



Appeal Decision

Site visit made on 7 November 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2022

Appeal Ref: APP/C1435/W/21/3288314

Land North of Catts Hill, Bletchinglye Lane, Town Row, Rotherfield, TN6 3NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Richard Skelley of Denton Homes Ltd against the decision of Wealden District Council.
 - The application Ref WD/2020/1691/O, dated 5 February 2021, was refused by notice dated 28 June 2021.
 - The development proposed is erection of four X 3-bed dwellings and two X 4-bed dwellings accessed off Catts Hill together with parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with approval being sought for access only. Matters relating to layout, appearance, scale and landscaping have been reserved. I have dealt with the appeal on this basis, treating the positioning of dwellings as shown on the 'existing and proposed location plan' as indicative only.
3. A revised version of the National Planning Policy Framework (the Framework) has been published since the planning application was determined by the Council. I have had regard to the revised Framework in reaching my decision.
4. The Council have advised that the emerging Local Plan has been withdrawn. I, therefore, have not had regard to that Plan or any evidence base relating to that Plan in reaching my decision.
5. The Council's decision notice hosts two refusal reasons. However, reason for refusal two acknowledges and identifies those documents that were considered in the Council's decision making process. It is not a reason for refusal as such.
6. The appellant has submitted other plans with the appeal. However, I have no substantive evidence before me that these plans have been considered by the Council or commented upon by interested parties. I have therefore not taken the plans into account in reaching my decision.

Main Issues

7. The main issues in this case are: -
- a) Whether the site is a suitable location for the proposed development, having regard to the spatial strategy of the development plan; and
 - b) The effect of the proposed development upon the rural character and appearance of the area and the landscape quality of the High Weald Area of Outstanding Natural Beauty (the AONB).

Reasons

Location

8. Wealden Local Plan (the Local Plan) has defined its built-up area boundary. Policies GD2 and DC17 resist new housing development in the countryside unless it is in accordance with specific policies in the Plan. The location of the site is beyond the defined built-up area boundaries and is in the countryside. Therefore, the appeal site would not be an appropriate location for new dwellings, and this brings the proposal into conflict with the spatial strategy of the development plan. However, the Council does not have a five-year supply of housing sites in place. Having regard to paragraph 11 of the Framework, this reduces the weight that can be attributed to these policies.
9. Town Row is not recognised within the Core Strategy's Settlement Hierarchy and being a sustainable settlement. Such unrecognised settlements are those with few or no facilities and services, and where further development would be unsustainable.
10. The appeal site is located approximately 1km beyond any defined development boundary of Rotherfield, where there is a public house, café, church, medical centres, primary and pre-school, village hall, playground and a football club, although there is a shop within 300m of the site. The walking isochrones within the appellant's Transport Statement show Rotherfield to be a 15 to 20 minute walk from the site and the highway route to Rotherfield does not have a continuous lit footpath. The road is busy with fast moving traffic even with the 30mph restriction that is in place. The larger town of Crowborough is approximately 6.5km from the site. That town centre would offer a wide range of services, facilities, employment and education. There is a bus stop directly adjacent to the site which would offer public transport to access towns in the wider area. It would take around 17 minutes to cycle to Crowborough train station, the closest station, approximately 3.8km from the site.
11. The future occupiers would have some travel choice that would not lead to complete dependency on private transport. Whilst some limited day-to-day facilities could be within walking distance, the walk to reach them would be precarious along a road without lit footpaths. This would not be convenient for the elderly or those with children. To reach a range of shopping facilities, education and employment would require travel further afield. Cycling or using buses would allow travel further away but carrying shopping or inclement weather would likely discourage the uptake of these modes of transport. There

are public rights of way in the area, but these are more likely to be used for recreational purposes rather than to access services and facilities. Consequently, given the distance to services and facilities I find that future occupiers would be highly reliant upon private vehicle travel, the least sustainable mode of transport, to access services and facilities to cater for their day-to-day lives.

12. I have been referred to a recent appeal decision at Cuckoo Barn, Land off Douglas Road, Rotherfield. The Council comments that site would be similarly located in terms of proximity to Town Row, but in a different location. The Inspector in that instance determined that the location of that particular appeal was not a specific reason for refusal as that site was within reasonable walking distance of Rotherfield. I accept that the appeal site before me would be within walking distance of some limited day-to-day facilities. However, I have also considered the nature of the walking environment to reach Rotherfield and have not found the route to be acceptable for the occupiers of a larger development of five dwellings.
13. The proposal would conflict with Policies GD2, EN1 and DC17 of the Local Plan, which seek to restrict development outside the development boundaries. Furthermore, the proposal would not reduce the need to travel by car as it would not be concentrating development where it can most closely relate to public transport opportunities.

Character and appearance

14. Policy EN6 of the Local Plan indicates that development will only be permitted if it conserves or enhances the natural beauty and character of the landscape. The Framework indicates that great weight should be given to conserving and enhancing the landscape and scenic beauty in National Parks, the Broads and AONBs, which have the highest status of protection in relation to these issues.
15. The appellant has referred to the Management Plan for the High Weald AONB 2019 to 2024 and comments that this sets out the primary purpose of AONB designation is to conserve and enhance nature's beauty. I have been referred to some of the objectives set out in the Plan that seek to protect the historic pattern and character of settlement and to enhance the architectural quality by ensuring that development reflects the character of the High Weald in its scale, layout and design.
16. There is residential development along Catts Hill, including a recent housing development opposite the site. To the northern side of the road there are areas of interspersed undeveloped land within the road frontage development. The appeal site is an area of open undeveloped land that is rural in character, which forms part of the wider AONB landscape.
17. The development could follow the existing linear form of development and reflect the existing pattern of development along Catts Hill. Nonetheless, developing the site with five dwellings with their domestic curtilages and landscaping would create a development of urbanised appearance and substantially diminish the rural characteristics of the site and its visual contribution to the AONB landscape. The development would appear as an encroachment into the countryside. This would harmfully diminish the intrinsic value, landscape setting and beauty of the countryside. Whilst this would represent only a small incursion into the rural landscape with some open

paddock land remaining around the site, this does not justify the harm arising from the proposed development to the AONB landscape.

18. A Landscape Statement and Strategy accompanies the appeal. The site is almost entirely enclosed by mature trees/vegetation. There is existing vegetation along the road frontage that limits views into the site from street level. The Strategy concludes that with appropriate mitigation by means of implementing a landscape strategy, including supplementary planting, this would enhance the existing landscape character. However, this landscaping would have a domestic managed appearance. Creating a residential frontage would change the character and appearance of the site. Furthermore, the roofs of the development would be visible above road frontage landscaping and the development would be visible via the access. I therefore, do not consider that the development, even with landscaping around and within the development would assimilate successfully into the rural landscape sufficiently to overcome my concerns with relation to the impact upon the AONB landscape.
19. The appellant comments that given the existing structures on site and the fact that the site is grazed, lends support to the site being considered previously developed land (PDL) and a priority for redevelopment. The annex to the Framework clarifies PDL to be land which is or was occupied by a permanent structure, including the curtilage of the land and any associated fixed surface infrastructure. However, I did not observe any structures at the site, other than a stable block that would be outside of the application site. I have not been directed to any history of development at the site and the Council's report to its planning committee does not identify any previous uses or development at the site. On the evidence available to me the site does not appear to have been put to land use to which PDL could be apply.
20. For these reasons, the proposed development would be harmful to the rural character and appearance of the area and the landscape quality of the High Weald Area AONB. The proposal would, therefore, conflict with Policies EN1, EN6 and EN27 of the Local Plan that seek, amongst other matters, development within the AONB to conserve or enhance the natural beauty and character of the landscape.

Other Matter

21. I have been referred to a conjoined appeal at Coldthorn Barn, Coldthorn Lane, Hailsham and other appeals at Land east of Hadlow Down Road, Crowborough and Land south of South Street, East Hoathly in regard to sustainable location, although I note that only the appeal at Crowborough had AONB considerations. Although I have been provided copies of the appeal decisions, I have not been provided the full details of those cases that might enable to me consider what similarity, if any, those proposals would have to that of the case that is before me. The considerations in those appeals may relate to similar matters that have arisen as part of the appeal before me. However, the Council has referred to a number of other appeals in which Inspectors have concluded differently on such matters. Nonetheless, each site is individual, and the considerations will differ. This limits the weight that I can attribute to these appeal decisions.
22. The Council have highlighted that the proposed development could have a negative impact on the Ashdown Forest Special Protection Area and Special Area of Conservation. A Unilateral Undertaking supports the appeal that would

secure mitigation of the European protected site. I have also been referred to two appeal decisions in which the effects of development were considered in regard of the Ashdown Forest conservation objectives. However, given that I am dismissing this appeal for other reasons it has not been necessary for me to consider this matter in any further detail.

Planning Balance

23. The Council advises that it does not have a five-year supply of housing sites in place and, therefore, this reduces the weight that can be applied to those development plan policies that relate to spatial strategy. Paragraph 11 d) of the Framework indicates that where a five-year supply of deliverable housing sites cannot be demonstrated the development should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
24. I have been directed to High Court Judgement (Monkhill Ltd v SSHCLG [2019] EWHC 1993 (Admin)). A point highlighted by the appellant is that the judgement articulates that the *"great weight" attached to the assessed harm to an AONB is capable of being outweighed by the benefits of a proposal, so as to overcome what would otherwise be a reason for refusal*".
25. I have found that the proposal would cause harm to the scenic beauty of the AONB, and this carries great weight and importance given that such landscapes have the highest status of protection. This brings the proposal into conflict with development plan policies and provides a clear reason for refusing the proposed development. Added to this is the conflict with the development plan in terms of future occupiers over reliance on private travel to access services and facilities. This holds substantial weight.
26. There is an acute shortfall in housing land supply within the district. This site would boost the supply of housing and I recognise that small schemes such as this can make a contribution to addressing the lack of housing supply. Therefore, there would be social benefit of providing homes and this benefit holds substantial weight in favour of the proposal. It is also pointed out that over half of Wealden District lies in the AONB and it is advocated that the proposal would support the housing needs of the local communities and rural economy of the AONB, although I have not been directed to any rural enterprises to which the proposal would lend support.
27. Nonetheless, even though the shortfall in HLS is acute, the adverse impacts to the landscape character of the AONB, which holds great weight and provides a clear reason for refusing the proposed development, along with increasing travel by private vehicle, would outweigh the benefits that hold substantial weight when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development does not apply.

Conclusion

28. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR