



Appeal Decision

Site visit made on 10 June 2024

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2024

Appeal Ref: APP/U1430/W/24/3337523

Land Adjacent to Riccards, Riccards Lane, Whatlington, East Sussex TN33 0NG

- 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 and Mrs R and J Scott against the decision of Rother District Council.
 - The application Ref is RR/2023/1497/P.
 - The development proposed is the removal of existing outbuildings and the erection of 2 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 22 November 2023, all designated Areas of Outstanding Natural Beauty in England and Wales became "National Landscapes". The appeal site falls within the High Weald Area of Outstanding Natural Beauty (the AONB) which becomes the High Weald National Landscape (HWNL).
3. On 26 December 2023, Section 245 of the Levelling Up and Regeneration Act (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of AONBs, as set out in Section 85 of the Countryside and Rights of Way Act 2000 (as amended) (CRWA). In so far as it relates to this appeal, the amendment now requires relevant authorities "in exercising or performing any function in relation to or so as to affect land in an AONB... to seek to further the purpose of conserving and enhancing the natural beauty of the AONB". As such, it is incumbent on me to evidence consideration to possible ways to further the purpose of conserving and enhancing the natural beauty of the AONB and HWNL. Both main parties were asked for their views on the effect of the amendments to the CRWA by the LURA insofar as they relate to this appeal. No responses were received.
4. The Planning Practice Guidance (PPG) refers to the relevance of management plans for AONBs for assessing planning applications. Whilst these do not form part of the development plan, they help to set out the strategic context for development and provide evidence of the value and special qualities of these areas¹. The High Weald AONB Management Plan 2019-2024 is therefore a material consideration, as its objectives align with the Framework's.

¹ Planning Practice Guidance Paragraph: 040, Reference ID: 8-040-20190721, Revision date: 21 07 2019.

Main Issues

5. The main issues are:

- the effect of the proposal on the character and appearance of the area with particular regard to whether the proposal would conserve and enhance the landscape, scenic and natural beauty of the High Weald Area of Outstanding Natural Beauty and National Landscape; and,
- whether the proposed development would provide a suitable location for housing, having regard to the spatial strategy, public transport network and accessibility of services.

Reasons

Character and appearance

6. Riccards is a two-storey dwelling located in an extensive plot on the corner of Riccards Lane and Whatlington Road. The house is set to the west side of the plot with a garage and two large single storey outbuildings immediately to its east. There is an extensive area of hardstanding to the east of the house, a legacy of a former tree nursery on the site.
7. The HWNL is characterised by mosaics of small fields interspersed with farmsteads and villages, surrounded by hedges and areas of woodland. Its outstanding beauty derives from its essentially rural and human scale character, high proportion of natural surfaces, tranquillity and dark skies. Paragraph 182 of the Framework sets out that great weight should be given to conserving and enhancing the landscape and scenic beauty of these areas. This is supported by Policy EN1(i) of the Rother Local Plan Core Strategy 2014 (Core Strategy) and Policy DEN2 of the Development and Site Allocations Local Plan 2019 (DASA).
8. The appeal proposal involves the demolition of the two outbuildings and erection of a pair of semi-detached dwellings. The dwellings would be served by the existing vehicular access from Riccards Lane and would have their own gardens. The two dwellings would be brick built with pitched slate roofs. The houses would be joined by a single storey link, set in from the front and rear elevations and featuring a highly glazed finish to the Riccards Lane elevation.
9. The pattern of development in the vicinity is sporadic, and the Whatlington area is characterised by loose and irregular clusters of buildings separated by open countryside or woodland. Where Whatlington Road meets the A21 there are clusters of housing, a pub and some limited services; development along the A21 is of a more linear character than that on Whatlington Road. As Whatlington Road continues towards Battle, there is sporadic residential development leading up to the parish church, generally grouped in small clusters, often set back from the street. There are also dwellings located further along Riccards Lane, also set well back from the road.
10. Due to the dense wooded areas to the south and east, the proposed dwellings would be well screened from long views looking north from Whatlington Road and west from Riccards Lane. There is, however, a more open view of the appeal site when looking south towards the junction of Whatlington Road with Riccards Lane. The existing house in its countryside setting is appreciable in these views, and the outbuildings form subservient structures relative to the house.

11. The linear form, scale and position of the proposed dwellings would significantly increase the amount of built form on the appeal site and would have the effect of urbanising the site. This would be particularly apparent in the view looking south along Whatlington Road towards the Riccards Lane junction and would consequently diminish the countryside setting of the existing house. Whilst the plot, due to its significant size, would be capable of physically accommodating the proposed houses, the resultant pattern of development would not respect or reflect the pattern of development in the area. For this reason, a landscaping scheme would not mitigate the presence of uncharacteristic development in this location. In this respect my attention has been drawn to the appeal decision at Sharnfold Farm² for up to 31 dwellings which the appellant indicates would have a different pattern than typically found in the surrounding area. There are limited comparisons here given the scheme was in outline and for a significantly larger number of dwellings in a different district to the appeal site.
12. There are a wide variety of forms and styles of building in the vicinity. The proposal incorporates mostly traditional materials and the use of the cat slide roofs to either end reference the existing building on site. The glazed link would not, however, have the effect of reducing the overall bulk of the buildings. In oblique views they would effectively be read as a continuous frontage facing Riccards Lane. The extent and height of the glazing to both the front and rear of the link would be discordant with the more traditional brick-built elevations found locally.
13. Although set back from the front and rear elevations, the link would comprise a significant area of glazing. There would be potential for light pollution particularly given the extent of glazing to the front roof of the link. The use of electrochromic, or similar, glazing could reduce light spill, but would not eradicate it in the same way that could potentially be achieved through the use of more solid materials. The use of a condition would not sufficiently mitigate the harm in this respect and neither would it overcome the harm caused by the appearance of the proposed glazing. The proposed design would harm one of the principal characteristics of the HWNL, that is, intrinsically dark skies.
14. For the above reasons, despite the localised effect of the proposal, it would appear as a visually intrusive development that would neither conserve nor enhance the landscape, scenic and natural beauty of the AONB and HWNL. Hence, it would fail to accord with Section 85 of the CRWA, as amended by LURA; the aims regarding the built and natural environment of the Borough, particularly to the landscape of the AONB, as expressed in Policy EN1 of the Core Strategy, Policy DEN2 of the DASA; and Framework paragraph 182.
15. The proposal would also conflict with Core Strategy Policies OSS2, OSS4, RA2, RA3 and EN3 insofar as they seek to conserve the intrinsic value and rural character of the countryside, avoid scattered and ribbon development, and ensure development is of appropriate scale, high design quality and would not impact upon the character and appearance of an area. The scheme would run contrary to objectives S2 and S3 of the High Weald AONB Management Plan 2019-1024 which, amongst other things seek to protect the historic pattern and character of settlement and enhance the architectural quality of the High Weald.

² APP/C1435/W/22/3296480

16. I note the Council's reason for refusal also refers to Policy DIM2 which relates to development boundaries. I do not consider this is directly determinative with regards to character and appearance and the HWNL.

Suitability of location

17. Policy OSS2 of the Core Strategy and Policy DIM2 of the DASA seek to focus new development within defined settlement boundaries and seek to avoid scattered and ribbon development. The appeal site is not within a settlement boundary as defined in the Core Strategy and DASA. It is therefore in a countryside location for the purposes of planning policy.

18. Policy RA3 of the Core Strategy only supports the creation of new dwellings in the countryside in extremely limited circumstances; and it seeks to ensure that all development in the countryside is of an appropriate scale and would not adversely impact on landscape character. The proposed dwellings would not be provided in connection with farming and other land-based industries nor would they comprise a 'rural exception site' to meet an identified local affordable housing need. As such, the proposal would conflict with the Council's spatial strategy. Although the aforementioned policies were not referenced in the reason for refusal, they have been referred to in evidence and are a relevant consideration.

19. The Council indicate that the appeal site is around 1.5km from the village of Sedlescombe and 3km from the market town of Battle. There is, however, a bus service which has a request stop just outside Riccards, which would provide connections with the larger service and employment centres of Hastings and Battle. The bus service is regular, with several services daily, although they are infrequent. My attention has also been drawn to the availability of a Flexibus service which provides hail and ride services.

20. Notwithstanding the above, given the relative infrequency of the bus services, along with the lack of pavements and street lighting, the appeal site would not be particularly well located for residents to access day-to-day services and facilities other than by traveling by car. Although day to day journeys to local centres would likely be short, daily vehicle movements nevertheless contribute to carbon emissions. This would undermine Policy TR3 of the Core Strategy, which seeks to minimise the need to travel.

21. As the scheme would conflict with the spatial strategy for the location of new residential development, alongside the limited opportunities for public transport and lack of opportunity for safe walking routes to nearby services, it would be contrary to the aims of Policies PC1, OSS3 and TR3 of the Core Strategy. Amongst other things, these policies reflect the presumption in favour of sustainable development, require new development to be in line with the spatial strategy for the area, have access to local services and minimise the need to travel. These policies reflect the Framework's aims regarding sustainable travel and sustainable patterns of development in rural areas. I afford the conflict with the development plan moderate weight given the degree of mitigation provided by the bus service.

Other Matters

22. My attention has been drawn to various other allowed appeals. Although they are mostly located within the nearby Wealden district, some of the issues raised also

- relate to the HWNL and suitability of the locations for residential development. I note all were determined prior to the enactment of the LURA.
23. In the appeal decision elsewhere in Whatlington³, the Inspector noted that the development would conflict with Policy TR3, but there was some mitigation from the ability to walk or cycle to nearby settlements or train stations. There are parallels with the appeal before me in terms of the location and relative availability of public transport, walking and cycling. However, in that appeal, no harm was identified to the HWNL and the planning balance was informed by the engagement of paragraph 11 d) ii) of the Framework due to the shortfall in the supply of deliverable housing sites.
24. In relation to the appeal decision for 3 dwellings near Crowborough⁴, the context of that appeal site was different due to its location within a row of ribbon development. In the appeal for 26 dwellings on the edge of Crowborough⁵, the Inspector found that the scheme would be a logical extension of an urban area and acknowledged that the verdant site boundaries would be retained. Whilst the appeal before me is relatively close to other sporadic development nearby, it is not on the edge of a more urban area and would not be forming an extension to it. Given the differences in context, I do not find that either of the appeals near Crowborough provide a genuine comparison to the scheme before me.
25. Similarly, an allowed appeal for up to 35 dwellings at Cooper's Green⁶, located at the edge of the village was deemed an acceptable location by the Inspector who was of the view that although there would be some car dependency for facilities, there were some village services which would be readily accessible by walking as they were linked to the appeal site by a roadside footpath. This is not the case in the appeal scheme.
26. A scheme for up to 45 dwellings off Eastbourne Road⁷ has also been cited. Although located outside a settlement boundary, raising the issue of whether the site was a suitable location for housing, there are limited parallels to the appeal scheme given the scale and location of the scheme.
27. The allowed appeal at Mornings Mill Farm⁸ included 700 dwellings, employment space, a school and medical floorspace. The scale and type of development, location and consequent planning balance are not comparable to the appeal scheme.
28. The Council is satisfied with the effect of the proposal on the living conditions of both future occupiers and neighbouring residents. It has also raised no concerns in relation to trees, parking, access, highways, drainage, refuse and recycling, boundary treatments and mitigation of any impacts on protected species, subject to appropriate conditions. I see no reason to disagree with these conclusions. However, an absence of harm in these respects is a neutral factor in my determination of the appeal.
29. I acknowledge that the appellant intends the housing to accommodate key workers to enable them to afford to live and work within the local area, as well as ensuring the sustainability of rural life in keeping young people within villages. I

³ APP/U1430/W/21/3285269

⁴ APP/C1435/W/22/3298263

⁵ APP/C1435/W/20/3265449

⁶ APP/C1435/W/21/3283533

⁷ APP/C1435/W/22/3292375

⁸ APP/C1435/W/22/3297419

attach some, albeit limited, weight to these circumstances in the overall planning balance since there is no S106 agreement or Unilateral Undertaking submitted which would secure the housing for key workers in perpetuity.

30. I have no substantive evidence before me regarding the conduct of the planning committee or the information available to them for decision making purposes. I also note that there is support for the scheme from interested parties. I have necessarily assessed the scheme on the evidence before me, including my site visit.

Planning Balance and Conclusion

31. The appeal proposal would provide two additional dwellings and would align with the Framework in seeking to boost the supply of housing. Some socio-economic benefits would arise from the construction of the houses, as well as environmental benefits including the use of photovoltaic panels and biodiversity enhancements. These benefits, however, attract limited weight given the scale of development under consideration.
32. The Council is unable to demonstrate a five-year supply of deliverable housing sites; the appellant also notes that the Council has not met the Housing Delivery Test, with 41% of the required number of homes over the previous three years being built. Consequently, paragraph 11 d) of the Framework is applicable. However, paragraph 11 d) i) states that there are circumstances where the application of policies in the Framework to protect areas or assets of particular importance provides a clear reason for refusing the proposal. Footnote 7 identifies AONBs as such an area, and as I have found that the proposal would cause harm in this respect, it follows that the appeal proposal does not benefit from the presumption in favour of sustainable development set out in paragraph 11 d) ii) of the Framework. I have had due regard to the various court judgments referred to by the appellant. Nevertheless, the Framework clearly sets out the circumstances in which the provisions of paragraph 11 d) ii) should apply.
33. The harm I have identified to the HWNL, along with the proposal's conflict with the Council's spatial strategy and policies relating to sustainable transport and access to services, draw the proposal into conflict with the development plan read as a whole. The material considerations in this case, including the Framework, do not indicate that the decision should be taken otherwise than in accordance with the development plan. The appeal should therefore be dismissed.

L Francis

INSPECTOR