



Appeal Decision

Site visit made on 6 December 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Appeal Ref: APP/C1435/W/23/3318107

The Paddock, Tapsells Lane, Wadhurst TN5 6PL

- 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 McLaughlin against the decision of Wealden District Council.
 - The application Ref WD/2022/0550/F, dated 23 February 2022, was refused by notice dated 23 January 2023.
 - The development proposed is three new detached houses with detached garages and new crossover.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In November 2023 all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became 'National Landscapes' (NLs). Thus, the High Weald AONB is now the High Weald National Landscape (HWNL). Its legal designation and policy status remain the same.
3. In December 2023, following the deadline for final comments, a revised version of the National Planning Policy Framework (the Framework) was published. Both the Council and the appellant have been consulted on the amended version of the Framework.
4. It has been confirmed in correspondence that the correct road name is 'Tapsells Lane'. I have replicated this within the banner above.

Main Issues

5. The main issues are:
 - the effect of the proposal on the HWNL, including consideration of its effect upon existing trees, and
 - whether it has been satisfactorily demonstrated that acceptable arrangements for the management of surface water would prevail.

Reasons

High Weald National Landscape

6. The appeal site is within the HWNL, an area designated for its landscape and scenic beauty. The appeal site is within Landscape Character Area 5B, High Weald Central which is characterised by the undulating landscape, comprising a patchwork of fields, mixed woodlands and numerous ridge top settlements.

7. The site is undeveloped and provides a verdant transition between Wadhurst and the wider countryside, where it slopes down away from nearby residential development. The site has tree-lined boundaries, and from outside the site there are views available across its open areas through the boundary vegetation. The existing site frontage is a defining feature, as it signifies a change from the suburban edge of Wadhurst to a more rural area. Nearby properties are of varying size and design. There is no formal pattern of development, with dwellings sited sporadically within large, spacious plots and separated from one another.
8. Given the lack of development and the site's verdant and open nature, on the edge of the settlement, the site can be observed to have a semi-rural character. Currently, it makes a positive contribution to the landscape and scenic beauty of the HWNL, and it is broadly characteristic of the High Weald Central character area.
9. The proposal includes the retention of most-on-site trees and additional planting by way of a landscaping scheme. However, the siting of three large dwellings and associated hard landscaping would introduce a significant amount of built development to the site, as well as associated domestic paraphernalia and residential activity. Moreover, the replacement vegetation would take a significant amount of time to mature, and the formal sub-division of the site with hedgerows would have a suburbanising effect. This would erode the openness of the site and would be incongruous with the verdant character currently identifiable. The site would no longer serve as a semi-rural transition to the wider countryside.
10. The proposed dwellings would have a similar footprint to plot ratio and be comparable in size to nearby dwellings and be served by large front and rear external amenity areas. Nonetheless, the dwellings would be aligned in a loose linear pattern and span almost the entire width of their respective plots, with little space between dwellings compared to neighbouring development. They would appear cramped, and this somewhat formal layout would be at odds with the prevailing pattern of development.
11. Whilst the bulk of the development would be set back from the road and the precise palette or external facing materials could be secured via condition, should the appeal be successful, the additional access and reconfigured existing access would have domesticating and urbanising effects upon this section of Tapsells Lane and diminish the green and leafy appearance of the existing frontage of the site.
12. With respect to existing trees, it is apparent that the proposal has been formulated to typically minimise any potential for damage to occur to existing established trees of value. This includes two protected Oak trees situated in proximity to the proposed accesses. Indeed, the appellant has confirmed the construction of the accesses and associated hardstanding would be subject to a no dig approach and appropriate protection measures could be secured by a condition. I have no reason to disagree with this assertion and I am also content that, in an ecological sense, appropriate site-wide compensatory measures could be secured via planning condition to suitably mitigate the effects of any planting losses necessitated by the scheme and offer appropriate safeguards with respect to protected species.

13. Even so, a third tree subject to a Tree Preservation Order (TPO), a Monkey Puzzle, would be felled as part of the proposed development. Although it is a non-indigenous species, the tree has been surveyed to be of Category B classification, appears to be in good health with no major structural defects, is providing visual interest, and is a key feature adjacent to a tree-lined boundary. The loss of this tree would noticeably erode the sylvan nature of the site, an individual loss that could not be suitably mitigated by the provision of new planting which would inevitably take time to establish and mature.
14. Given the scale of the proposal, it would not constitute major development; as such, the provisions of paragraph 183 of the Framework do not apply. Furthermore, the site may be less sensitive to change than land remote from settlements within the HWNL, including neighbouring fields. However, all relevant matters considered, and in conflict with paragraph 182 of the Framework, the proposal would fail to conserve the landscape and scenic beauty of the HWNL. Moreover, the proposal would not address the reasons why the Strategic Housing and Economic Land Availability Assessment, undertaken in 2019, concluded that the site was unsuitable for housing development.
15. The appellant has identified a few historic infill dwellings in proximity to the site. However, the proposal would not constitute infill development, as it only borders residential development on two sides. These developments would not set a precedent for the appeal proposal.
16. Three planning permissions¹ have been put before me. The first was for 21 dwellings in a more densely developed area which was visually contained by development on three sides. The second was for four dwellings located adjacent to a busy main road in Heathfield, with a linear pattern of development on either side of the road. The third was for a single infill dwelling, where the design of the proposed dwelling reflected neighbouring properties. None of these permissions set a precedent for the appeal proposal as they are materially different and, in any event, all proposals must be assessed on their own individual merits.
17. Overall, the proposal, including the loss of a tree subject to a TPO, would have a harmful effect on the HWNL. It would therefore be contrary to saved Policies GD2, EN1, EN6, EN12, EN27 and DC17 of the Wealden Local Plan, December 1998 (LP), and Spatial Planning Objective SPO13 of the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan, February 2013 (CS). These policies indicate that outside development boundaries development will be resisted unless it is in accordance with specific policies in the plan, that the Council will consider the layout of the proposal in assessing the effects on the environment resisting proposals which would result in the loss of trees and encouraging the development of high quality living environments, that development in the HWNL will only be permitted if it conserves or enhances natural beauty, and that proposals will be permitted where the design of the development respects the character of adjoining development.
18. The proposal would also be contrary to paragraphs 131, 135, 136, 139 and 182 of the Framework. These paragraphs advise that the creation of beautiful places is fundamental to what the planning system should achieve and

¹ Planning Permission Refs WD/2016/0402/MAO, WD/2020/2540/F and WD/2013/0231/F

development that is not well designed should be refused, planning decisions should ensure that developments are sympathetic to local character, trees make an important contribution to the character of urban environments, and great weight should be given to conserving and enhancing the landscape and scenic beauty in NLs.

Surface water drainage

19. The site is situated in Flood Zone 1 such that it is at low risk of fluvial flooding and the proposal did not need to be supported by a Flood Risk Assessment. Further, anecdotal evidence suggests there is currently no surface water runoff or flooding experienced within or close to the site. However, the proposal, whilst modest in scale, includes the construction of large areas of impermeable surfaces. Without a robust drainage strategy, the proposal may lead to increased surface water runoff and associated surface water flood risk. The appeal site is not in proximity to surface water sewers or a watercourse. As such, it would appear that the only appropriate/practical means of surface water disposal would be via infiltration.
20. The submitted drainage strategy outlines that infiltration testing needs to occur prior to the final design of any proposed soakaways and there is no evidence that infiltration testing has been undertaken. Given the underlying geology of the site, the use of soakaways may not be a practical solution. Without further evidence explaining why the geology would not unacceptably restrict infiltration, or the results of infiltration testing, I cannot conclude with any certainty that the use of soakaways would be feasible at this site.
21. For these reasons, a condition requiring full drainage details to be submitted to and approved in writing by the local planning authority would not offer satisfactory assurances that an acceptable strategy could be installed, nor that the use of soakaways would necessarily provide a practical solution. Whilst my attention has been drawn to sites elsewhere where drainage schemes have been dealt with via condition, it has not been clearly demonstrated that directly comparable site circumstances and ground conditions were appreciable at these other sites.
22. Overall, in the absence of suitably detailed and robust supporting documentation, it has not been satisfactorily demonstrated that acceptable arrangements for the management of surface water would prevail. The proposal would therefore be contrary to saved LP Policy CS2 which indicates that planning applications will be permitted only where adequate provision is made for surface water drainage.

Planning Balance

23. Set against the harm identified there would be social and economic benefits associated with the proposal. The evidence before me indicates that the Council can only demonstrate 3.92 years supply of deliverable housing land. An additional three family-sized homes to be situated in an accessible location close to services and facilities in Wadhurst would help address this shortfall in housing land supply. Indeed, small and medium sized sites can make an important contribution to meeting the housing requirement of an area in a general location that is washed over by the HWNL and thus constrained in terms of its ability to accommodate new housing. There would also be economic benefits associated with the construction of the scheme and an

increased population living in the area. Whilst the number of dwellings proposed would not make a noticeable difference to the housing supply situation, in view of the current significant shortfall that applies, considerable weight is ascribed to these benefits.

24. However, I have identified multiple harms and associated policy conflicts. The LP dates from 1998 and the CS dates from 2013, but the weight to be attached to these documents does not hinge on their age. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework indicates the creation of high quality, beautiful and sustainable place is fundamental to what the planning and development process should achieve, great weight should be given to conserving and enhancing landscape and scenic beauty in NLs, and when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Therefore, the conflicts between the proposal and CS Spatial Planning Objective SPO13 and saved LP Policies CS2, GD2, EN1, EN6, EN27 and DC17 attract substantial weight in the circumstances of this case.
25. Moreover, in my judgement, the significant adverse impacts of the proposed development, related to its effect upon the HWNL and surface water management, would outweigh its benefits. For the avoidance of doubt, as the application of the Framework's policies that protect areas or assets of particular importance (in this case NLs) provides a clear reason for refusing the development proposed, the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework and replicated at CS Policy WCS14 is not engaged.

Conclusion

26. The proposal conflicts with the development plan and there are no other considerations, including the shortfall in housing land supply, which indicate that the appeal should be determined other than in accordance with the development plan. Therefore, for this reason, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR