rooms around the site. The existing building on site is utilitarian in appearance but its size, height and positioning means that it is not very prominent in the landscape. It is currently being used for storage purposes and its use appears to be low key in nature. It therefore has a limited effect on the wider area.
12. The replacement building would be in a similar position on site albeit with a larger footprint and small increase in height. Notwithstanding that the existing curtilage already offers something of a domestic garden context, the change to a dwelling would give the building a more residential appearance. It would also lead to the introduction of residential activity and a likely increase of domestic paraphernalia on the site. Given the size and nature of the proposed glazing, light spillage from the dwelling would also draw attention to the additional activity on site, particularly during periods of darkness, when it would have an adverse urbanising effect on the character of the area.
13. The physical changes and the alteration to the functional character of the site would materially increase the site's prominence within the landscape. Whilst the adverse effect of this would be localised, the proposal would not conserve or enhance the landscape and scenic beauty of the National Landscape. For these reasons, I conclude that the proposed development would cause harm to the character and appearance of the area.
14. The proposal would therefore conflict with Policies EN1, EN6 and EN27 of the Local Plan and Policies SPO1 and WCS14 of the Core Strategy which, amongst

other things, require developments to have regard to the character and appearance of the surrounding locality and ensure there are no harmful impacts, particularly in the designated areas of the High Weald, where there is a requirement to protect the landscape and enhance it where possible.

Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)

15. The SPA and SAC of the Ashdown Forest are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). This is in order to safeguard the habitats and the birds they support, in particular the Dartford warblers and Nightjars.
16. These 'Habitats Sites' are easily disturbed by activity arising from residents of new housing development within a Zone of Influence (ZoI). For Ashdown Forest, the ZoI has been calculated as being 7km. The Council has a tariff-based system which enables mitigation to be provided for new housing development, such as the management and monitoring of the sites as well as providing alternative areas of natural green space.
17. However, new housing developments within 400m of the protected sites is considered to be so close that their adverse impacts, such as human recreation and additional urbanisation effects would be so great that appropriate mitigation would not be achievable. As such, new housing is not permitted within such close proximity to the Habitats sites. This approach to development in Ashdown Forest is supported by Natural England, the statutory conservation body. Policy WCS12 of the Core Strategy therefore seeks to prevent a net increase in dwellings within 400m of the protected areas.
18. The appeal site is within 400m of the protected areas and whilst the B2026 separates the appeal site from them, it is not an insurmountable barrier. Although my site visit provides only a snapshot from a weekday morning, I observed that it is reasonably straightforward to cross the road and access the protected areas.
19. Consequently, I find that the proposal would result in disturbance to habitat which would have a detrimental impact on the bird populations. This would prejudice the sites' objectives, adversely affecting their integrity.
20. Where suitable mitigation cannot be secured, the Habitats Regulations state that planning permission should only be granted if there are reasons of overriding public interest and suitable compensatory measures are secured. As this case does not accord with those requirements, permission cannot be granted. Arboricultural and ecological appraisals were provided with the planning application. Whilst their conclusions are largely favourable in terms of the proposal, they do not lessen my duties under the Habitats Regulations.
21. The proposal would therefore not accord with the Habitats Regulations which seek to protect the natural environment and in particular that sites of international nature conservation importance must receive the highest levels of protection. Furthermore, it would conflict with policies EN1 EN7 and EN15 of the Local Plan, as well as Policy WCS12 of the Core Strategy. These seek, amongst other things, to safeguard designated nature conservation sites, including Ashdown Forest, and ensure that development likely to have an adverse effect on nature conservation interests is not permitted.

Other Matters

22. The site has its own drainage and access onto the B2026. I also note that the proposal was said to be very unlikely to exceed vehicle movements of previous uses at the site. However, these matters would amount to a lack of harm and so would not carry sufficient weight to overcome the harms I have identified.
23. The site could be considered as previously developed land. Even so, national policy does not favour utilising brownfield land wherever it is found. Rather, Paragraph 124 of the National Planning Policy Framework (the Framework) gives substantial weight to the value of using suitable brownfield land within settlements for homes but that does not apply here. As such, this is not a reason in itself to allow the appeal.
24. It is suggested that a residential use would be less harmful than the potential impact of the existing use. It appears that the building was previously used as storage for the nearby tea rooms although is currently being used to store items unconnected with that property. There is no lawful development certificate to clarify the extent of the lawful use. At this stage, given the evidence before me, I am unable to conclude that the existing use would be more impactful than the proposed use; or that a material uplift in the use of the site would be anything more than a theoretical possibility.
25. I have been referred to an appeal decision in Hartfield, said to support the appellant's case. However, that site was not within 400m of a Habitats Site and whilst outside of a settlement was considered to offer future occupiers some sustainable transport options. As such, it is not directly comparable to the current appeal.
26. Although the proposal would meet the appellants' personal circumstances, the future occupation of the property would not be restricted to just the appellant. Planning Practice Guidance advises that planning permission usually runs with the land and that personal permissions, restricting who can occupy a building, are rarely appropriate. There are not sufficient grounds in this case to justify such an approach.

Conclusion

27. In addition to the harm to the Habitats sites, I have also found harm to the High Weald National Landscape, a nationally designated landscape which has the highest status of protection in relation to the conservation and enhancement of its landscape and scenic beauty. These provide clear reasons to dismiss the appeal, regardless of the Council's acknowledged lack of housing supply, which at the time of the initial refusal stood at 3.8 years.
28. Considered overall the development would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan.
29. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR