



Appeal Decision

Site visit made on 16 March 2020

by **P Wookey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st April 2020

Appeal Ref: W/4000599

Land adjacent Pentwood Place, London Road, Hurst Green, East Sussex, TN19 7QP

- 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 Mr J May against the decision of Rother District Council.
 - The application Ref RR/2019/1784/P, dated 25 July 2019, was refused by notice dated 14 October 2019.
 - The development proposed is described as 'Proposed new dwelling'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was in outline for the erection of one new dwelling, with all matters reserved except access. An illustrative layout plan referred to in footnote 1 has been submitted and shows a 4/5 bedroom dwelling with a Gross Internal Area of approximately 178 square metres.

Main Issues

3. The main issues are the effect of the development on:
 - Whether the development would be in an appropriate location with regards access to the Council's development strategy; and,
 - The character and appearance of the of the High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

Appropriate Location

4. The appeal site lies outside of the defined settlement boundary of Hurst Green as defined in saved policy DS3 of the Rother District Plan 2006 (LP) and as set out in Policy DIM2 of the Development and Site Allocations Local Plan (2019) (DaSa), until such time as the Hurst Green Neighbourhood Plan is in place. There is no dispute that the appeal site is located within the countryside.
5. Policy RA3 (iii) of the Rother Local Plan Core Strategy 2014 (CS) is a specific policy, which is consistent with Paragraph 79 of the National Planning Policy Framework (2019) (the Framework) with regards the development of new dwellings within the countryside and sets out criteria in which new dwellings

would be allowed which include: a dwelling for agricultural use; conversion of a historic farm building; replacement of an existing dwelling or as a rural exception site. In this case, the new dwelling would not meet any of these criteria.

6. The Council acknowledges that the site is not an isolated development in the countryside, being in such close proximity to No 1 Pentwood Place and future occupiers of the new dwelling would have good access to the nearby village centre which has a good range of day services and facilities. These services and facilities would be easily accessible by the future occupiers either walking or cycling along well-lit pavements and roads and therefore they would not be reliant on the use of a private vehicle. As a result, the occupiers of the new dwelling would not be reliant on the use of a private motor vehicle to access the local services and facilities and this adds weight in favour of the proposals.
7. Nevertheless, the appeal site is located outside of the defined settlement boundary and the development proposed would not meet the limited circumstances which would permit development in the countryside. Whilst the appellant has referred to the Hurst Green Neighbourhood Plan, it is at an early stage of preparation and may be subject to change, therefore it carries very limited weight.
8. I conclude that the development proposed would not be in an appropriate location and would be contrary to Policy RA3 and OSS2 of the CS and Paragraph 79 of the Framework which when read together seek to ensure development takes place within the defined settlement boundaries and sets out the criteria for permitting the development of a dwelling in the countryside.

AONB

9. The appeal site is located in the AONB and is a plot of greenfield land which is separated from the adjacent development of No 1 Pentwood Place by a public footpath and separated from No 2 London Road which is some distance away, by further undeveloped land with close board fencing along the frontage with the busy A21. The appeal site is roughly rectangular in shape and has an existing field access taken directly from the A21 which forms a gap in the vegetation along the boundary and allows views into the site. The borders of the appeal site, which are a mix of mature trees and hedgerows gives the site a partially enclosed appearance from the A21, but it is more readily visible from the adjacent public footpath.
10. On the opposite side of the road to the appeal site is mainly residential development, which extends for some distance away from the village centre. To the rear of the appeal site, which has a low hedgerow along its border, is countryside characterised by open fields and scattered agricultural buildings in the distance.
11. Paragraph 172 of the National Planning Policy Framework (2019) (the Framework) attaches great weight to conserving and enhancing the landscape and scenic beauty of an AONB, which have the highest status of protection in relation to these issues.
12. Based on my site visit, the appeal site and the public footpath play an important role in defining the village boundary and the start of the open countryside on this side of the A21. Notwithstanding the screening effect of the

close board fencing which extends from the appeal site as far as No 2 London Road, which is some distance away, the mature trees and vegetation along the A21 are in marked contrast to the more urban appearance of the development on the opposite side of the road. Thus, the appeal site which has a verdant appearance makes an important contribution to the rural character of the village in this locality and to the intrinsic beauty of the countryside which lies beyond.

13. Whilst the development proposed would be only partially glimpsed from the A21, it would nevertheless have a significant and eroding effect on its current greenfield, undeveloped appearance which was confirmed by my site visit. The development proposed would have an urbanising effect and the domestic paraphernalia which accompanies residential development, would be more readily visible from public viewpoints on the A21 and the adjacent public footpath. In the context of the appeal sites rural characteristics, the development proposed would have a significant detrimental eroding effect on its undeveloped state and would significantly diminish its rural characteristics.
14. Whilst the appellant states that the existing trees and foliage would be retained, there is only limited information provided on the illustrative drawing¹ to show how this would provide adequate screening and mitigate the visual impact of the new dwelling. As a result, the new dwelling would be viewed as an intrusive addition to the landscape and would be an unwelcome extension to the settlement along the A21.
15. Even though the A21 impacts on the character of the village given its location and greenfield appearance, unlike the development immediately opposite the appeal site which backs onto a church and other residential development, the appeal site also takes its reference from the neighbouring countryside. Moreover, the appeal site's location and undeveloped appearance signifies the transition from the urban settlement, characterised by No 1 Pentwood Place and the rural character of the open countryside beyond. The development proposed would erode the important rural edge of the existing village boundary, which makes an important contribution to the intrinsic scenic beauty of the surrounding landscape. As a result, the development proposed would neither conserve or enhance the landscape or scenic beauty of the AONB, which is afforded the highest status of protection in the Framework.
16. I conclude that the development proposed would have a significant harmful effect on the character and appearance of the AONB and would be contrary to Policy DS3 of the Rother District Local Plan 2006, policies OSS2, OSS4, RA2, RA3 and EN1 of the Rother Local Plan Core Strategy 2014, Policy DIM2 of the Development and Site Allocations Local Plan and Paragraph 172 of the Framework, which when read together seek to ensure new development is to a high standard of design which would not adversely impact on the landscape character of the area and protects or enhances the landscape beauty and settlement pattern of the AONB.

Planning Balance

17. It is not disputed that the Council is unable to demonstrate that it has a five-year supply of deliverable housing land with the appropriate buffer. The Council states that as of April 2019 it was able to demonstrate a 3.73 years supply of

¹ Proposed New Dwelling; Site Block Plan; Drawing No 4654.2A

deliverable housing land and therefore there would be a significant shortfall in the supply to meet its local housing needs.

18. In the absence of a deliverable supply, footnote 7 of Paragraph 11 d) of the Framework, states that the development plan policies most important for determining the appeal are out of date. However, the so-called tilted balance in favour of the grant of planning permission at paragraph 11 d), is conditional on satisfying the first limb of whether there are policies in the Framework that protect areas of particular importance which provide a clear reason for refusing the development proposed. AONB's are such a protected area and as identified there would be significant harm to the character and appearance of the AONB and therefore conflict with paragraph 172 of the Framework which seeks to limit the extent of development in these nationally sensitive landscapes. As a result, the so-called tilted balance would not be triggered in this case.
19. I have taken into account the limited benefits of the development proposed which are the addition of one dwelling to the Council's housing supply, the short-term economic benefits during the construction phase and the accessibility to services and facilities. However, these benefits are significantly and demonstrably outweighed by the harm that would result to the character and appearance of the AONB to which the Framework attaches great weight.

20. Other Matters

21. The appellant has referred to other developments outside of the defined settlement boundaries which have been permitted or allowed at appeal, but no evidence has been submitted with regards these schemes and therefore does not alter my findings in relation to the appeal proposal.
22. Whilst the Council states that the development proposed would encourage further development on the same side of the road as the appeal site, each case would have to be judged on its own merits and therefore I am neutral on this point. I note that the Council has raised no concerns with regards the effect of the development on the setting of a listed building and as there is no evidence before me, I have not pursued the matter further.
23. The Council has concerns with regards the effect of external lighting, I am satisfied that had the appeal been allowed, this could have been adequately controlled by appropriate conditions. I note the Council states that had the appeal been allowed, matters with regards highways safety, trees and ecology could have been adequately controlled by appropriate conditions and on the basis of the evidence before me, I have no reason to disagree.
24. I note the concerns of an interested party with regards the effect on the living conditions of the dwelling immediately opposite the appeal site, but as the appeal has been dismissed on the main issues, I have not pursued the matter further.

Conclusion

25. For the reasons set out above, the appeal is dismissed.

Paul Wookey

INSPECTOR