



Appeal Decision

Hearing held on 11 January 2023

Site visit made on 11 January 2023

by James Blackwell LLB (Hons) PGDip

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/D3830/W/20/3246048

Pook Barn, Pookbourne Lane, Sayers Common BN6 9HD

- 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 Mr & Mrs Martin and Lou Blake against the decision of Mid Sussex District Council.
 - The application Ref DM/19/1972, dated 23 May 2019, was refused by notice dated 8 November 2019.
 - The development proposed is new dwelling within footprint of former barn – following expiry of prior approval DM/16/0714.
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Decision

1. The appeal is allowed and planning permission is granted for new dwelling within footprint of former barn – following expiry of prior approval DM/16/0714 at Pook Barn, Pookbourne Lane, Sayers Common BN6 9HD in accordance with the terms of the application, Ref DM/19/1972, dated 23 May 2019, and subject to the conditions set out in the Schedule to this decision.

Background and Preliminary Matters

2. The development is retrospective in nature, as the former barn has already been demolished, and a new dwelling has been erected in its place. References to the development therefore relate to development already carried out.
3. The appeal site has previously benefited from prior approval (Ref DM/16/0714) for the conversion of a former agricultural building to a residential dwelling (Prior Approval). Given that the building which was the subject of the Prior Approval was entirely demolished, the benefit of the Prior Approval has lapsed. The parties are agreed on this point.
4. The Mid Sussex District Council Site Allocations Development Plan Document (DPD) was adopted by the Council in June 2022, and now forms part of the adopted development plan for the District. I have therefore had regard to the DPD in this decision.

Main Issue

5. The main issue is whether the location of the development is sustainable, with regard to the development plan and other material considerations.

Reasons

6. The appeal site comprises part of a former agricultural holding known as Hornsdene Farm and is situated to the west of Pookbourne Lane. The site is located outside of any defined settlement boundaries, and is therefore deemed to be within the countryside. Whilst the area is rural in character, the appeal dwelling sits very close to a handful of other residential properties, including Oakdene to the north, and a small collection of dwellings within the former Hornsdene Farm itself. Some of these have been converted from former agricultural buildings.
7. Policy DP6 of the Mid Sussex District Plan (2014 – 2031) (District Plan) sets out the overarching settlement strategy for the district, and aims to direct new residential development to the most sustainable locations within the area. Outside of defined settlement areas, new residential development may sometimes be permitted under this policy, but only where the site is contiguous with the existing built up area of a defined settlement. Given that the appeal site is situated some distance from the nearest settlement of Sayers Common, this criterion is not met. In turn, the development does not strictly align with the Council's settlement hierarchy.
8. Policies DP12 and DP15 of the District Plan go on to prescribe a number of exceptions to the underlying settlement strategy, where development (including new homes), may be permitted within the countryside. These exceptions are limited, to help ensure the landscape setting of the district is safeguarded. The most relevant exception in this instance is the re-use of rural buildings for residential use, as set out in DP15, which may be relied upon where the re-use "would lead to an enhancement of the immediate setting", and where "the quality of the rural and landscape character of the area is maintained". However, given that the former agricultural building on the appeal site has been completely demolished, the development cannot be said to "re-use" a rural building. Strictly speaking, the development therefore also conflicts with Policies DP12 and DP15 of the District Plan.
9. Notwithstanding these policy conflicts, a number of local services are accessible from the appeal site on foot, or by bicycle. These include Hickstead Service Station which is located approximately 800 metres to the north of the site, which includes a small supermarket offering day-to-day essentials, as well as a coffee shop and a burger restaurant. I note the Council has cited an appeal¹ in which an Inspector found that the range of products at Hickstead was too limited to meet the needs of a weekly shop. Whilst I agree the shop is unlikely to meet all necessary shopping needs, it still provides a valuable convenience store for day-to-day essentials. This previous appeal also dates back to 2019, when, I understand, the range of services on offer at the service station was more limited.
10. Within Sayers Common to the south (which is also accessible on foot or by bicycle), there is a community shop, a village hall, a number of pubs, as well as public transport connections to larger settlements further afield. At the northern end of Pookbourne Lane, there is also a new pedestrian/cycle path which connects to Burgess Hill, a category 1 settlement, thereby offering additional links to a greater range of community facilities and services.

¹ APP/D3830/W/18/3200756

11. I acknowledge that some of the connecting roads to these nearby services lack pavements and street-lighting. Nonetheless, these are not uncommon factors within a rural location. It was also evident on my site visit that Pookbourne Lane is a straight road, and relatively quiet in terms of traffic, both factors which would help alert pedestrians and cyclists to oncoming vehicle movements. In turn, whilst pedestrian and cyclist connections are sub-optimal in the immediate vicinity of the site, I do not consider them a barrier to safe access of these services. Occupiers of the site could therefore access these local amenities without reliance on private motor vehicle.
12. On account of these factors, I consider that the sustainability of the dwelling's location, specifically in terms of access to local services, is reasonable. In turn, the actual harm arising from the conflict with the Council's underlying settlement strategy as set out in Policy DP6, is limited.
13. In visual terms, given that the development sits very near to a cluster of other residential dwellings, it manages to integrate effectively with its surroundings, without encroaching on the wider countryside setting. The new dwelling also echoes the appearance of the former agricultural building which previously occupied the site, which helps it assimilate with the rural character of the area. Whilst technically the development conflicts with Policies DP12 and DP15 of the District Plan, broadly speaking, it still meets the strategic objective of these policies, which is to conserve the landscape quality of the area. The harm arising from these policy conflicts is therefore, again limited.
14. In terms of the Hustpierpoint & Sayers Common Neighbourhood Plan², I find no conflict with Policies HurstC1 nor HurstC3, which seek to ensure development within the countryside maintains the quality of its rural landscape character, whilst also preventing coalescence between neighbouring settlements. As highlighted, this is because the dwelling sits within a cluster of existing dwellings, which enables it to integrate seamlessly with the buildings that make up the former farmstead. Similarly, I find no direct conflict with Policy HurstH1, which supports new housing in the Neighbourhood Plan Area, subject to enhancing the settlement pattern of the district. Policy HurstH6 provides further support for new housing, subject to certain criteria, including satisfactory access, highway safety, landscape protection, ecological enhancement and appropriate drainage provision. Again, all of these factors are met. The development also aligns with many of the underlying objectives of the National Planning Policy Framework (2021) (Framework), which include preventing isolated homes within the countryside, and ensuring the countryside's rural beauty is safeguarded where possible.

Other Matters

Prior Approval

15. Planning Practice Guidance (PPG) indicates that the planning history of a site may be a relevant consideration in the determination of an application³. In this instance, save for a few minor exceptions, the appeal dwelling has been constructed substantially in accordance with the scheme permitted under the earlier Prior Approval. It occupies a similar footprint, has a similar height, size, shape and bulk, and preserves the general profile of the former agricultural

² Hustpierpoint & Sayers Common Parish Council, Parish 2031 Neighbourhood Plan (March 2015)

³ Paragraph 010 Reference ID: 21b-010-20190315

building. The visual impact of the dwelling is therefore substantially similar to the dwelling that would have been constructed, had the Prior Approval have been implemented lawfully. The sustainability of the appeal dwelling with regard to its location and access to local services is also comparable. On account of the distinct similarities between the two schemes, I consider that the Prior Approval is relevant to determination of the appeal application, and weighs in its favour.

16. The appellants also allege that it would have been impossible to implement the Prior Approval properly, as the structural integrity of the former agricultural building was not sufficient to permit conversion. Whilst this does not change the fact that the Prior Approval has lapsed, I am nonetheless mindful of this when attributing weight to this factor.

Self-build

17. The main parties agree that the appeal dwelling would meet the criteria for a self-build dwelling, as per the Self-build and Custom Housebuilding Act 2015. Nonetheless, the Council alleges it is already meeting local demand with regard to the number of self-build plots which have been consented, by reference to each base period. However, no data has been given in respect of how the Council's targets have been met with regard to any base periods post-dating 30 October 2020. Moreover, the Council's evidence says "as of 30th October 2021 there were 54 applicants on the Council's self-custom build register. Between 1st April 2016 – 30th October 2019, a total of 29 permissions have been granted for self/custom build within the District". This suggests that the Council may not be meeting current levels of demand on the self-build register, as claimed. The Council was unable to confirm the latest position during the Hearing.
18. In the absence of any evidence to confirm otherwise, I therefore consider that the appeal dwelling does make a valuable contribution to the delivery of self-build housing with the Council's area, which helps meet local demand for such dwellings. Once again, this is a consideration which weighs in favour of the development.

Sustainable Construction Measures and Biodiversity Enhancements

19. The appeal dwelling has been constructed to incorporate various energy efficiency measures. These include a heat use and retention system which incorporates elements of passive solar design, effective insulation within external wall cavities and the roof, and a rainwater harvesting system. Externally, an electric vehicle charging point has been installed. The development has also incorporated numerous biodiversity enhancements to the appeal site, including extensive tree and hedgerow planting, a wild flower meadow, a natural wildlife pond, a bat cave and bat boxes. These features were readily apparent on my site visit, and help amplify the overarching sustainability credentials of the site. These are all benefits of the scheme, which again weigh in its favour.

Personal Circumstances

20. In the event of dismissal, I acknowledge that any potential subsequent enforcement action would risk grave financial and personal repercussions for

the appellants. Whilst not determinative in itself, I am nonetheless mindful of this factor in reaching my decision.

21. I also note the appellants' strong local connections to the area, having both grown up and lived nearby throughout much of their lives. These strong links to the area are clearly evident in the substantial level of public support that has been received during the appeal, for the appellants themselves, and for the appeal development.

Springwood Nursery

22. The Council has cited an appeal decision relating to Springwood Nursery⁴, in which the Inspector concluded a lapsed prior approval would not offer support for the erection of a new dwelling in the same location. Whilst I agree that a lapsed prior approval would not in itself justify a new dwelling, as per the PPG, it may still be a material consideration. Moreover, in the Springwood Nursery decision, it was held that the proposal would harm the character and appearance of the area, and would also risk harm to ancient woodland. In turn, the identifiable harm arising from that appeal scheme was greater when compared to the limited harm arising from the appeal dwelling in this instance. In turn, the Springwood Nursery appeal only carries limited weight in my decision.

Other Objections

23. Concerns have been raised regarding the impact of the development with regard to flood risk. However, the Council's drainage engineer has confirmed that the drainage arrangements for the development are acceptable, subject to a condition securing ongoing maintenance of the drainage scheme. The building yard which runs alongside the driveway to the appeal dwelling is clearly ancillary to the principal residential use of the appeal site, and therefore not directly relevant to the acceptability of the scheme. In terms of any differences between the dwelling now constructed and the dwelling permitted under the Prior Approval, the appeal scheme has been assessed on its own merits, so any such discrepancies are not material to the outcome of this appeal.

Protected Sites

24. In accordance with my statutory duty under The Conservation of Habitats and Species Regulations 2017 (as amended), I have considered the potential effect of the development with regard to the Ashdown Forest Special Protection Area and Special Area of Conservation. Given that the appeal site is located outside of the relevant 7km Zone of Influence, I am satisfied that the development does not adversely affect the integrity of these protected sites.

Planning Balance

25. As highlighted above, the development would conflict with Policies DP6, DP12 and DP15 of the District Plan. Nonetheless, the dwelling manages to achieve reasonable access to local services without undue reliance on private motor vehicle. In turn, the associated harm arising from the conflict with Policy DP6, is limited. Moreover, given that the appeal dwelling preserves the rural landscape character of its countryside setting, any tangible harm arising from the conflicts with Policies DP12 and DP15 is very limited.

⁴ APP/D3830/W/19/3234270

26. Set against this harm, the similarity between the appeal scheme and the lapsed Prior Approval weighs in the development's favour. The self-build nature of the development, the sustainable construction techniques used, and the biodiversity enhancements to the site, are all material considerations which weigh in the planning balance. Whilst not determinative, I am also mindful of the strong local support for the scheme, the appellants' local connections to the area, and the potential repercussions to the appellants in the event of dismissal. When taken together, I consider that these considerations do outweigh the harm arising from the policy conflicts outlined above.

Conditions

27. I have reviewed the conditions which were proposed during the Hearing (as well as those originally suggested by the Council), in accordance with the requirements of the Framework and the PPG.
28. I have included a condition requiring details of cycle storage to be submitted to and approved by the Council, with a corresponding implementation provision. This is to help maximise the overarching sustainability of the site. For the same reasons, I have included a condition requiring the biodiversity enhancements to be formalised in an approved plan, to procure the longevity of these measures. A condition has also been imposed to ensure the long-term retention of the electric vehicle charging point.
29. I have included a condition requiring ongoing maintenance of the drainage scheme, to ensure drainage arrangements are properly maintained throughout the development's lifetime.
30. Finally, I have included a condition which restricts permitted development rights concerning alterations or enlargements to dwelling houses, as well as any additional incidental or ancillary buildings. This is to ensure the visual quality of the appeal dwelling and the surrounding landscape character is properly safeguarded.
31. Whilst the Council also suggested a condition to render the planning permission personal to the appellants, personal permissions are not encouraged, and I do not consider such a condition is necessary to procure the acceptability of the dwelling in this instance.

Conclusion

32. Whilst the development does conflict with a number of policies in the development plan, other material considerations outweigh the limited harm arising from these policy conflicts. The appeal should therefore be allowed.

James Blackwell

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Within three months of the date of this permission, details of cycle storage shall be submitted to the Local Planning Authority for approval. The cycle storage shall be implemented as approved within three months of it being approved, and subsequently maintained thereafter.
- 2) Within three months of the date of this permission, a biodiversity enhancement scheme, to include details of tree and hedgerow planting, bat boxes, a wildflower meadow and a natural wildlife pond, as well as a timetable for implementation, shall be submitted to the Local Planning Authority for approval. The biodiversity enhancement scheme shall be implemented in accordance with the approved details and implementation timetable, and subsequently maintained thereafter.
- 3) The electric vehicle charging point shall be maintained for the lifetime of the development.
- 4) The foul and surface water drainage scheme shall be maintained in accordance with Drawing 56150/10.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no development within classes A to E of Schedule 2, Part 1 of the Order shall be carried out.

APPEARANCES

FOR THE APPELLANT

Mr Luke Carter MRTPI, BA (Hons), PGDip (Director, Lewis & Co Planning)

Mr Joseph Pearson MRTPI, BA (Hons), MSc (Associate, Lewis & Co Planning)

Mr Martin Blake (Appellant)

Mrs Lou Blake (Appellant)

Carole Hayward (Interested Party)

Sue Seward (Interested Party)

FOR THE COUNCIL

Mr Andrew Clarke BSc (Econ), PGDip, Senior Planning Officer, Planning Investigation and Enforcement (Mid Sussex District Council)