

## Appeal Decision

Site visit made on 20 December 2016

**by Thomas Bristow BA MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 January 2017**

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**Appeal Ref: APP/D3830/W/16/3156030**

**Great Wapses Farm, Hurstpierpoint Road, Henfield BN5 9BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
  - The appeal is made by Mr Jonathan Bodansky against the decision of Mid Sussex District Council.
  - The application Ref DM/16/1940, dated 4 May 2016, was refused by notice dated 18 July 2016.
  - The development proposed is described in the application form as the 'erection of 1 new build dwelling; in the alternative to permission granted under DM/15/4411, 'change of use from agricultural building to 1 dwelling''.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 new build dwelling; in the alternative to permission granted under DM/15/4411, 'change of use from agricultural building to 1 dwelling' at Great Wapses Farm, Hurstpierpoint Road, Henfield BN5 9BJ, in accordance with the terms of the application Ref DM/16/1940, dated 4 May 2016, subject to the schedule of conditions in this decision.

### Application for Costs

2. An application for costs was made by Mr Jonathan Bodansky against Mid Sussex District Council which is the subject of a separate decision.

### Procedural Matter

3. There is some ambiguity on the combined Location Plan and Block Plan supporting application Ref DM/15/4411, entitled '000', as to the precise location of the appeal site. The appellant has clarified at appeal, however, that the location of the proposed dwelling as indicated on the Location Plan is an error. I have therefore disregarded the Location Plan in determining this appeal, and address this matter in greater detail subsequently.

### Main Issues

4. On the basis of the information before me the main issues in this appeal are whether or not the appeal site is an appropriate location for the development
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proposed, and the effect of the proposal on the character and appearance of the area.

## Reasons

### Location

5. The appeal site is part of an expansive farm estate accessed via a lengthy track spurring off Hurstpierpoint Road. It falls within the rolling open countryside which I understand is subject to no specific protective landscape designations relevant to this appeal. The nearest services and facilities catering for day-to-day needs are at quite some distance, and the future occupants of the dwelling proposed are therefore highly likely to be reliant on the use of private vehicles.
6. I understand that there are presently three established dwellings within Great Wapses Farm which fall close-by to the appeal site: Grade II Listed Great Wapses Farmhouse, Stable Cottage and Barn Cottage. A fourth dwelling has recently been approved via permission Ref DM/16/0063. Therefore whilst originally a working farm, the estate is now partially residential in character.
7. Saved policy C1 of the Mid Sussex Local Plan adopted originally on 27 May 2004 (the 'Local Plan') sets out that outside of defined built-up area boundaries the countryside will be protected for its own sake. Similarly policy DP10 'Protection and enhancement of the countryside' of the emerging Mid Sussex District Plan 2031 (the 'emerging plan') recognises the intrinsic character and beauty of the countryside and restricts development therein.
8. The National Planning Policy Framework (the 'Framework') establishes that planning should recognise the intrinsic character and beauty of the countryside, and that isolated new homes in the countryside should be avoided other than in special circumstances. Therefore saved policy C1 of the Local Plan and policy DP10 of the emerging plan appear largely consistent with the approach within relevant elements of the Framework.<sup>1</sup>
9. Saved policy T4 of the Local Plan seeks to ensure that development is located within built-up areas and to maximise the use of sustainable modes of transport, which is reiterated in policy DP19 of the emerging plan. Again these policies broadly accord with the approach in the Framework to ensuring that planning should actively manage patterns of growth to make the fullest possible use of sustainable modes of transport.
10. However the weight that can be accorded to saved policies C1 and T4 must be tempered by the acknowledged lack of a demonstrable five year land supply of deliverable housing sites as required by paragraph 49 of the National Planning Policy Framework (the 'Framework'). Furthermore, I cannot accord the approach in policies DP10 or DP19 of the emerging plan full weight given that the plan has yet to be adopted following examination.
11. Nevertheless, as described above, the appeal site is within a comparatively isolated location in the open countryside and distant from nearby services and

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<sup>1</sup> With reference to paragraphs 215 and 216 of the Framework.

facilities. On the face of it the proposal would therefore conflict with the approach in the policies cited above and with relevant elements of the Framework.

12. However of critical importance to this appeal is that prior approval was granted by the Council for the change of use of an agricultural building to a dwelling at Great Wapses Farm on 22 December 2015 (the '2015 permission').<sup>2</sup> I understand that the 2015 permission remains extant and there is no evidence before me to indicate that it is unlikely to come forward were this appeal to be dismissed.
13. As set out in the application form to which this appeal relates the proposal before me is for a differently designed dwelling in place of that permitted via the 2015 permission rather than for an additional dwelling. Consequently the appeal proposal, if allowed, would result in no net addition of dwellings in this location.
14. I accept that development proposed in respect of the relevant provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'GPDO') entails different planning considerations to those relevant to applications for planning permission.<sup>3</sup> However the first reason given by the Council in refusing permission for the proposal to which this appeal relates to the acceptability of the location for the development proposed.
15. Plan 1990S.A supporting the 2015 permission included within the appeal site an agricultural barn and an associated area of curtilage around it. Plan 1990.2.A supporting the 2015 permission illustrates that the permitted conversion of the barn would essentially retain the form thereof whilst its elevations would be variously altered to render the barn fit for habitation. The barn is a utilitarian steel-portal structure with walls and roof of corrugated sheeting. As such it is of no particular architectural merit save for being consistent aesthetically with functional agricultural buildings.
16. As highlighted in paragraph 3 of this decision there is some ambiguity within plan 000 supporting application Ref DM/16/1940 compared with Plan 1990S.A supporting application the 2015 permission as to the location of the appeal site.
17. The Block Plan element of plan 000 shows the dwelling proposed via this appeal located in part over the footprint of the existing barn, however the Location Plan shows the appeal site as a separate parcel of land. I am satisfied on the basis of the information before me, however that the proposal is to erect the proposed dwelling in the location indicated on the Block Plan not the Location Plan.<sup>4</sup>
18. The proposal before me is for a differently designed dwelling to that permitted, with accommodation provided for in three bedrooms arranged over two storeys as opposed to two bedrooms arranged at ground floor level alone as is the

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<sup>2</sup> Planning permission Ref DM/15/4411.

<sup>3</sup> Notably with reference to Schedule 2, Part 3, paragraph W(10)(b) of the GPDO which specifies the regard that may be had to the National Planning Policy Framework (the 'Framework').

<sup>4</sup> The appellant's appeal statement sets out that 'the proposed building [is] to be demolished and rebuilt to over the same footprint to a reduced volume and footprint (sic)'. I would further note that this appears to leave the associated area of open residential land undefined, a matter I will return to subsequently in this decision.

permitted scheme. Thus the central difference between the development proposed here and that permitted in relation to suitability of location is essentially confined to the provision of one additional bedroom.

19. In my view the effect of this change in respect of the intensity of domestic use and consequently use of private vehicles is likely to be highly limited. Indeed works that affect only the interior of a building are not development, and as such there is nothing before me to indicate that a third bedroom within the permitted dwelling could not have been created without the need for express planning consent in any event. The Council furthermore accept that in respect of overall size the current proposal and permitted scheme are similar.<sup>5</sup>
20. For the above reasons the proposal before me would result in no significant effects in relation to the suitability of the location for residential development compared with the scheme permitted via the 2015 permission. Therefore although conflict would arise with the relevant provisions of saved policies C1 and T4 of the Local Plan and policies DP10 and DP19 of the emerging plan and with relevant elements of the Framework, the harm arising from this conflict is outweighed by the existence of the 2015 permission. I cannot therefore conclude other than that the appeal site is an appropriate location for the development proposed.

#### Character and appearance

21. Although the Council's officer report sets out that 'it is recognised that the proposed house has been sympathetically designed to reflect the style of the adjacent barns...' nevertheless concern is therein raised in respect of the effect of the proposal on the character and appearance of the area with regards its size, orientation and design. The Council are not of the view that the proposal would fail to preserve the setting of the Listed Farmhouse, and there is no information before me to arrive at a different assessment in this respect given the separation distance between the proposal and the Farmhouse and the mixed character of the estate.
22. The Council cite that the proposal would in respect of design conflict with policy TNP1 'Delivery of Housing' of the Twineham Neighbourhood Plan (the 'TNP'), which having been made on 24 March 2016 forms part of the statutory development plan. Policy TNP1 accords support to new housing development where it respects or enhances the character of the area, and policy TNP2 'Design' of the TNP further sets out that development should contribute positively to its setting. The Framework similarly sets out that planning should always seek to ensure high quality design, recognise the intrinsic character of the countryside and that it is appropriate to seek to promote or reinforce local distinctiveness.
23. The proposal is to demolish the existing barn and erect in its place a dwelling with a central half-hipped roof form with two-storey gabled element and single storey wing. Whilst accommodation would be arranged over two storeys, this would be within the roof pitch at first storey level which in my view would not result in a building of significantly greater bulk to that of the existing barn.

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<sup>5</sup> As referred to within the Council's officer report associated with application Ref DM/16/1940.

24. The overall form of the dwelling is clearly more intricate, and thus to some extent more domestic in appearance, than the permitted scheme which makes use of the existing understated barn structure. It is also differently orientated to that of the permitted scheme, broadly facing Stable Cottage as opposed to the barn permitted for conversion via permission Ref DM/16/0063.
25. However as identified above there are a number of dwellings within the immediate environs of the appeal site (either established or permitted), and as such the proposal would not appear incongruous in this context. The proposed dwelling in my view references a rural aesthetic through the materials proposed and scale and arrangement of windows and doors, which within various elevations are reminiscent of the arrangement and proportions of such found in certain agricultural buildings.
26. Moreover on account of its long private driveway, the rolling topography of the countryside, and the presence of hedgerows and patches of woodland in the landscape, the appeal site is not prominent. I observed during my site visit that there are few public vantage points from which the dwelling proposed would be readily apparent, with any such views being from a significant distance where the proposal would represent a barely perceptible element of the wider landscape.
27. Therefore whilst the proposal would to some extent lead to a domestication of the countryside this would not be demonstrably detrimental given the sensitive design of the proposal and as it would not be prominent in the landscape. Moreover the proposal would represent only a slight differential visual impact from that which has been permitted, appreciably only essentially from within Great Wapses Farm, which is already mixed in character.
28. For the above reasons I therefore conclude that the proposal would result in no unacceptable effect on the character and appearance of the area, and consequently that it would comply with the relevant provisions of policies TNP1 and TNP2 of the TNP and with relevant elements of the Framework.

### **Conclusion**

29. For the above reasons I conclude that no substantive conflict arises with the development plan taken as a whole or with the approach in the Framework. Having taken account of the extant permission and all other material considerations, I therefore conclude that the appeal should be allowed.

### **Conditions**

30. I have imposed conditions requiring compliance with the relevant elements of the associated plans for the avoidance of doubt and in the interests of proper planning, and that an agreed schedule of external materials is used to ensure that the proposal safeguards the character and appearance of the area. It is sufficient that this latter condition applies only to activities other than demolition, groundworks and site preparation as these do not bear upon external facing materials.

31. I agree with the Council that in order to ensure adequate provision for the parking of vehicles and bicycles associated with the dwelling proposed it is necessary to impose conditions requiring that such provision is made before the dwelling hereby permitted is first occupied and retained as such thereafter.
32. As a consequence of the error within plan 000 supporting the application as referred to in paragraphs 3 and 17 of this decision, there is a lack of clarity as to what land would be used in conjunction with the dwelling proposed. However the development proposed is clearly stated within the application form to be a replacement to that permitted via planning permission Ref DM/15/4411, and no different area of residential land is proposed within the information before me related to this appeal.
33. In this context I have therefore imposed a condition setting out for clarity that the residential land permitted via this appeal is the same in extent and location as the footprint of the dwelling proposed here and the residential land permitted via planning permission Ref DM/15/4411. I would note in the case of the latter that such land would have been capable of being used for residential purposes irrespective of the outcome of this appeal as part of the permitted scheme. Furthermore in the absence of this condition the dwelling hereby permitted would benefit from no outside space, which is clearly not the intention with reference to the description of development within the application form.
34. In imposing conditions I have had regard to the tests within the Framework, the Planning Practice Guidance, and relevant statute,<sup>6</sup> and have accordingly amended the wording of certain conditions proposed by the Council without altering their aim.

*Thomas Bristow*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002 and 000 excluding the Location Plan within plan 000.
- 3) No works other than demolition, site preparation and groundworks related to the development hereby permitted shall take place until a schedule of materials and finishes to be used for external walls, roofs and fenestration of the dwelling hereby permitted have been approved in writing by the local planning authority. Development shall be carried out in accordance with the schedule thus agreed.

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<sup>6</sup> Including paragraph 206 of the Framework, Guidance Reference ID: 21a-004-20140306 and Article 35(1)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 4) The dwelling hereby permitted shall not be occupied until the associated car parking spaces and secure bicycle parking spaces shown on the approved plans or as previously agreed in writing by the local planning authority have been provided. Once provided these spaces shall thereafter be retained at all times for such purposes.
  
- 5) No land other than the footprint of the dwelling hereby permitted as illustrated on the approved plans and that land annotated as 'proposed curtilage' on plan 1990S.A associated with planning permission Ref DM/15/4411 shall be used for domestic purposes associated with the dwelling hereby permitted.