



Appeal Decision

Site visit made on 9 March 2020

by S M Holden BSc MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2020

Appeal Ref: APP/U1430/W/19/3243501

Warren Cottage, Pett Level Road, Pett Level TN35 4EE

- 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 Ms S Jeffries against the decision of Rother District Council.
 - The application Ref RR/2018/1644/P, dated 15 June 2018, was refused by notice dated 1 July 2019.
 - The development proposed is erection of two detached houses together with detached garages and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form gave the site address as 'The Warren'. However, the Council's decision notice, the appeal form and the statements from the main parties all refer to it as 'Warren Cottage'. I have therefore used this description throughout my decision.
3. On 16 December 2019, after this application was determined, the Council adopted the Development and Site Allocations Local Plan (DSA). The appellant and other interested parties have had an opportunity to comment on the implications of these recently adopted policies on the appeal proposal. I have taken these into account in reaching my decision which must be made having regard to the current development plan as a whole.
4. Although not cited as a reason for refusal, the appeal site is in close proximity to the Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA) and Ramsar Sites. I therefore have a duty to consider this matter under the Habitats Regulations.

Main Issues

5. Following the adoption of the DSA I consider that the main issues are:
 - (a) Whether or not the appeal site is suitable for a residential development having regard to local and national planning policy for the location of housing;
 - (b) The effect of the proposal on the character and appearance of the area;
 - (c) The effect of the proposal on the risk of surface water flooding.

Reasons

Suitability of location

6. Pett Level does not have a defined settlement boundary within the recently adopted DSA. For the purposes of planning policy the appeal site therefore lies within the countryside and the proposal for a residential development must be assessed on that basis. The policies within the Rother District Local Plan Core Strategy, 2014 (CS) that address development in the countryside are therefore relevant to my assessment.
7. Policy RA2 sets out the overarching strategy for the countryside which is to support rural businesses and strictly limit new development to that which support local agriculture, economic or tourists needs and maintains or improves rural character. Policy RA3(iii) states that the creation of new dwellings will only be permitted in extremely limited circumstances. There is no evidence before me to suggest that the two dwellings proposed in this case would meet any of these exceptions.
8. Policy OSS2 states that development boundaries around settlements will differentiate between areas where most forms of development would be acceptable and where they would not. The review of those boundaries, which has now been concluded with the adoption of the DSA, has taken into account amongst other things, the availability of and accessibility to facilities and services. Policy OSS3 states that the suitability of a location should have regard to the need for access to employment opportunities. Policy TR3 states that new development should minimise the need to travel and support good access to employment, services and community facilities.
9. Pett Level is a settlement with a limited range of services. It is not identified as a Rural Service Centre or a Local Service Village. Existing and future residents will need to travel to Hastings or Rye to access the facilities that they need. Although there is a bus stop within walking distance of the site, services from it are limited. Pett Level Road is an unlit, rural road with no footways that is subject to the national speed limit. It is used as an alternative to the A259 for trips between Hastings and Rye. Walking along it for any distance is potentially dangerous. All these factors mean that future residents are likely to find that the most practical and convenient means of travel is the private car.
10. For all these reasons, I conclude that the appeal site is not a suitable location for a residential development. The appeal proposal would conflict with Policies RA2, RA3, OSS3 and T3 of the CS which seek to protect the countryside from inappropriate development and locate new residential development where there is good access to facilities and services. Given its proximity to other residential development, the site is not isolated in terms of Paragraph 79 of the National Planning Policy Framework (the Framework). However, it would fail to accord with Framework's approach of supporting rural housing where it would maintain or enhance the vitality of rural communities.

Character and appearance

11. In the vicinity of the appeal site the southern side of the Pett Level Road is predominantly characterised by detached properties in modest sized plots. The dwellings are set back from the street and are barely visible from it due to the wooded nature of the hillside which rises from the road.

12. Warren Cottage and its garden are sited to the rear of existing development and accessed by a single-track driveway from Pett Level Road. Immediately to the northeast of this access is another driveway providing access to The Thatch. Between the two driveways is a belt of trees, 13 of which are the subject of a Tree Preservation Order (TPO). The appeal site comprises a substantial part of the garden of Warren Cottage which is largely overgrown. The land rises towards the southern and eastern boundaries giving the site as a whole a bowl-like appearance which is enclosed by trees and other vegetation. Its location, enclosure and use as part of a domestic garden limits its contribution to the landscape quality of the wider area.
13. The proposal would improve the existing access and extend it to provide access to two detached dwellings set out in a staggered arrangement, each served by a double garage. The resultant plot sizes would be a little smaller than others in the immediate locality, but the houses would be sufficiently separated from each other to prevent a regimented appearance. Even with the garages and additional driveway and hard surfacing, the site is of an adequate size to accommodate the development. While the layout would require a shared access, which is not typical of other properties, it would not be out of place in this locality, bearing in mind the adjacent development which has taken place at Pine Trees.
14. The chalet-style dwellings would be identical in terms of their size and internal layout. However, the external materials would differ; one would be rendered and the other would be a brick finish. I acknowledge that the properties in the surrounding area exhibit a variety of design, style and materials. However, most are well screened by vegetation so many of these differences are not immediately apparent. The proposed dwellings would not be visible from Pett Level Road, so their similarities would not jar with their context.
15. There are glimpses into the site from the footpath to the rear, due in part to the dilapidated nature of the existing fence. However, subject to the introduction of a suitable boundary treatment, only the upper sections of the roofs would be visible. This is little different from views of other established houses in the area which can also be seen from the footpath. Once established, the overall impression would be of a development nestling within a largely wooded hillside.
16. I am aware of the significant concerns that have been raised about the effects of the proposal on trees, particularly those that are protected by the TPO. Six trees would be lost as a consequence of the development. However, these have only limited amenity value and none are subject to the TPO. The greatest risk to the protected trees is therefore likely to occur during construction. The arboricultural report identified appropriate protection measures and construction methods which have not been contested by the Council. In this context I am not persuaded that their loss would be harmful to the overall wooded character of the site's setting.
17. I therefore conclude that the proposal would not be harmful to the character and appearance of the area. It would comply with Policies OSS4 and EN3 of the CS which requires development to respect its context. It would also accord with the advice of the Framework insofar as it would be sympathetic to the surrounding built environment and landscape setting while not preventing appropriate change, such as increased densities.

Flood risk

18. The proposal would include the use of permeable paving and filter drains to discharge surface water runoff from the development into a number of soakaways. However, in addition to the requirement to address run-off from the site itself the Environment Agency has identified a flow route across the site for overland/surface water flooding. The Lead Local Flood Authority (LLFA) therefore requested further information about how surface water flood risk, including exceedance flows and flow routes would be managed in order to prevent increased off-site flood risk. The LLFA also required additional information to be submitted to address any potential flood risk during the construction phase to protect existing properties downslope of the appeal site.
19. Tests have indicated that the underlying Wadhurst Clay Formation is likely to be sandstone which will be free draining. The permeable paving is likely to intercept any overland flows allowing them to discharge to the ground. As any such flows would tend to occur after the main rainfall, the proposed drainage system should have sufficient capacity to accommodate these additional flows. Including a safety factor of 2.5 into the detailed design would ensure that the proposal is sufficiently robust in this respect.
20. There is no evidence before me to suggest that a scheme which meets these requirements could not be designed and implemented. The LLFA was therefore satisfied that the drainage of the site and any risk of additional surface water flooding could be addressed by appropriately worded conditions.
21. I therefore conclude that the proposal would not give rise to an unacceptable risk of surface water flooding either on the site or in the surrounding area. Subject to the implementation of a scheme that could be secured by conditions, the proposal would therefore comply with Policies SRM2 and EN7 of the CS and Policy DEN5 of the DSA. All these policies seek to direct development away from areas of highest flood risk and ensure that new development provides sustainable drainage systems.

Other Matters

22. The Dungeness, Romney Marsh and Rye Bay SPA and Ramsar sites are internationally important wetland sites designated for wetland features including birds, invertebrates and vegetation. These interest features rely on a high quality of water and stable water levels. Natural England indicated that it required detailed information regarding the disposal of foul sewage to ensure any negative effects on water quality could be mitigated and the local planning authority has provided additional information. The responsibility for addressing the matter now falls to me as the Competent Authority in respect of the appeal. I will therefore return to it later in this decision.
23. Local residents have expressed concerns about the effects of the development on wildlife and protected species, including bats, great crested newts and badgers. The application was accompanied by reports and surveys which have also been updated to take account of the findings. The information has identified the need for suitable protection measures which would be necessary, particularly during the construction period. However, I am satisfied that these matters would be capable of being addressed by the imposition of appropriate conditions to secure their implementation, if the proposal had been acceptable in all other respects.

24. Concerns about highway safety have been addressed by agreement to improved visibility splays being provided at the access on Pett Level Road. These could also be secured by the imposition of appropriate conditions.

Planning Balance

25. It is common ground that the Council is unable to demonstrate a five-year supply of deliverable housing sites (5YHLS). In these circumstances Paragraph 11(d) of the Framework is engaged. This states that permission should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. The erection of two houses would be a small social benefit that would make a minimal contribution to the District's housing supply. There would be some very limited economic benefits arising from the scheme, although these would primarily be short-term and associated with the construction phase. These factors weigh in the scheme's favour. I have found that the scheme would not harm the character and appearance of the area. Neither would it give rise to an unacceptable increased risk of surface water flooding, subject to suitable controls that could be secured by conditions. However, the absence of harm in these respects is not a factor in the scheme's favour but is neutral in the planning balance.
27. However, following the adoption of the DSA, Pett Level no longer has a settlement boundary. The proposal would conflict with the spatial strategy set out in the CS which seeks to strictly control residential development in the countryside. It would also be contrary to the objective of ensuring that development is located where future residents would have good access to services and facilities without relying on private transport. These environmental harms weigh against the scheme. In view of the shortfall in the 5YHLS they cannot carry full weight, nevertheless, I consider that the permanent harm arising from poorly located housing would be significant.
28. Consequently, in my view, these adverse impacts significantly and demonstrably outweigh the very limited social and economic benefits associated with the provision of two dwellings. The presumption in favour of sustainable development therefore does not apply in this case.
29. If the outcome of my assessment against Paragraph 11(d)(ii) had concluded that the scheme was acceptable, it would have been necessary for me to consider the additional information which has been provided in order to undertake an Appropriate Assessment in respect of the effects on the Dungeness, Romney Marsh and Rye Bay SPA. However, as I have found the scheme to be unacceptable for other reasons, there is no need for me to consider the implications of the proposal on the SPA.

Conclusion

30. I have found that the proposal conflicts with the development plan and there are no other considerations, including the advice of the Framework, that outweigh that conflict. I therefore conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR