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| COMMITTEE DATE: | 21 <sup>st</sup> July 2022 |
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**APPLICATION NO: RR/2022/840/P**

**ADDRESS: Land at Beech Farm, Hawkhurst Road, Sedlescombe**

**PROPOSAL: Demolition of storage building and roadway. Construction of carbon negative live work unit, parking and restricted curtilage. Addition of landscape and biodiversity enhancements to the wider site and new access to the B2244. Stopping up of access to the northern boundary of the site.**

Comments received from agent in response to officer's Committee report

The agent requests that the following comments are read alongside the Committee report:

1.1 The officer refers to the design as a modular build comprising of a standard kit-of- parts that could be replicated across the AONB countryside. The officer also alleges that the design is not considered to be bespoke architecture specific to place.

The officer's description is manifestly wrong. The design uses modern manufacturing methods to manufacture the basic framework off site and like any building uses a wide range of building materials. The prototype is an example of what can be built but the actual building is custom designed to the applicant's specification and must be created from scratch. It is not available as suggested in any kind of kit form and cannot be bought off the shelf. There is no one supplying this building. The applicants building is effectively a one off which must be created from scratch like any other house.

The very point of a paragraph 80 house is that it, or its ideas can be easily diffused down and used in other housing. It is unfortunate that Par 80 houses have become the preserve of 'Grand Design' type houses which generally offer little opportunity (unlike this proposal) for learnings that can be easily and economically translated across the broader housing market as was the intention of the Paragraph. Whether this design is used in other parts of the AONB is dependent on each application which is decided on its own merits.

There is no requirement in paragraph 80 for a design to be bespoke only that it is outstanding. The reports suggestion that this is the case is simply wrong. In addition, being bespoke or not is not the test for being acceptable to a specific place. The only requirement is that the design is outstanding, is sensitive to the defining characteristics of the local area and this development has been confirmed to meet that test by the HW AONB unit pre application advice.

1.2 Opposite to the officer report the applicant has clearly shown that rather than doing harm to the AONB the proposal both rectifies long term damage to the AONB and enhances the AONB. The officers report fails to take into account or mention the High Weald AONB unit's (who are the appropriate experts on the HW AONB) pre application advice and commentary which supports the house, design and location and the improvements planned to the site. (This appears at Appendix 2 of the Planning statement)

1.4 The report fails to mention that the Rother Core Strategy, DaSA and Sedlescombe Neighbourhood Plan are all out of date as the Authority has only a 2.9 year supply of housing and has done for the last 2 years with the latest Housing Supply Delivery test just published by the Authority in July. This renders all the policies including settlement boundaries out of date. In 2021 the Authority had its worst year of housing for 7 years delivering just 175 houses. Putting this aside paragraph 80 applications are specifically designed for houses in isolated positions. The officer report accepts that this application is isolated in the context of paragraph 80 and thereby definition is an exception to the various policy documents and the policies in RA1/2/3.

It should be noted that officers through delegated powers have approved a number of applications in the HW AONB none of which meet any of the Par 80 tests nor policy the tests in Rother's Core Strategy RA3. A selection of these are below

RR/2021/2029/P, RR/2021/1625/P RR/2020/1416/P RR/2019/2591/P RR/2018/2188/P, RR/2017/2062/P, RR/2015/2033/P RR/2019/1125/P ( officer recommendation agreed by committee as the applicant was a relative of an officer)

2.3 The ecologists report has found no evidence of Great Crested Newts on the site. The closest pond is on the opposite side of the B2244 which is considered a 'death zone' for reptiles and newts. The application proposes a pond which will actually create a habitat for reptiles and newts. No objection is raised by the Newt Officer.

3.1 The report incorrectly states a dwelling is proposed whereas a live work unit is actually the correct proposal. Indeed, this mixed use can have significant sustainable benefits, but the council have given little consideration to this aspect of the proposals.

6.3.1. Whilst we are pleased the County Ecologist has acknowledged that the plan produces a net biodiversity gain and has no objection it is of a concern that they used the wrong version of the NPPF in their initial assessment-which they paraphrased from. Dr Feltwell will present at the planning committee and is pleased to respond to any questions on what constitutes best practice.

8.2.9 Line 3. The officer has incorrectly shown the cladding material being of 'Agricultural grade recycled material' as the proposal is for 'Architectural grade material'. This is a serious error by the officer which materially affects the description of the property for the Committee to consider.

8.2.12. The officer reports say, 'it claims the dwelling would save 3 tonne of carbon per annum'. The application has provided factual evidence in the form of a formal SAP report completed by an authorised licenced and appropriate person which clearly evidences this significant carbon saving (shown at appendix 2 in the design and access statement). It is not a claim it is a fact and the dwelling was described by the surveyor as having a 'carbon halo'.

8.2.17 The officer report makes reference to the removal of the word 'innovative' from the previous form of Para 80 (para79) of the NPPF. The officer report wrongly states that this change to the NPPF was made with 'a clear intent' to prevent an application relying on innovative design (i.e. a single piece of technology...). This is not correct as there is no reference to 'a clear intent' in either para 80 of the NPPF nor in the NPPG (National Planning Policy Guidance) to this. It is contended that this change was made on the basis

that innovation is a key element of outstanding design and that innovation, by definition, is at the heart of, and implicit in, exceptional design. This was simply a superfluous word in the previous form (para 79) of Para 80. In addition, the power generation aspect of this design is just one small part of a comprehensive and outstanding design and a completely comprehensive proposal which also encompasses landscape and biodiversity. Having said this, the officers report does not recognise that the solar array is a new and near invisible film which significantly improves the aesthetics of 'on-roof' solar arrays which in the spirit of Para 80 houses can easily be diffused to the broader market which is the underlying intention of para 80 Houses.

8.2.18 It is accepted that the NPPF says that applications should have regard to the outcome of design review panels. However, this is a general statement about all development not para 80 developments specifically and it is not a requirement for any application to use a design panel. It is unclear why this statement has been made however what is more important is that this dwelling has just been awarded in 2022 the highest design award - Red Dot which is an international award judged and given by 50 of the most respected designer and architects in the world. The certificate of this award has been provided as part of the application

8.2.19 The description of the High Weald AONB fails to mention the fact the site is currently uncharacteristic of the AONB with dominant alien non-native species which are out of character with the wider landscape. Viewed from the top of Footpath SED 11/1 across the road from the site the current tree line interferes with the natural form of trees and the open view of the surrounding landscape. Photographs of this scene were supplied with the application. This is a major consideration in determining how the proposals and rectifies previous damage to the AONB by replacing these low biodiversity non-native species the AONB will be enhanced.

8.2.20 Whilst the term outstanding is a high bar it does not follow that it should 'not be able to be reached often.' as the officers report suggests. Para 80 in the NPPF nor the NPPG does not set a limit on the number of houses or how often that approval can be given. Indeed, most Paragraph 80e projects are limited on account of the expense of the process which is out of reach of the large majority of self-builders. This project demonstrates that 'outstanding' can be achieved in an affordable manner. Indeed, many of the examples we provided had a simple architectural form but enhanced this through materiality, detailing and attention to the wider site. This example at Beech Farm achieves this high bar.

8.2.22 The officers report quotes policy G7 of the HW Design Guide. The report goes on to explain how this should be interpreted which is in direct contrast and conflict to the pre application advice provided by the High Weald AONB unit's planner who supported the design, the siting and the materials used. The advice is para- phrased below.

*'I was very impressed with the sustainability credentials of the dwelling, which is a net exporter of energy to the grid and uses low carbon and recycled materials in its construction. This includes the cladding material which was the main purpose of my visit due to my initial concerns about the use of this imported mixture of recycled plastic and wood rather than locally sourced timber cladding. Having seen the material in situ I am happy that the appearance is appropriate for the AONB, and its sustainability credentials outweigh the normal presumption in favour of natural timber cladding..... With regard to the location, this is obviously in the countryside outside of the settlement of Sedlescombe which is why you are relying on NPPF 80e. The proposed location of the dwelling on the*

*site is adjacent to the historic farmstead of Beech Farm and I agree that this is the best location for a new dwelling on this site so it can add to this existing cluster of buildings. This location also has the advantage of replacing an unattractive and non-native group of conifers. You also spoke about plans to remove the other non-native conifers along the roadside and the western boundary (planted to sub-divide the original field sometime in the early 20th century) and I support their replacement with native trees and hedgerows. The addition of a pond in the lowest part of the site to the south is also supported.'*

8.2.23 The report again incorrectly refers to this building as a standard kit-of- parts as already set out above this is not the case and the wider site approach is specific to this place and its site and is not generic in any sense of the term.

8.2.24 The excavation works are a minor element of the site and would be integrated into the landscape which will be lost in the wildflower planting, hedgerows and trees. The building would appear as a typical rural building with its siting specifically taking account of the farmstead location. It would therefore not be incongruous. The HW AONB unit has specifically referred to and accepted a limited amount of earthwork.

8.2.26/8.2.27 The report incorrectly make reference to the HW AONB unit being broadly supportive of the proposals when in fact they were specifically supportive of the proposals (see point 8.2.22 above and key points reiterated below).

1. Siting and relevance of the siting of the dwelling to the original farmstead and building and the limited cut and fill required to achieve this.
2. The rectification of previous damage to the AONB by replacing over stood non-native *Leylandii* and Norway Spruce with significant replanting of native species.
3. The pond.

8.2.28 The Officer report is concerned that the proposal will have a domestic fringe rather than creating a landscape led approach. It was the HW AONB's pre application advice which recommended a defined curtilage. They said in their advice *'We discussed the importance of establishing a clear boundary to the curtilage of the dwelling tightly around the dwelling and its parking facilities'*.

The original approach shown at pre application to the HW AONB Unit proposed no boundary and this was changed following their advice and was based on the approach taken by the officers in conjunction with the HW AONB at the upheld appeal APP/U1430/W/21/3273162: Upper Morgay Wood Junction Road, TN32 5SH. However, the applicant is more than happy to remove the boundary fence as the preferred intention is that the building looks like a barn in a field. In relation to officer concerns that over time a resident may expand into the field this is not a matter for the application but is one for enforcement should this situation ever occur. However, this will be unfounded as the applicant is suggesting a Landscape and Ecology Management Plan could be secured by legal agreement which would ensure the long-term management and protection of the wider land for nature conservation and landscape conservation. This gives a strong enforcement tool for the council in preventing any encroachment meaning this remains in perpetuity.

Whilst the left-hand back corner of the site does provide some garden space this is a material requirement under Core Strategy policy. Having said this the area is currently partly hard surface driveway which will revert to soft landscaping.

To further explain the approach taken in developing the plan the biodiversity plan was developed first over which the landscape plan was developed which then informed the siting of the dwelling as supported by the HW AONB unit.

8.2.29 To address the officer report concerns at this point. It would be preferred to continue to use the existing access however Highways would prefer a new access to improve safety. The new access with the verge widened to at least 2.5 meters and the creation of a wildflower verge has the additional advantage of providing a significantly improved visibility for the 'Old Barn' and improving biodiversity along the roadside and the resultant enhancing of the AONB. Furthermore, a new native hedgerow and trees will establish a native green buffer to this edge of the site which is characteristic of this part of the AONB in replacement of the 'Out of Character' conifer tree line.

In addition, whilst the new entrance does require a small flat section, this is mitigated against the overall reduction in the hard standing across the site. The current drive and shed measure approximately 263 sq m. The proposed building footprint and drive entrance is 152 sq m. The reduction in hard standing /built form footprint is 110sq m amounting to a 42% reduction in hard standing/building footprint. This reduction is a considerable mitigation and is effectively an enhancement to the AONB. In addition fencing, posts and gates as proposed are acceptable forms of permitted development in the AONB and typical in Rural areas both for residential and farm entrances. It should also be noted that the excavation required is not significant and as already mentioned accepted as part of the siting by the HW AONB unit who support those elements which require some limited earthworks.

The sections were provided in line with the planning officers advice and no further information was requested. Furthermore, significant excavation is considered to be misleading as the landscaping is simply providing grading of land, an approach common place to most sites in the AONB but the key point is this will be lost to the landscaping and wildflower in due course.

8.2.30 Para 80 of the NPPF nor the NPPG neither implicitly or explicitly places a requirement of a dwelling to be a bespoke design. Having said this, the regular reference to a modular kit-of -parts through the officer's report as already explained is an incorrect description of a building that can't be purchased in any form of kit and is not modular. It is correct to say that the dwelling uses Modern Manufacturing Methods (MMA) and adopts a materials first approach and by constructing the framework off site ensures on-site construction time is minimised thereby reducing impact on the environment.

8.4.2 It is important to note than when assessing a para 80 house the first criteria which has been accepted by the officer report is that the dwelling must be in an isolated position. By virtue of this no Para 80 house will be likely to have footways, street lighting or be accessible by any other means than car or bike or the use of public footpaths. However, this proposal is for a 'live work unit' (sui generis) which provides a dedicated business rate paid workspace for the occupant to carry on their business. Again, by virtue of this there is a significant reduction in driving and use of the car as the occupant will not have to make at least 2 trips per day to a place of work. Deliveries and visitors should not be a material concern for the application as the nature of his business is one of a designer and his business is conducted electronically. The policies noted by the Officer's report are superseded by the exemption nature of the Para 80 application.

8.5.1 Affordable housing. It may be that the Core Strategy did not envisage this type of application where the bio-diversity gain and improvements to the AONB would be outside the curtilage of the dwelling but linked to the application. Indeed, the residential area of the site is under 0.2ha and therefore it is suggested the officer is ill using the policy in this regard and if applied in this way would discourage such wider benefits being proposed on other sites.

8.5.2 to 8.5.6 It is important to note that the applicant has applied all the proposed bio-diversity plans proposed by the consultant ecologist and this formed the first stage of the plan. It is a comprehensive plan which also supports and is integral to rectifying long term damage on this site to the AONB and thereby enhances the AONB. It will also deliver well above the 10% net gain which far exceeds any policy requirement and the LEMP will support the long-term management of this. These benefits receive little coverage by the officer despite the importance of this issue.

8.5.7 As already stated a Para 80 will, by virtue of the fact that it must be in an isolated location, should also not be located adjacent to those facilities which would under non- Para 80 proposals be required or expected. In any case the Highway comments are material on this matter especially as they are the transport specialists.

9.3 The officers report states that a para 80 house is a high bar and should not be able to be achieved very often. This is a completely subjective comment by the officer as there is no reference to 'achieved very often' nor a requirement or a target limit in the NPPF or the NPPG.

The key point made in the officer's report is at 8.2.7. it states that a para 80 application is 'A matter of subjective judgement' and this judgement sits with the Planning Committee and is not, in this case, constrained by any Statutory Authority objection. Para 80 does expect exceptional quality and the highest standards in Architecture to help raise the standards in rural areas.... Modern Architecture is based on Form following Function. So, the architecture is in the underlying design creating the function which then informs the 'form'. In addition, The Planning Advice Service (PAS) has advised the Rother Policy Team that the local plan should be the spatial expression of the Corporate Plan and therefore the carbon neutrality objective contained in that document.

Finally, it is important to address Sustainability. This application, because it is a para 80 application, can be assessed against the correct overarching objectives of the NPPF that of the net gains in set out in Para 8 of the NPPF.

Social, Economic and Environmental objectives

This application successfully addresses each of these as follows

Economic: In addition to the actual benefits from the build, the dwelling is a 'live work unit' which has a direct positive impact on employment in the countryside to support an innovative local business.

Social: The significant 3 tonne carbon negative saving immediately offsets carbon positive development which exist in 99% of all new dwellings in Rother (who have an average of 1.5 tonnes positive). In addition, it promotes reduced use of the car because the dwelling is a

'live work unit'. In total the scheme contributes significantly compared to its size in delivering the broad social objective of a carbon neutral world.

Environmental: The proposal has significant bio-diversity improvements to a site with a below average biodiversity in addition to rectifying the significant damage previously done to the AONB by the introduction of a large number of non-native species. In addition, the proposal reduces the hard standing/ building footprint on the site by 42% reverting this area back to a natural state all of which protect and enhance the environment

#### Officer comments

The High Weald AONB Unit's pre-application advice to the applicant did not comment on the first bullet point of paragraph 80 e) of the NPPF which states *'is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas...'* Their comments focussed on the proposed materials, siting of the live/work unit, landscaping and demarcation of the proposed garden, hence why the Committee report states they are generally supportive of the scheme.

The materials proposed are architectural grade as opposed to agricultural.

It is agreed that there is no requirement to use a design review panel for paragraph 80 e) dwellings. However, having an independent team of design experts review a proposal such as this would assist in the decision-making process. The High Weald AONB Unit's pre-application advice refers to the potential of a design review panel being used. Other paragraph 80 e) proposals across the country have also made use of this service.

The agent disagrees that the design is a modular build comprising of a standard kit-of-parts that could be replicated across the AONB countryside. Instead they explain the development would use modern manufacturing methods to manufacture the basic framework off site and like any building uses a wide range of building materials. The prototype is an example of what can be built but the actual building is custom designed to the applicant's specification and must be created from scratch. Whilst it is accepted that there could be some element of customisation to each build, given that the proposed building is very similar in scale and appearance to the prototype at Campfield, Powdermill Lane, Battle, it is still considered that the built form of the development could be easily replicated on other sites in the AONB countryside.

Whether the proposed development meets the very high bar requirement of being of exceptional design quality to meet NPPF paragraph 80 e) is a matter of subjective judgement. For the reasons set out in the Committee report it is not considered the proposal meets the paragraph 80 e) requirements. Whilst the comments raised by the agent have been considered, they do not overcome the concerns raised and ultimately the recommended reasons for refusal.

#### **RECOMMENDATION: AS REPORT**