



Appeal Decision

Site visit made on 11 December 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/C1435/W/24/3341994

The Coach House, Wall Hill Road, Ashurst Wood, East Sussex RH19 3TQ

- 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 Caroline & Willem Loubert against the decision of Wealden District Council.
 - The application Ref is WD/2023/2631/F.
 - The development proposed is the replacement of existing stable block with single storey dwelling and associated soft landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published by the Government in December 2024, after the determination of the planning application. It does not raise any new considerations in relation to this appeal.

Main Issues

3. The main issues are a) whether the proposed development is suitable for the site having regard to local and national policies for the location of housing; 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 non-designated heritage asset; c) the effect of the proposed development on the Ancient Woodland; and d) the integrity of the Ashdown Forest Special Protection Area.

Reasons

Location

4. The appeal site comprises a wooden stable building and sand school. The site is located to the south of the village of Ashurst Wood and close to some existing dwellings. In planning policy terms, the appeal site is considered to be within the open countryside.
5. With regard to the location of new housing there is broad consistency between the Framework and Policies GD2 and DC17 of the Wealden Local Plan 1998 (LP). Generally, they seek 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. The appeal site is therefore not in a location where the provision of a new dwelling would be supported by these policies.

6. Whilst new housing within the countryside is usually resisted, local policies do allow for some exceptions. In this respect, and of relevance to this appeal is Policy DC8 of the LP. It allows for rural buildings located outside of the development boundaries to be converted to residential use. The policy sets out criteria which specify, amongst other things, that the building to be converted shall be of sound construction and capable of conversion without significant rebuilding or extension.
7. The existing stables appear to be of simple wooden framed construction with timber cladding and corrugated metal roof. The building is sat on a concrete base. The proposed development is not supported by a Structural Report although a letter from structural engineers dated from 2022 has been provided. This letter notes that the existing stables are of very little structure and are out-of-true but there is little in the letter to indicate what of the existing stables would be retained.
8. The proposed dwelling would be noticeably larger than the existing building and have a zinc and sedum green roof. The submitted drawings do not provide any indication as to what parts of the stable's elevations would be retained or how the existing building would be converted as opposed to being simply replaced.
9. A further letter from the structural engineers in 2024 was submitted in support of the scheme. Whilst it offers a more positive interpretation of the stables than the initial letter, it is non-committal on the current proposal and the extent to which the building would be converted. For example, it notes that the 'stable building could (my emphasis) be retained in its present overall configuration with the addition of essential amenities and works to achieve a habitable standard' but it does not say if or how this will be achieved. Similarly, it notes that the building 'appears (my emphasis) to be suitable for conversion to residential accommodation in an overall general sense' but offers no further clarifications.
10. The works required for the project, include a much larger building than the one currently on site, new foundations, new load bearing walls, new roof, as well as ground works and new floor slab arrangement. Given the extent of the works and the modest scale and construction of the existing building, together with the limited information regarding how any conversion or reuse of the stables would be achieved, I do not consider that the proposal would comply with Policy DC8.
11. In view of all of the above, there is no evidence before me to indicate that the development meets any particular policy exceptions or demonstrates that a countryside location is needed. Consequently, the proposal would conflict with the locational requirements of Policies GD2, DC8 and DC17 of the LP and Spatial Planning Objectives SPO1 and SPO7 and Policy WCS6 of the Wealden Core Strategy Local Plan 2013 (CS) which, amongst other things, seek to control development in the open countryside.

Character and Appearance

12. The site lies within the High Weald National Landscape (HWNL) an area designated for its landscape and scenic beauty. The Framework places the highest status of protection on these matters. The local planning policies are broadly reflective of this approach.

13. Despite the presence of the nearby houses, the area surrounding the appeal site is generally rural, characterised by undulating and verdant landscape, interspersed by tree belts and scattered buildings. The existing stable building is a single storey timber boarded structure and is typical of such buildings found in rural areas. The sand school, whilst a man-made arena, has limited visual effect although the associated lighting columns are a somewhat discordant feature.
14. The removal of the sand school and the incorporation of the land into the new curtilage would offer some biodiversity enhancements. Similarly, the removal of the floodlights would be a benefit of the proposal. However, as the stables no longer appear to be in use and there is no substantive evidence to indicate that they would be reused if the appeal were dismissed, it is not clear to what extent the lights would be utilised in the future. Similarly, at the time of my site visit the base of the sand school was already beginning to become overgrown, taking on a more naturalistic appearance. As such, these benefits have moderate weight.
15. The proposal would construct a new wall to try to replicate a sense of the previous walled garden that existed on the site, with the dwelling positioned to accord with the location of the previous glasshouse. The existing parts of the original wall are identified by the Council as a non-designated heritage asset. Its significance lies in its links to the historic use of the land as a walled garden within the grounds of a large dwelling.
16. However, whilst the new wall would follow the original route, the building would appear as a modern dwellinghouse that would in reality bear little resemblance to a glasshouse. Alongside this, the introduction of domestic paraphernalia and residential activity, would have an urbanising effect on the appeal site and the environs of the non-designated heritage asset. As such, the proposal would not be reflective of the historic character of the site. Furthermore, even though it is in a secluded position, the proposal would appear incongruous to the rural character of the area.
17. There are undoubtedly some benefits arising from the scheme, including reinstating the wall, removing the lighting columns and creating additional areas of planting/growing. However, the proposal would neither conserve nor enhance the natural beauty of the HWNL and would cause harm to the significance of a non-designated heritage asset. The stated benefits in relation to this main issue would not therefore overcome these harms.
18. The harm to the character and appearance of the area would be contrary to Policies EN1, EN6, DC8 and DC17 of the LP; Spatial Planning Objectives SPO1, SPO2, SPO13 and Policies WCS6 and WCS14 of the CS. Collectively, these, 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.
19. The proposal would also be contrary to the Framework, which amongst other things, seeks to ensure developments are sympathetic to local character, and conserve and enhance designated areas of National Landscape.

