
Appeal Decision

Site visit made on 27 April 2015

by Louise Phillips MA (Cantab) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 June 2015

Appeal Ref: APP/U1430/W/14/3001015

Land adjacent to Ghyll Farm, A265, Burwash TN19 7LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Allum, Gatwick Properties, against the decision of Rother District Council.
 - The application Ref RR/2013/2196/P, dated 21 October 2013, was refused by notice dated 10 September 2014.
 - The development proposed is the replacement of existing dilapidated agricultural buildings with five dwellings and a new access drive.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Robert Banks, on behalf of "Burwash - Save Our Fields From Concrete", against Mr Richard Allum. This application is the subject of a separate decision.

Preliminary Matters

3. The application was made in the name of Richard Allum of Gatwick Properties, whereas the name of the appellant is given as Mr Chris Gwilliam of Ideal Planning and Design Limited. It is clear from the correspondence that Mr Gwilliam is the agent for the appeal, although he was not the agent for the original application. Mr Allum has provided a letter, dated 22 January 2015, authorising Mr Gwilliam to submit an appeal on his behalf.
4. I have taken account of the concerns raised by interested parties in relation to the above, as well as the difficulties they have had in establishing precisely who owns the site. However, on the basis that planning permission generally runs with the land rather than any particular individual, I am content that the appeal can proceed in the name of the original applicant, Mr Richard Allum.
5. The site address is given on the application and appeal forms as A265, Burwash TN19 7LF. To assist with its identification, I have supplemented this address with the more detailed information provided on the decision notice.
6. On 29 September 2014, after the application was determined, the Council adopted the Rother District Local Plan Core Strategy (Core Strategy). The decision notice referred to two policies in the emerging Core Strategy, OSS4

and OSS5, and their content has not changed in the adopted version. However, they are now referred to as Policies OSS3 and OSS4 and I have used the current designations.

7. In addition, the Council has advised that Policies DS1, DS2, DS4, GD1, HG4, HG10 and TR2 of Rother District Local Plan 2006 (Local Plan) as listed on the decision notice have been superseded by the Core Strategy. As they no longer form part of the statutory development plan, I have not taken account of them in my decision. However, Policy DS3 of the Local Plan is a "saved policy" and I have had regard to it accordingly.

Main Issues

8. The main issues are:
- Whether the proposed development would be in a sustainable location having regard to the provisions of national and local planning policies in respect of new dwellings in the countryside;
 - Its effect upon the character and appearance of the High Weald Area of Outstanding Natural Beauty;
 - Its effect on highway safety on the A265; and
 - Its effect on biodiversity with regard to the proposed removal of the roadside hedge.

Reasons

Sustainable Location

9. The appeal site comprises open land on the south side of the A265. It falls outside any development boundary defined under Policy DS3 of the Local Plan and is thus in the countryside for development plan purposes. In such areas, Policy RA3 of the Core Strategy provides that new residential dwellings will only be permitted in "extremely limited circumstances". Specific examples of such circumstances are given and none applies to the appeal proposal, which is for five new dwellings for sale on the open market. Whilst the dwellings would be of a relatively modest size, and might therefore be priced at the cheaper end of the market, low cost market housing does not fall within the definition of affordable housing in Annex 2 of the National Planning Policy Framework (the Framework). Consequently, the allowance made in Policy RA3 for "rural exception sites" does not apply.
10. At the national level, paragraph 55 of the Framework also seeks to avoid isolated homes in the countryside unless there are special circumstances and again, none of those listed applies to the appeal scheme. Although the western boundary of the site is with a farmhouse and its associated farm buildings, it is otherwise surrounded by open countryside. The proposed dwellings would be physically and visually separate from the small hamlet of Burwash Weald to the south-west and from Burwash Village to the north-east, and would occupy an area with a truly rural character.
11. Whilst Burwash Village is only about 2km away and provides some services, the A265 is a fast, unlit road with no footways and it seems most unlikely that many people would choose to walk along it. Similarly, while buses might well pass by the appeal site, I saw no stops in the immediate vicinity and so future

residents would be highly dependent upon the private car to meet their day to day needs. For this reason, together with the generally rural nature of the surroundings, I consider that the proposed dwellings would be isolated in the terms of paragraph 55 of the Framework.

12. The appellant suggests that the volume of traffic associated with the small number of units proposed would be akin to that generated by the previous agricultural use of the site. However, whereas the previous use clearly demanded a countryside location, both the development plan and the Framework ordinarily direct housing away from such areas. I note in particular that the Local Plan aims to focus investment and development in existing built up areas (paragraph 4.52); while the Framework seeks to manage patterns of growth to make the fullest use of public transport, walking and cycling (paragraph 17), and to locate rural housing where it will enhance or maintain the vitality of rural communities (paragraph 55). The appeal scheme would fail to serve these objectives and so I conclude that it would not be in a sustainable location.
13. Therefore it would conflict with Local Plan Policy DS3; Core Strategy Policy RA3; and with paragraph 55 of the Framework. It would also conflict with Core Strategy Policy OSS3 in respect of its requirements for development to accord with the spatial strategy for the area and to make effective use of land within the built-up confines of towns and villages.

Character & Appearance

14. As explained above, the appeal site is in a rural area, generally isolated from residential and other development. It is situated within the designated High Weald Area of Outstanding Natural Beauty (AONB) which, in this location, is characterised by attractive rolling countryside consisting of small fields separated by hedgerows and small woodlands. In recognising the distinctiveness of these features, the current AONB Management Plan¹ includes an objective (FH2) to maintain the existing pattern of fields and boundaries as a "rare UK survival of an essentially medieval landscape". Objective S2 is to protect the historic pattern of settlement in the High Weald, and interested parties have drawn my attention to the importance of the site as part of a green buffer between the settlements of Burwash Weald and the larger Burwash Village.
15. The site itself comprises two small field parcels, informally separated by a post and wire fence. It has a long road frontage marked by a mature hedgerow (see below further) and is open except for a small wooden structure by the access and another slightly larger one close to the southern boundary. Therefore, while the site is somewhat overgrown at present, it is broadly typical of its surroundings within the AONB and it contributes to its special character and appearance accordingly.
16. The proposed development would provide five, two-storey, two-bedroom houses arranged as an L-shaped terrace of three dwellings with a semi-detached pair set back from it. They would be positioned approximately centrally within the site and close to the southern boundary in a similar position to the larger of the two existing barn-type structures. Thus they would be

¹ High Weald Area of Outstanding Natural Beauty Management Plan, 2014-2019.

some distance from the road frontage and access would be achieved via a long, shared driveway.

17. The site slopes downwards from north to south and this, combined with the distance of the properties from the frontage would help to reduce their prominence when viewed from the road. However, the dwellings would occupy a larger footprint than the structure they would replace and they would be significantly taller. They would, therefore, be visible through the site access and above the roadside hedge were it to be maintained at a height similar to that of others in the area. Moreover, if it were necessary to remove the majority of the hedge for reasons of highway safety, the dwellings would be highly visible. They could also be seen in public views from the south across the Dudwell Valley.
18. The design of the dwellings with hipped pitched roofs and tile hung facades would not be unattractive or unusual in a rural area, but their siting in the middle of a field in this remote location would be highly incongruous. Whilst there are a number of individual dwellings scattered along the A265, these are generally close to the road so that the land to the rear remains more open. By contrast, the proposed development would introduce built development, hard-standing, lighting and domestic gardens into a presently open setting. This would disrupt the ancient field pattern described above and detract from the tranquil nature of the area. Whilst planning conditions related to outdoor lighting and landscaping could potentially mitigate their effect to some extent, the development would remain a discordant feature in the landscape.
19. For these reasons, I conclude that the appeal scheme would cause significant harm to the character and appearance of the AONB and would fail to conserve and enhance the natural beauty of the area. Thus it would be contrary to Policies OSS3, OSS4, RA2, RA3 and EN1 of the Core Strategy, all of which include provisions intended to protect the character of the countryside. Having regard to paragraph 115 of the Framework, I give the harm I have found great weight in my decision.

Highway Safety

20. The proposal would utilise the existing vehicular access on the A265, which is subject to the national speed limit of 60mph at this point. The appellant's own speed survey² identified that vehicles travel at an average 85th percentile speed of 60.07mph eastbound and 59.04mph westbound, with some moving at higher speeds throughout the day. Based on advice in the Manual for Streets (MfS) and the Design Manual for Roads and Bridges (DMRB), the Highway Authority states that visibility splays of 202m in length would be required in both directions.
21. Whilst the A265 past the site is generally straight, it is clear when standing at the access that it is located on the inside of a shallow bend and this impedes visibility in the relatively near distance. Therefore, as shown on drawing No. 004B, it would be necessary to remove most of the existing roadside hedge to be able to see clearly without pulling into the carriageway. Even then, it would only be possible to achieve visibility splays measuring approximately 150m.

² Conducted on 4 March 2014, by BDR Civil and Structural Engineering Consultants.

22. The appellant's consultant suggests that the splays could be reduced to 160m and still comply with the guidance in the DMRB, but this would appear to be contingent upon measures to increase the prominence of the access and the vehicles using it. In particular, it is recommended that the splays begin 4.5m from the edge of the carriageway (the "y-distance") and that a low wall or fence could be used to mark the entrance to the site. However, the Highway Authority is concerned that the first measure would result in drivers merging into the road without coming to a stop at the junction; and the latter would not be consistent with the rural character of the area. I therefore share the Highway Authority's concerns that the substandard visibility splays would be detrimental to highway safety.
23. More generally, the Highway Authority is concerned that drivers moving along the A265 would not expect to encounter slow moving traffic entering and leaving the site. This seems well-founded given the limited number of residential accesses in the area and the speed differential would certainly be sufficient to present a hazard. I also agree that drivers might be more inclined to perform overtaking manoeuvres on this relatively straight stretch of road, which would add to the risks identified.
24. The appellant suggests that the small development proposed would generate only 20 vehicle movements per day which would be no greater than those arising from the former agricultural use of the site. However, I understand that agricultural activity ceased approximately 25 years ago and I do not know whether traffic conditions on the A265 were similar then. Furthermore, I accept the Highway Authority's suggestion that farm traffic would have been fairly steady throughout the day, whereas a residential use would be likely to increase movements disproportionately in already busy peak hours. In any case, large agricultural vehicles would be easily seen by road users who would expect them to be moving slowly and, therefore, some of the risks cited above would not apply.
25. For these reasons, I conclude that the proposed development would be detrimental to highway safety on the A265, contrary to Policy CO6 (ii) of the Core Strategy.

Biodiversity

26. As explained above, the proposal would involve the removal of the majority of the roadside hedge to improve visibility for traffic leaving the site access. The hedge is well-established; apparently of mixed species; and the Council suggests that it is likely to be many hundreds of years old. Notwithstanding the location of the hedge by a road, its age is not disputed. The objective of the AONB Management Plan to preserve medieval fields and boundaries weighs in favour of its preservation.
27. Paragraph 118 of the Framework aims to conserve and enhance biodiversity by, amongst other things, requiring the refusal of planning permission for development which would result in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of it would clearly outweigh the loss. This principle is intended to apply to ancient woodland and veteran trees and I see no reason why it should not also apply to the historic hedgerow in question. Given that the biodiversity interest of the latter derives substantially from its age and is, therefore, specific to it, I am not persuaded that a new

hedge planted elsewhere on the site would provide adequate compensation for its destruction.

28. Whilst I return to the overall balance of harms and benefits below, in relation to this particular issue, I conclude that the proposed development would cause harm to the biodiversity interests of the site. It would therefore conflict with Policy RA2 of the Core Strategy in respect of its aim to conserve the natural and ecological resources of the countryside; and with Policy EN5 of the same plan, which includes several provisions to protect and enhance biodiversity.

Other Matters

The Benefit of Additional Housing

29. Whilst the proposed development would not constitute affordable housing, taking account of the Government's aim in the Framework to "boost significantly the supply of housing" (paragraph 47), the provision of additional market units would nevertheless be a benefit of the scheme. However, Section 38(6) of the Act³ is clear that I must determine the appeal in accordance with the development plan unless material considerations indicate otherwise. In relation to all four main issues above, I have found the scheme to be contrary to development plan policy.
30. Paragraph 47 of the Framework requires the Council to identify a five year supply of specific deliverable sites with which to meet its housing requirements and, at paragraph 4.8 of the Grounds of Appeal, the appellant suggests that there is a deficiency of housing in the District. This is advanced as a material consideration which should weigh against the conflict with the development plan in respect of the location of the site in the countryside.
31. However, the Council's Statement explains that the appellant has drawn this conclusion from outdated information, whereas the latest monitoring report demonstrates compliance with national policy. The appellant did not contradict this in final comments and so I have no reason to disagree with the Council. Consequently, I conclude that the housing benefit of the scheme would not outweigh the various harms I have found. The appeal decisions to which the appellant refers in evidence would appear to relate to areas in which a housing deficiency did exist and so they do not alter my view in this particular case.

Bateman's Estate

32. The eastern boundary of the appeal site is with land owned and managed by the National Trust as part of the Bateman's Estate, which includes a Grade I Listed property that was once home to Rudyard Kipling and his family. It is clear from the representations submitted by the National Trust and interested parties that Bateman's is a site of international renown, consistent with its Grade I status.
33. As required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act), I have had special regard to the desirability of preserving the setting of the Listed Building. However, while the site would adjoin land within its grounds, the proposed development would be approximately 1.2km from the building itself and be separated by fields, pathways, trees and other vegetation such that it could not be seen in its context. I do not question the

³ Planning and Compulsory Purchase Act, 2004.

importance of local vistas to and from the house, but I consider that the land forming part of the Bateman's Estate is sufficiently extensive to exclude the appeal site from its setting. Consequently, the setting would not be harmed by the appeal scheme and the significance of Bateman's as a designated heritage asset would not be degraded.

34. In reaching my decision, I have taken account of the considerable number of objections made by interested parties which, in addition to the issues covered above, include that the development would set a precedent for housing in the countryside; its impact on views towards the Needle and Observatory at Brightling; pressure on water management and sewerage systems; the effect on tourism; and increased flood risk. However, given my findings in relation to the main issues of the appeal, my decision does not turn on these other matters raised.

Conclusion

35. For the reasons given above, I conclude that the appeal should be dismissed.

Louise Phillips

INSPECTOR