



Appeal Decision

Site visit made on 16 February 2024

by Lewis Conde BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 APRIL 2024

Appeal Ref: APP/D3830/W/23/3320256

Little Haye, Holtye Road, East Grinstead, West Sussex RH19 3PP

- 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 & Mrs Cassidy against the decision of Mid Sussex District Council.
 - The application Ref is DM/22/1698.
 - The development proposed is erection of 2 x 3 bed semi-detached dwellings with associated parking and access from Holtye Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In November 2023, all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became "National Landscapes". Nevertheless, the Framework still refers to AONBs and their legal designation and policy status remains unchanged. Therefore, I will still refer to the High Weald AONB within this decision.
3. A revised version of the National Planning Policy Framework (the Framework) was issued on 19 December 2023. In respect of the matters of interest in this appeal, there have been no fundamental changes to national policy.

Main Issues

4. The main issues are:
 - Whether the appeal site is an appropriate location for housing having regard to the local development strategy and its access to facilities and services;
 - The effect of the proposal on the character and appearance of the area, including the potential loss of trees, and having regard to the site's location within the High Weald AONB;
 - Whether the proposal would provide suitable living conditions for the future occupiers of Plot 2, with regards to outlook; and
 - The effect of the proposal on Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

Reasons

Location

5. The appeal site comprises a plot of land to the west of Little Haye, located off Holtye Road (A264). Holtye Road is a key vehicular route stemming outwards from East Grinstead towards Royal Tunbridge Wells to the east. The appeal site lies approximately 170m outside of the settlement boundary for East Grinstead. Therefore, although located near the fringe of this large settlement, for planning policy purposes, it is within the countryside.
6. The overall spatial strategy for the District established within the Mid Sussex District Plan 2014 – 2031 (adopted 2018) (MSDP) is to direct the majority of new development to the larger settlements of Burgess Hill, East Grinstead, and Hayward Heath, whilst limiting development outside of defined built up area boundaries. The central aims of this strategy include increasing the sustainability of communities within Mid Sussex through reducing the need to travel to other areas for employment and facilities, as well as protecting the character and appearance of the countryside.
7. MSDP Policy DP6 relates specifically to the settlement strategy for the District. The Policy states that *"outside defined built-up area boundaries, the expansion of settlements will be supported where (my emphasis added): 1. ... the proposed development is for fewer than 10 dwellings; and 2. The site is contiguous with an existing built up area of the settlement; and 3. The development is demonstrated to be sustainable, including by reference to the settlement hierarchy"*. To comply with the policy, proposals outside development boundaries must meet all three of the above criteria.
8. Although the site is located some distance from the defined built-up area boundary for East Grinstead, the appellant contends that it forms part of a band of development that runs continuously from the settlement's defined boundary, along the northern side of Holtye Road. It is therefore argued that it can be considered to be contiguous with the existing built-up area of East Grinstead.
9. On my site visit there appeared to be a pocket of woodland between dwellings on the northern side of Holtye Road, such that the built form did not appear continuous from the settlement boundary to the appeal site. However, it was unclear whether the woodland formed part of a neighbouring residential garden.
10. In any case, the Council contests the appellant's interpretation of Policy DP6, highlighting that in order to comply with the policy, a development has to be contiguous with the settlement's built up boundary, (i.e. the site boundary has to actually touch the settlement's defined built-up boundary and not be near to it as suggested by the appellant). To support this view, the Council has drawn my attention to appeal decisions¹ whereby the interpretation of Policy DP6 and the matter of development being 'contiguous' with the existing built-up area of a settlement has previously been considered.

¹ Appeal Ref: APP/D3830/W/22/3302665 - Home Wood, Slugwash Lane, Haywards Heath RH17 7TD ('Home Wood Appeal'); and Appeal Ref: APP/D3830/W/20/3264213 - Thyme Cottage, Sandhill Lane, Crawley Down, RH10 4LD ('Thyme Cottage Appeal').

11. Similar to the Inspectors findings for the Thyme Cottage Appeal, my reading of Policy DP6, at face value, is that Criterion 2) means the built-up areas are defined by the '*built-up area boundaries*' that are earlier referred to in the policy, rather than other built form that could be far more subjective to interpretation. Furthermore, I agree with the previous Inspectors finding that this would be a logical reading of the policy, as otherwise it could enable the continuous encroachment of development into the countryside provided it remain contiguous with some existing built form. From my reading of the policy, its supporting text, including the strategic objectives of the MSDP, I do not consider that it is the intention of Policy DP6 to promote development in this manner.
12. No robust or convincing justification has been presented by the appellant to warrant me reaching an alternative view. As such, I do not find the proposed development to be contiguous with East Grinstead's built-up area boundary and it therefore does not comply with the requirements of Policy DP6 of the MSDP.
13. Meanwhile, Policy DP12 of the MSDP permits development in the countryside where it enhances the quality of its rural and landscape character and is supported by another specific development plan policy. As indicated above, the development is not supported by Policy DP6. Whilst Policy EG2 of the East Grinstead Neighbourhood Plan (Made 2016) (the Neighbourhood Plan) sets out limited circumstances where permissions in the countryside will normally be permitted, the proposed development would not meet the specified criteria.
14. Policy DP15 of the MSDP also permits new homes in the countryside provided they would not be in conflict with Policy DP12 and where special justification exists, including housing that meets Policy DP6 of the MSDP. However, in light of my above findings, the proposal does not meet any of the relevant circumstances outlined under Policy DP15.
15. That said, consideration needs to be given to the site's specific circumstances, particularly its accessibility to facilities and services, given the Council's spatial strategy places a strong emphasis on reduced travel requirements. In this respect, Policy DP21 of the MSDP further seeks to ensure that development is sustainably located to minimise the need for travel and promote increased use of alternative transport to the car, such as walking, cycling and public transport.
16. East Grinstead is a Category 1 settlement within the Council's settlement hierarchy, due to the comprehensive range of employment, retail, health, education and leisure services and facilities that it contains. It also benefits from good public transport links to other areas. As indicated the appeal site lies approximately 170m from the edge of East Grinstead. However, from my observations and the evidence before me, most of the facilities and services that East Grinstead contains are set a much further distance away than this, including the nearest bus stop being located approximately 550m from the site.
17. Furthermore, despite there being an extensive network of pavements throughout East Grinstead, these stop short of the appeal site. Whilst the pavements/footways are not a considerable distance from the appeal site, I still find that the site's context is generally not suitable to encourage walking or cycling as a means of transport for potential future occupiers. Notably in the near vicinity of the appeal site, Holtye Road is a rather narrow, unlit, rural road that lacks footways or suitable verges alongside the highway. These factors

together with the road appearing to be frequently trafficked would make it highly unattractive to walk or cycle to and from the site.

18. The absence of pavements and lighting within the immediate vicinity of the site may not deter all persons from walking or cycling, as a means of access to nearby facilities and services. Nevertheless, I consider it would still be a hinderance that would deter most occupants of the proposed dwelling, especially during adverse weather or periods of darkness. As such, sustainable methods of travel are unlikely to be regularly used, with any future occupants highly likely to be dependent on the private car. This is the least sustainable means of transport and would further undermine the Council's spatial strategy. The lack of objection from the Local Highways Authority does not alter my views on the suitability or attractiveness of the appeal site's location for making journeys by walking and cycling.
19. Overall, the appeal site is not an appropriate location for housing having regard to the local development strategy and its access to facilities and services, with the appeal scheme conflicting with MSDP Policies DP6, DP12 and DP15. Additionally, the development would be contrary to the aims of the Framework, in respect of promoting development that offers a genuine choice of transport modes.
20. Although not referenced on the decision notice, Policy EG5 of the Neighbourhood Plan has also been brought to my attention. Policy EG5 sets out that support for housing will only be provided if several criteria are met, including that it contributes to sustainable development. Given my findings above in respect of the location of the development, which is a key contributor to sustainability, I also find conflict with this policy.

Character and Appearance

21. As previously detailed, the appeal site is outside the defined built-up area of East Grinstead, but it is located in what could be considered as near its fringe. Indeed, there is a notable extent of existing ribbon development along Holtye Road, stemming outwards from East Grinstead. In the near vicinity of the site, this mainly consists of detached dwellings set out in a generally linear but intermittent form fronting onto Holtye Road.
22. Beyond the presence of East Grinstead to the west and ribbon development fronting onto Holtye Road, the wider surrounding context is largely defined by a rural undulating landscape that contains modest sized and irregular field patterns, interspersed with trees, hedgerows and woodland. This adds to the site's semi-rural character and also reflects key characteristics of the High Weald AONB, which the appeal site falls within.
23. Section 85 of the Countryside and Rights of Way Act 2000 places a general duty on public bodies to have regard to the purpose of conserving or enhancing the natural beauty of an AONB. While the Framework sets out that great weight should be given to conserving the landscape and scenic beauty of AONBs. The proposal's effect on the landscape is therefore an important consideration.
24. The scale, design, and appearance of existing dwellings along Holtye Road varies significantly. However, they are mostly set within sizeable plots and set back from the highway with mature boundary vegetation, thereby adding to the semi-rural feel.

25. The proposed development would result in the site and surrounding area having a more domesticated appearance. However, the appeal site already appears as domestic garden given the presence of an outbuilding and its boundary arrangements, whilst the appeal scheme would be seen alongside existing adjacent residential built form.
26. In terms of their design, the proposed dwellings would be set significantly back from the highway, on a similar building line as Little Haye. Despite being a pair of semi-detached dwellings, the overall height, massing, and materiality of the proposed development would also assimilate well with nearby built form.
27. Indeed, the proposed dwellings have been designed to visibly read as a single detached property, including through the use of front and side entrances. Furthermore, public views of the proposed development would also be limited, due to the presence of mature boundary vegetation, whilst such views are likely to be highly transient in nature. As such, it is unlikely that it would be readily apparent that the development is in the form of semi-detached dwellings. Instead, it is likely to be perceived as a single dwelling of a commensurate scale to neighbouring properties.
28. Even if, the semi-detached nature of the properties was recognisable, I do not consider the scale and layout of the proposal would intensify development along this section of Holtye Road, to such an extent, that it would harm the prevailing semi-rural character or appearance of the area.
29. Turning to trees, the appeal scheme would involve the removal of several Hazel trees to facilitate the proposed development, however, the submitted Arboricultural Impact Assessment (AIA) notes that these are not high-quality specimens (category C and U respectively). Concerns have also not been raised by the Council's arboriculturalist in respect of the removal of these trees. Instead, matters of contention lie with the potential loss of further trees at the site, particularly near the front boundary and within the garden of proposed Plot 1.
30. The area near the site's front boundary contains mature specimens of Beech, Oak and Hazel trees. These sit close to the highway and provide add to the verdant character of the area and provide a positive visual contribution. It is proposed for these trees to be retained, while the AIA and associated submitted Tree Protection Plan indicate that a construction exclusion zone would be established that encompasses the vast majority of the root protection areas (RPA) of these trees. The proposed access and driveway would fall partially within the tree's RPAs. However, I am satisfied that subject to conditions requiring works be undertaken in compliance with the range of protocols outlined with the AIA and TPP then the trees should not be harmed or lost through the construction process.
31. In addition, whilst some vegetation clearance would be undertaken, the proposal would be capable of providing appropriate vehicle visibility splays for the site's access without removing the relevant trees at the front of the site. Nor would any vehicle parking areas be situated below the canopy of the relevant trees. As such, I am unconvinced that the proposal would result in any significant pressure for the future removal of trees near the frontage of the site.

32. There is also a mature, sizeable Norwegian Spruce on the site that is identified within the AIA as a high-quality Category A specimen. Indeed, it is an attractive tree of considerable scale and prominence, which I find to positively contribute to the visual amenity and semi-rural character of the site.
33. The rear gardens of the proposed dwellings, although providing sufficient overall space, are rather narrow in width, while the Norwegian Spruce referred to above would be situated rather centrally within the rear garden of proposed Plot 1. This tree given its significant scale and positioning would dominate the garden space, whilst a significant extent of the garden would be under its rather dense canopy or within its shadow at certain times of the day. It would also dominate the outlook from the rear of Plot 1. As such, it is likely that the proposed development would lead to significant pressures from future occupiers of the dwelling to remove the tree.
34. Only limited views of the tree would be available from the public realm, which again are likely to be transient in nature. Additionally, none of the trees at the site are subject to a Tree Preservation Order (TPO), as such, I am mindful that the appellant could already remove the relevant tree should they wish. However, there is no robust reasons for me to consider that the tree is currently under threat of removal, whereas I consider the proposed development would be highly likely to place it under such threat.
35. Consequently, I find that the proposed development is likely to lead to the loss of the existing Norwegian Spruce, that currently enriches the semi-rural character of the site. As such, the loss of the tree would cause harm to the character and appearance of the site and surrounding area. Although the harm would be very modest in nature, it would also not conserve or enhance the landscape or scenic beauty of the AONB. The proposal is therefore contrary to Policies DP26 and DP37 of the District Plan and Policy EG3 of the Neighbourhood Plan. Together these policies, amongst other matters, seek to promote high-quality design including through protecting trees and important landscape features that contribute to the character of the area. Likewise, the development would conflict with the overall aims of Chapter 15 of the Framework in terms of conserving and enhancing the natural environment.
36. Notwithstanding that it is not cited in the Council's reasons for refusal, Policy DP16 has also been brought to my attention. The proposal would also fail to comply with this policy which includes that development in the AONB should conserve or enhance natural beauty.

Living Conditions

37. Plot 2 of the proposed development is a three-bedroom dwelling that would be sited close to the shared boundary with Little Haye. At first-floor level one of the bedrooms would contain a window facing towards the neighbouring property. This would be the only window serving that bedroom, as such, its outlook would primarily face towards the side elevation of Little Haye. However, the proposed window is relatively large in size and so would also be likely to afford views around the neighbouring property towards vegetation, garden areas, and the sky.
38. Additionally, whilst there is a two-storey element to Little Haye set approximately 11.5m away, the main bulk of Little Haye would be set approximately 18.5m from the flank elevation of Plot 2. Given the levels of

separation and the overall size of the window, I do not consider that the outlook from the proposed bedroom would result in any significant harmful impacts on the living conditions of any future occupiers of the development.

39. No other concerns in respect of the living conditions of future occupiers of the proposal, or existing neighbouring residents, have been raised by the Council. From the evidence before me and observations on site, I have no reasons to find otherwise.
40. Consequently, I am satisfied that the proposal would provide suitable living conditions for the future occupiers of Plot 2. As such, the appeal scheme accords with Policy DP26 of the District Plan in so far as it relates to promoting well designed development that does not cause significant harm to the amenities of existing nearby residents or future occupants of new dwellings.

Ashdown Forest SPA and SAC

41. Ashdown Forest is designated as a SPA because of its value as a habitat for rare bird species, including European Nightjar and Dartford Warbler. The qualifying features that underpins Ashdown Forest's designation are its heathland habitats.
42. The Council and Natural England have previously identified that key threats to the integrity of the SPA include disturbance by humans and recreational activities, along with development pressures that could lead to the loss of nesting and feeding habitats. Additionally, atmospheric pollution associated with increased traffic emissions has been identified as potentially posing a threat to the integrity of the SAC.
43. The appeal site lies within the zone of influence of the SPA, whereby new housing developments are likely to result in an increase in visitors and recreational activity placing pressure on its integrity.
44. Through the appeal, the appellant has provided a signed Unilateral Undertaking that would provide mitigation measures in the form of a financial contribution towards Suitable Alternative Natural Greenspace (SANG) and a financial contribution towards a Strategic Access Management and Monitoring (SAMM) strategy. Such measures have been outlined within the Council's Ashdown Forest Mitigation Zone Background Paper (2019) as an appropriate approach to mitigating and monitoring the impacts of development on the SPA. The approach has also previously been endorsed by Natural England.
45. However, as I am dismissing the appeal on other grounds, I have not considered this matter further nor have I further considered the likely impacts of the proposed development on the SAC. It has therefore not been necessary for me to carry out an Appropriate Assessment as required by the Conservation of Habitats and Species Regulations 2017.

Other Matters

46. The proposed development would provide socio-economic benefits associated with the delivery and subsequent occupation of two dwellings. However, such benefits would be modest and do not overcome my above concerns with the proposal.

47. I note the appellant's intention that one of the proposed dwellings is to be occupied by an older family member. However, no robust justification as to the need for the family member to live at this location has been provided, nor can it be guaranteed that the proposed development would be used in this manner.
48. Compliance with other local and national policies, for example in relation to highways, flood risk and living conditions of neighbouring residents are to be expected of new development and therefore does not weigh in favour of the appeal scheme.

Conclusion

49. The appeal scheme conflicts with the development plan taken as a whole, while there are no material considerations including the provisions of the Framework, that outweigh the conflict. The appeal is therefore dismissed.

Lewis Condé

INSPECTOR