Ancient Woodland

20. Ancient Woodland (AW) is a term which includes ancient semi-natural woodland and plantations on ancient woodland sites. Generally, such areas will have been wooded continuously since at least 1600 AD and beyond some limited management, will usually have been subject to very little interaction with humans. It is a result of this, that they develop their diverse range and mix of plants, fungi, insects and other species and thus become an irreplaceable resource.
21. Paragraph 193, of the Framework identifies that development resulting in the loss of irreplaceable habitats such as AW should be refused, unless there are wholly exceptional reasons for such loss. Policy EN13 of the LP also seeks to protect areas of AW and avoid significant adverse impacts on them.
22. Furthermore, standing advice published by Natural England and the Forestry Commission recommends that for AW, development proposals should have a buffer zone of at least 15 metres from the boundary of the woodland to avoid root damage within root protection areas. In directing that development proposals should not be approved within buffer zones the advice confirms that this restriction also applies to proposed gardens.
23. The appeal site is located within 15 metres of an AW. It may have been subject to some recent works, with the appellant's Preliminary Ecological Appraisal referring to it as 'cleared woodland'. The provision of the existing stables and sand school, with the associated activity and use of floodlights in such close proximity to the AW may also have had an adverse effect upon some of the woodland's inherent qualities.
24. However, Natural England and the Forestry Commission's standing advice explains that the existing condition of the AW is not a reason to give planning permission for development. In other words, a woodland in poor condition can be improved in the future with management and so its condition would not necessarily weigh in favour of a scheme within the buffer zone.
25. I also acknowledge that the proposed dwelling would occupy much of the same footprint as the existing stables, with the proposed garden replacing the sand school. However, introducing such a new use, with a defined garden curtilage and a range of new activities and disturbances has the potential to intensify and diversify the harm to the woodland and its habitat. Thus, any existing level of impact would not necessarily stay the same and there is a clear risk of new or further impacts and harm occurring.
26. As such, there is insufficient evidence to show that the development would not be likely to harm the irreplaceable habitat within the AW. There are no wholly exceptional reasons which would lead me to find in favour of the appellant on this main issue. Accordingly, the development conflicts with Policy EN13 of the LP and Policy WCS12 of the CS which seek, amongst other things, to resist the loss of AW and to protect any on-site biodiversity and geodiversity features.
27. The proposal would also be contrary to the Framework, which amongst other things, indicates that proposals which result in harm to an AW should not be permitted.

Ashdown Forest Special Protection Area (SPA)

28. The SPA of the Ashdown Forest is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Such 'Habitats Sites' are easily disturbed by activity arising from residents of new housing development within a Zone of Influence (ZoI).
29. For Ashdown Forest, the ZoI has been calculated as being 7km, a distance within which the appeal site is located. The Council has a tariff-based system for new housing development which enables mitigation to be provided, such as the management and monitoring of the sites.
30. The appellant indicates a willingness to enter into a Unilateral Undertaking (UU) to provide the necessary mitigation but there is nothing before me to indicate that a completed UU has been produced. Regardless of whether the Council contacted the appellant about progressing a UU, where suitable mitigation has not been secured at the point of decision, 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.
31. 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 and EN15 of the LP, as well as Policy WCS12 of the CS. 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

32. The existing access onto Wall Hill Road falls below current standards. The use of the access would be intensified as a result of the proposal. Although there would no longer be larger, slower vehicles potentially transporting horses to and from the site, it is not clear as to how often this occurred in the past. There is no substantive evidence to suggest that the reuse of the site as a sand school is anything more than a theoretical possibility and so I place no weight on that as a fall-back option. However, even if I were to conclude in favour of the appellant on this aspect of the scheme, this would represent a lack of harm. Accordingly, it would be a neutral matter that would not weigh in favour of the proposal in my overall decision.
33. There was a pre-application meeting with Council Officers, the outcome of which is said to be inconsistent with the Council's formal decision. However, this does not absolve me from making an assessment as to the effects of the proposal in regard to the main issues of the case. Any concerns over how the Council handled the application or pre-application process is an administrative matter to be taken up directly with them.

Conclusion

34. The Council acknowledges that it is unable to demonstrate a five-year supply of deliverable housing sites. In these circumstances Paragraph 11 d) of the Framework is engaged. Whilst there are some benefits of the scheme which

would accord with the Framework's policies, the harm I have found to the HWNL, Ancient Woodland and the Ashdown Forest SPA provide clear reasons for refusing the development such that the presumption in favour of sustainable development does not apply. Consequently, the Council's housing shortfall does not provide a reason for allowing the appeal.

35. The proposal would result in the construction of an additional dwelling in the countryside, contrary to the aims of the Local Plan. It would also cause harm to HWNL, Ancient Woodland, the Ashdown Forest SPA and to the significance of a non-designated heritage asset. The proposal would therefore conflict with the development plan taken as a whole.
36. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR