



Appeal Decision

Site visit made on 5 February 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th May 2025

Appeal Ref: APP/M2270/D/24/3353258

Rosemary House, Rosemary Lane, Flimwell, Wadhurst, Kent TN5 7PT

- 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 Jack Nethercott (of Julius Bahn) against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 24/01369/FULL.
 - The development proposed is erection of oak framed garage with first floor home office space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reason for refusal refers to policies from the Tunbridge Wells Borough Submission Local Plan 2020-2038. In the absence of any indication from the Council as to the status of that plan, I cannot attribute weight to its policies.

Main Issues

3. The main issues are:
 - The implications of Policy H11 of the Tunbridge Wells Borough Local Plan (2006) (the Local Plan) for the proposed development; and
 - The effect of the proposed development on the character and appearance of the area, including the High Weald National Landscape (HWNL).

Reasons

Policy H11

4. The appeal site (the site) includes a detached dwelling, Rosemary House, on a rural plot. It is proposed to erect a building (the building) with undercroft parking on the ground floor and internal space on the first. The building would replace an existing structure and container.
5. The site is outside the limits to built development for the purposes of the Local Plan. Policy H11 allows extensions to existing dwellings in such locations, subject to restrictions. The term 'extensions' is defined as including all new buildings suitable or potentially suitable for use as habitable accommodation and situated within the curtilage of a host dwelling. Neither main party contends that the building would be outside the curtilage of the Rosemary House, and I see reason to think that it would.

6. The first floor of the building would be some 80m² and be served by rooflights and glazed dormers. The space would be fully enclosed and secure, accessed by an external door independent of the parking area below. Use as a home office is envisaged.
7. I have been provided with no reason to view a home office as anything other than habitable accommodation for the purposes of Policy H11, and do not see any for myself. Even if a home office were not considered habitable accommodation, the test is whether the building would potentially be suitable for such use. Based on the arrangement described above, the building would plainly have that potential. As such, the proposal must be tested against the restrictions in Policy H11.
8. The first restriction is not relevant to the proposal. The second requires, along with other things, that the building be 'modest', a term defined as resulting in an increase of approximately 50% in the volume of the [host] dwelling or 150 cubic metres (gross), whichever is the greater, subject to a maximum of 250 cubic metres (gross). Whilst some flexibility on these figures is envisaged in the policy preamble, at over 400m³ the proposed building would significantly exceed the anticipated limits and so would not be modest in the manner required by Policy H11.
9. The third restriction is that the proposal not lend itself to future sub-division [from the host dwelling] to form a separate dwelling. The Council considers that the building does just this, citing the availability of direct access to a highway, the size of the building, its distance from Rosemary House, and the build quality.
10. The building would share the same access track as Rosemary House; a track connecting onto Rosemary Lane. This would be adequate access for an additional dwelling, should the building be converted to one. Even if the ground floor of the building were retained for parking, at some 80m² approx. the upper floor is large enough for residential use. The glazed dormers of the building would face towards the northern elevation of Rosemary House and create intervisibility, but a separation distance of some 25m would likely be adequate to mitigate any harm arising. The degree of build quality would be linked to the choice of materials and the skill of the builder, but the external design and appearance of the building would not be at odds with residential use.
11. Whilst none of these factors, or even the combination of them, demonstrate that the sub-division of the building into a separate dwelling is likely, the pertinent point is that none of them provide a natural impediment to such an outcome. Moreover, I have been provided with no argument from the appellant that the building does not lend itself to future sub-division. Overall, I can only find that it does.
12. I have no reason to believe the appellant would, in fact, intend to sub-divide the building into a dwelling; I recognise that they have a use in mind for it, and have arrived at its proposed location due to site circumstances. However, the test of Policy N11 is whether the building would *lend itself* to use as a dwelling, rather than what the intentions of its owner at any given point in time may be. That the use of the building could be subject to a planning condition carries little weight in my determination, as the use of the building as a separate dwelling would require planning permission in any event.
13. The Local Plan dates from 2006 but the weight to be attached to its policies does not hinge on their age, but rather on their degree of consistency with the National

Planning Policy Framework (the Framework)¹. As set out in its preamble, Policy H11 reflects a desire to restrict domestic extensions in the countryside, partly so as to avoid harm to its character from overdevelopment. I see no conflict therein with the Framework, Chapter 12 of which requires that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. The provision of volumetric calculations in Policy H11 is a means by which to distinguish development likely to accord to these principles, rather than an illustration of a different policy aim. I attribute little weight to the use of such a tool, therefore.

14. The proposed development conflicts with Policy H11 of the Tunbridge Wells Borough Local Plan (2006) (the Local Plan) in that it would be potentially suitable for use as habitable accommodation but is not modest in the manner required by that policy.

Character and appearance

15. Rosemary House occupies a high point on the site, making it prominent from the approach track. Arable fields form an expansive, open foreground, and the backdrop is densely wooded. A handful of single-storey outbuildings and structures to the rear of the house do little to interrupt the sense of visual prominence and isolation the house has within the rural landscape.
16. The building would have a footprint similar in size to the house and introduce two-storey development to its curtilage. This would result in a more built-up feel to the backdrop, create a sense of visual clutter, and undermine the existing prominence of the house. As such, the proposal would harm the established character of the site and the wider area.
17. The appeal site is in the HWNL. The Framework requires great weight be given to conserving and enhancing landscape and scenic beauty in National Landscapes which have the highest status of protection in relation to these issues. Core Policy 4 of the Tunbridge Wells Borough Core Strategy (2010) states that urban and rural landscapes, including the NL, will be conserved and enhanced. The policy adheres directly to the Framework and attracts significant weight, therefore.
18. The Planning Practice Guidance (PPG) sets out the relevance of management plans for NLs when assessing planning applications. Whilst these do not form part of the development plan, they help to set out the strategic context for development and provide evidence of the value and special qualities of these areas. The High Weald Management Plan (2024-29) (HWMP) is therefore a material consideration. Objective S2 relates to architectural quality. The proposed development, it is said by the Council, would contravene this objective.
19. The appellant has provided little by way of counterargument, save for an observation that the building would not be visible from neighbouring properties and would be wholly subservient in the context of the overall site. Even if the former point is accurate, that would not negate the harm to the character and appearance of the site. I have addressed the latter point above. In any event, I have been provided with no explanation as to how the building would meet Objective S2 or enhance landscape and scenic beauty in the HWNL. It is not self-evident that it

¹ Paragraph 232 refers.

would do so and, in the absence of a case to the contrary, can only find that it would not.

20. The proposed development would have a harmful effect on the character and appearance of the area, and I have no evidence that it would enhance the High Weald National Landscape. As such, the proposed development would be contrary to Policies EN1, EN25, H11, and LBD1 of the Tunbridge Wells Borough Local Plan 2006, and to Core Policy 4 of the Tunbridge Wells Borough Core Strategy (2010) where they require rural landscapes, including the NL, to be conserved and enhanced, and that design proposals respect site context.

Conclusion

21. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

A Knight

INSPECTOR