

Rother District Council

Report to - Planning Committee
Date - 11 November 2021
Report of the - Director – Place and Climate Change
Subject - RR/2020/1826/P
Address - Curlew Cottage - land adjacent
Pett Level Road
Pett Level
Pett/Fairlight, TN35 4EE
Proposal - Erection of a new single detached dwelling and detached garage and, associated works.

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **REFUSE FULL PLANNING PERMISSION**

Director: Ben Hook

Applicant: Mr & Mrs M. Rampling
Agent: Mr D. Blackwell – Oakland Vale Ltd
Case Officer: Mark Simmonds
(Email: mark.simmonds@rother.gov.uk)

Parish: PETT/FAIRLIGHT

Ward Members: Councillors R.K. Bird and A.S. Mier

Reason for Committee consideration: Councillor Call-In.

Statutory 8-week date: 13 January 2021

This application is included in the Committee site inspection list.

1.0 SUMMARY

1.1 The proposal is for one dwelling on a part of the garden of Curlew Cottage. On 16 December 2019, the Council adopted the Development and Site Allocations Local Plan (DaSA). One of the results of this is that Pett Level does not have a defined settlement boundary within the recently adopted DaSA. For the purposes of planning policy, the appeal site therefore lies within the open countryside and a proposal for a residential development must be assessed on that basis. The policies within the Rother District Local

Plan Core Strategy, 2014 that address development in the countryside are therefore relevant to my assessment.

- 1.2 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. On this basis, unless there are benefits to outweigh the unsustainability of the site, the application should be refused.

1.3 **PROPOSAL DETAILS**

PROVISION	
No of houses	1
CIL (approx.)	£40,868
New Homes Bonus	£6,684

2.0 SITE

- 2.1 The application site lies within the Cliff End area of Pett Level and comprises a substantial part of the garden of Curlew Cottage. Curlew Cottage is set on a rise of land which gives it an elevated position on the south eastern side of Pett Level Road. The nearest neighbour is Martlets which sits adjacent and there is a Public Right of Way to the south of the site.
- 2.2 Curlew Cottage is to be retained but with a notably reduced garden area. Curlew Cottage is a 1950's chalet style bungalow with stone effect, concrete blocks and shiplap boarding to the external walls. The site benefits from some mature natural screening.
- 2.3 Existing vehicular access to the site is via an existing access road which is directly off Pett Level Road.
- 2.4 The site is surrounded by the High Weald Area of Outstanding Natural Beauty (AONB); the Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA) and Ramsar site; the Hastings Cliffs to Pett Beach and Dungeness, and Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI).

3.0 PROPOSAL

- 3.1 The proposal is for the erection of one dwelling which is to be located in the southern section of the garden which would have an overall gross internal floorspace of 218sqm to create a substantial 2-storey dwelling, garden room, large balcony and detached double garage. The driveway would be extended to serve the new dwelling.
- 3.2 The application is accompanied by a number of documents including a Geotechnical Survey Report, design plans and photographs demonstrating the screening of the site.
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4.0 HISTORY

- 4.1 There is no recent relative site history to the site itself but of note is a nearby site which resulted in the dismissal on appeal which is of note and is considered in detail in the report as a material planning consideration. RR/2018/1644/P, APP/U1430/W/19/3243501 Warren Cottage, Pett Level Road, Pett Level TN35 4EE, proposed is erection of two detached houses together with detached garages and associated works. Dismissed on appeal.
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5.0 POLICIES

- 5.1 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:
- PC1: Presumption in favour of Sustainable Development
 - OSS1: Overall Spatial Development Strategy
 - OSS2: Use of Development Boundaries
 - OSS3: Location of Development
 - OSS4: General Development Considerations
 - RA2: General Strategy for the Countryside
 - RA3: Development in the Countryside
 - SRM1: Towards a Low Carbon Future
 - CO6: Community Safety
 - EN1: Landscape Stewardship
 - EN2: Stewardship of the Historic Built Environment
 - EN3: Design Quality
 - EN5: Biodiversity and Green Space
 - EN7: Flood Risk and Development
 - TR3: Access and New Development
 - TR4: Car Parking
- 5.2 The following policies of the [Development and Site Allocations Local Plan](#) are relevant to the proposal:
- DRM1: Water Efficiency
 - DRM2: Renewable Energy Developments
 - DHG3: Residential Internal Space Standards
 - DHG7: External Residential Areas
 - DHG11: Boundary Treatments
 - DHG12: Access and Drives
 - DEN1: Maintaining Landscape Character
 - DEN2: The High Weald AONB
 - DEN4: Biodiversity and Green Space
 - DEN5: Sustainable Drainage
 - DEN6: Land Stability
 - DEN7: Environmental Pollution Policy DIM2: Development Boundaries
- 5.3 The National Planning Policy Framework and Planning Policy Guidance are also material considerations.
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6.0 CONSULTATIONS

6.1 Natural England – No objection

6.2 Planning Notice

6.2.1 Eight objectors submitted a number of representations. The concerns raised are summarised as follows:

- Applicant owns three of the six properties in this lane and a large allotment, the needs of the Applicant can be easily met by one of these.
- Area of high landscape and wildlife value, in the countryside and is a location outside any building area (development boundary).
- APP/U1430/W/19/3242501 with reference to Warren Cottage, Pett Level Road TN35 4EE. This is attached and supports the view that new housing in our area is unsuitable.
- Pre-application is no longer relevant as it was given in 2016 and has been superseded by the DaSA Plan which has changed the planning circumstances significantly.
- Concerns with single track access and parking – not suitable and cannot take anymore.
- Curlew Cottage will also be left with a very small amount of land that is not in keeping with the properties in this area.
- Plot would be out of character with the rural character of the lane.
- New house will have a detrimental impact on the unique and rural context of the site.
- The development will erode the special character of the lane, which itself is seen within a countryside context.
- Water pressure is very low. The water board has assured us that they cannot supply another source for a new house. Running a new supply over National Trust owned field would require permission.
- Natural stream to the left of the lane, in the winter this freezes over and causes treacherous conditions.
- new build is very near the edge of the cliff, these cliffs are very vulnerable and are falling away.
- Should this planning permission be granted, it is our fear that many homes in Cliff End who have had their plans turned down will re-apply, so this becomes a precedent and should be taken very seriously.
- Unique setting, with rolling countryside wrapping around the property on three sides, all of which is within High Weald AONB, and undeveloped coastline to the other which itself is a SSSI and Ramsar site.
- Urbanise the rural character of the lane and is considered to be inappropriate to this rural area.
- Within the Fairlight and Pett Level Drainage Area and thus the development is required to ensure surface water run off does not exceed greenfield rates.
- Not identified as a Rural Service Centre or a Local Service Village and existing and future residents will need to travel to Hastings or Rye to access the facilities that they need.
- If this application was granted, it would open the floodgates and destroy all the efforts of residents in Cliff End, who recently joined forces so effectively to oppose the development of houses in the gardens of other properties.

6.2.2 Nine letters of support have been received. The reasons are summarised as follows:

- Make little an impact on this area as is possible they have taken into consideration the very special environment in which they live and are aware of the need to be sympathetic to this landscape.
- Allow family to remain as part of the community.
- Every confidence that the Applicants will only improve the diversity of habitats for the species which we have here.
- The farm land around the site is working farmland, and as such is often subject to change and disruption, the area where the proposed build is to be sited sits within an area which the family have spent restoring since they moved here.
- Will enhance the landscape and not block neighbours views, clear it will be an ecologically and sympathetically built home.
- So many properties are for second-homers and where smaller homes, ideal for less well-off local people, are replaced by enormous houses.
- Well-designed, ecologically aware home that will be built and most importantly lived in by a family who have raised their children here in Pett Level and who have contributed so much to our community.
- Highly ecological and environmentally-aware self-build project, in keeping with nature and not for self-gain, proposed by a full-time resident of our community that deserves closer inspection and to be supported.

6.3 Town/Parish Council – Comments

6.3.1 This property is not in Fairlight but just over the boundary in Pett. Fairlight Parish Council would not normally comment on applications in another Parish but has concerns that the application is to build property very close to a cliff edge where there are regular cliff falls. The site is to the east of the Coastal Buffer Zone but very close to it. A detailed engineering report should be required to demonstrate that the proposed development would have no detrimental impact on cliff stability.

Pett Parish Council would wish to support any local family wishing to stay in Pett Level whether it would be either building to accommodate a larger family unit, which is becoming more prevalent today, or building smaller for downsizing. However, the parish council recognises that the Pett Level area is a protected rural community and, under the latest local plan, new homes are only allowed in limited circumstances. This application may currently not fulfil these criteria. Should this not be the case, then conditions should be applied to ensure least inconvenience to neighbours with traffic management plans and least damage to surrounding National Trust land, cliff area and landscape

7.0 LOCAL FINANCE CONSIDERATIONS

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments),

or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

- 7.1 The proposal is for a type of development that is Community Infrastructure Levy (CIL) liable. The total amount of CIL money to be received is subject to change, including a possible exemption, but the development could generate approximately £40,868.
- 7.2 The proposal is one that would provide New Homes Bonus (subject to review by the Government). If New Homes Bonus were paid it could, assuming a Band D property, be approximately £6,684 over four years.
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8.0 APPRAISAL

8.1 The main issues are considered to be:

- (a) whether or not the site is suitable for a residential development having regard to local and national planning policy for the location of housing;
- (b) the impact on the character and appearance of the locality; and
- (c) other matters.

8.2 Principle of Development

8.2.1 Pett Level does not have a defined settlement boundary within the adopted DaSA. For the purposes of planning policy the 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 that address development in the countryside are therefore relevant to my assessment.

8.2.2 It is acknowledged that the Applicants received some pre-application advice which was considered positive, however this is considered to be historical and since that advice was given there has been a change in local plan policy. The application therefore must be assessed in line with this change in policy and the site therefore falls within the open countryside.

8.2.3 Local Plan 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 development boundaries, recently considered and formally adopted by the Council, took into account a number of factors, the main being the 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. The adopted DaSA has therefore assessed the sustainability of areas.

8.2.4 A Planning Inspector in March of this year, considered the principle of development on Pett Lane and made the following assessment:

“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 Core Strategy 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."

- 8.2.5 Every case must be assessed on its own merits, however due to the subject site being in the same vicinity as the appeal site and the appeal dismissed only earlier this year, the appeal decision is a material planning consideration.
- 8.2.6 In applying Local Plan Policy, Policy RA2 is relevant as it 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. The personal justification of the Applicants has been assessed in the balance, but these do not constitute an accepted limited circumstance.
- 8.2.7 Based on the above the proposal site is not a suitable location for a residential development as it would wholly conflict with Policies RA2, RA3, OSS3 and T3 of the Core Strategy which seek to protect the countryside from inappropriate development. These policies also aim to locate new residential development where there is good access to facilities and services and the revised boundary allocation takes into account the unsustainable nature of the site.
- 8.2.8 **Character and Appearance**
Pett Level Road is predominantly characterised by detached properties in modest to generous sized plots. The site is surrounded by the High Weald AONB; the Dungeness, Romney Marsh and Rye Bay SPA and Ramsar site; the Hastings Cliffs to Pett Beach and Dungeness, and Romney Marsh and Rye Bay SSSI. In this context and with the Local Plan designation it can only be described as a countryside location with sporadic and varied development.
- 8.2.9 The additional 2-storey dwelling is proposed in the southern side of the garden area to Curlew Cottage and is of modest proportions. Policy DEN1 of the DaSA plan states that *"The sitting, layout and design of development*

should maintain and reinforce the natural and built landscape character of the area in which it is to be located based on a clear understanding of the distinctive local landscape characteristics.” Policy OSS4 requires that development (iii) does not detract from the character of the locality.”

- 8.2.10 The revised National Planning Policy Framework states that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside. Policy OSS3 of the Core Strategy states that in assessing the suitability of a particular location for development, proposals should be considered in the context of (vi) the character and qualities of the landscape and Policy OSS4 of the Core Strategy requires development to (iii) respect and not detract from the character and appearance of the locality.
- 8.2.11 The dwellings along this access track are typically modest sized dwellings in spacious garden plots. It is acknowledged that the garden area for Curlew Cottage is generous and that it has had a range of domestic outbuildings, however, the addition of a large 2-storey dwelling with detached double garage does give the feeling of a cramped form of development when compared to general arrangement of plots and dwelling in the vicinity.
- 8.2.12 Curlew Cottage itself is a modest 1950’s chalet style bungalow and on balance the scale of the proposed dwelling does create an overbearing addition which due to its scale does result in an overdevelopment of this area of garden land.
- 8.2.13 It is accepted that the site does benefit from some screening and that could be increased, however it will still be viewed from public vantage points and planting is not an acceptable solution to disguise something that perhaps should not be there.
- 8.2.14 Taking into account the above, the size and height of the dwelling proposed does not reinforce or maintain the natural and built landscape characteristics of this area. It results in an incongruous development which is an overdevelopment of the site which detracts from and is overbearing upon Curlew Cottage itself, therefore adversely affecting the countryside character of this area.
- 8.2.15 **Other Matters**
Local residents raised concerns with regard to the drainage and flooding in the area, however in the absence of any consultation response from the statutory bodies it is considered that conditions could mitigate and govern this is required.
- 8.2.16 Concerns have also been raised with the stability of the nearby Cliff. The Applicants have provided a Geographical report which addresses many of the concerns sufficiently. There are no apparent issues with amenity and impact on neighbours and the Highway Authority have not raised any issues with the proposed access.
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9.0 PLANNING BALANCE AND CONCLUSION

- 9.1 When weighing the positives of the scheme, the erection of one house would be a small social benefit that would make a minimal contribution to the District's housing supply. There would also be some very limited economic benefits arising from the scheme, although these would primarily be short-term and associated with the construction phase.
- 9.2 However, the scheme is considered to be an overdevelopment of the site and out of keeping with the characteristics of the area resulting in a development which would adversely affect the countryside location which is contrary to local and national policy requirements.
- 9.3 Fundamentally, Pett Level no longer has a settlement boundary. The proposal would conflict with the spatial strategy set out in the Core Strategy which seeks to strictly control residential development in the countryside. These adverse impacts significantly and demonstrably outweigh the very limited social and economic benefits associated with the provision of dwelling. The presumption in favour of sustainable development therefore does not apply in this case and on balance the proposal is not acceptable in planning terms.

RECOMMENDATION: REFUSE (FULL PLANNING)

REASONS FOR REFUSAL:

1. The application site falls within Pett Level which does not have a defined settlement boundary within the recently adopted Development and Site Allocations. For the purposes of planning policy, the appeal site therefore lies within the open countryside. The proposal does not support local agriculture, economic or tourists needs nor maintains or improves rural character and does not constitute any special circumstances. Therefore, it is contrary to Policies RA2, RA3, OSS3 and T3 of the Rother Local Plan Core Strategy which seek to protect the countryside from inappropriate development and locate new residential development where there is good access to facilities and services.
2. The proposed detached 2-storey dwelling and detached double garage due to its height and scale would be visually intrusive and would represent an incongruous addition to the site which is out of character and detracts from this countryside location. The development would therefore conflict with Policies OSS4, EN1 and EN3 of the Rother Local Plan Core Strategy, Policy DHG9.

NOTE:

1. The refusal relates to the following plans:
Site Location Plan, dated 9.10.20
OV/DB/MR/RATIO/04 Comparison Land to Building Ratio of Application Site & Neighbouring Plots, dated 19.1.21
OV/DB/MR/02 Proposed Site Layout, dated 19.1.21
OV/DB/MR/01 Proposed Elevations/ Floor plans, dated 9.10.20

NATIONAL PLANNING POLICY FRAMEWORK: In accordance with the requirements of the National Planning Policy Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.