



Appeal Decision

Site visit made on 16 July 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/C1435/W/23/3327717

Land west of Tanyard Lane, Chelwood Gate RH17 7LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr S. Baker, Havensilver Investments (Sevenoaks) Limited against the decision of Wealden District Council.
 - The application Ref is WD/2023/1130/FA.
 - The application sought planning permission for reserved matters (appearance, layout and scale) pursuant to outline application WD/2020/0348/O (erection of 4 no. dwellings, provision of new vehicular access, landscaping and other associated infrastructure), without complying with a condition attached to planning permission Ref WD/2022/1398/RM, dated 17 October 2022.
 - The condition in dispute is No 10 which states that:
"This planning decision relates solely to the information contained within the application form, the following plan(s) and (where appropriate) documents:
Ref. Date Stamped. PL.01C 21 September 2022 PL.02C 6 October 2022 PL.03B 21 September 2022 PL.04C 21 September 2022 PL.05A 21 September 2022 PL.06C 21 September 2022".
 - The reason given for the condition is: "For the avoidance of doubt".
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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). Insofar 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. I have taken the responses received by the appellant and the Council into account.

Background and Main Issue

4. In 2021, outline permission¹ was granted for the erection of four dwellings along with a new vehicular access, landscaping and other associated infrastructure. A reserved matters permission² was subsequently granted on 17 October 2022 for matters of appearance, layout and scale. My attention has also been drawn to another reserved matters permission which was granted in November 2023³, after the submission of this appeal.
5. The appeal proposal seeks to vary the approved plans condition of the October 2022 reserved matters approval so as to allow changes to the approved layout and detailed design. The proposed changes would have the effect of increasing the footprint and height of the dwellings and their location within the site would mean that they would be closer to the street and side boundaries than the approved dwellings. There would be changes in bulk particularly at roof level compared to the approved scheme, along with alterations to the detailed design and materials.
6. The 2023 permission maintains the building line along Tanyard Lane, retains a single gable to the street facades and has a more recessive roof form than the appeal proposal.
7. The existence of the 2022 and 2023 reserved matters schemes provides two fallback positions which could be implemented. Given the appellant indicates that the 2022 scheme was applied for by the previous owners of the site, I accept that this would be less likely than the 2023 scheme to be implemented. Nevertheless each scheme provides an alternative way of developing the site which the Council regards as appropriate.
8. In light of the above, the main issue is the effect of the development upon the character and appearance of the surrounding area, including whether it would conserve or enhance the High Weald National Landscape.

Reasons

9. The area is residential in character, with mostly linear development set some way back from the street frontages. Dwellings are generally at a low density, set in substantial plots with front and rear gardens. The pattern of development lends the area a semi-rural character. Although there are a variety of ages and designs of dwellings within the area, their form and materials are largely traditional with the use of clay hanging tiles, casement or sash windows and tiled pitched roof porches.
10. The appeal site comprises a field located on the corner of Tanyard Lane and Baxters Lane. The boundaries to the street and to the west are formed of high, densely planted hedges interspersed with trees. The boundary shared with the dwelling at 1 St Ellens is relatively open, with post and rail fencing and some trees.

¹ WD/2020/0348/O dated 15 June 2021

² WD/2022/1398/RM dated 17 October 2022

³ WD/2023/2137/FA dated 28 November 2023

11. 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 National Planning Policy Framework (the Framework) sets out that great weight should be given to conserving and enhancing the landscape and scenic beauty of these areas.
12. There is a consistent building line formed by the front elevations of properties either side of the appeal site along Tanyard Lane. The siting of the two dwellings in plots 1 and 2 further forward of this building line would be at odds with the pattern of development in this location and would have the effect of adding to the sense of bulk of the buildings when viewed from the street. This would be exacerbated by the double front gable design and the crown roof form, neither of which are characteristic design features in the local area. Although I note that the extant schemes also contain crown roofs, they would each be of a lesser scale and bulk than the appeal proposal.
13. The facing materials would comprise brick at ground floor with clay tiles at first floor, dark grey composite casement windows and a clay tiled crown roof. The richness and articulation of the 2022 scheme would be simplified. I note the appellant's view that the appeal scheme design achieves a cleaner, more contemporary tone. Although the proposed materials are broadly reflective of those found in the area, the loss of articulation and additional details would result in the scheme not relating well to local context. In this respect, the proposals would conflict with the advice set out in the High Weald AONB – High Weald Housing Design Guide 2019 and the Wealden Design Guide Supplementary Planning Document 2008, as well as the National Design Guide insofar as they encourage locally distinctive character referenced in the design of new housing.
14. The simplification of the footprint and shape of the buildings would lead to a much more dominant roof form than contained in both extant schemes, where the use of a tiered roofscape and footprint would have the effect of reducing the bulk at roof level.
15. I acknowledge the differences are of a small scale when compared to the extant reserved matters schemes. Nevertheless, the changes resulting from the positioning of the buildings further forward towards Tanyard Lane coupled with the additional bulk at roof level in particular, would have the effect of making the buildings appear as a more dominant and intrusive feature in the streetscape than either of the extant reserved matters permissions.
16. Despite the localised effect of the proposal, its detailed design, bulk and position within the site would be harmful to the appearance of the surrounding area. For the same reasons the development would neither conserve nor enhance the landscape, scenic and natural beauty of the HWNL. Hence, it would fail to accord with Section 85 of the CRWA, as amended by LURA.
17. Therefore, the proposal would conflict with Policies EN6 and EN27(1) of the Wealden Local Plan 1998, and WCS14 and SPO13 of the Wealden Core Strategy Local Plan 2013 (Core Strategy). Taken together and amongst other things, these policies seek a high standard of design, promote local distinctiveness through good design, and require particular care being paid to the siting, scale layout and design of development in the High Weald AONB

(now the HWNL), as well as reflecting the Framework's presumption in favour of sustainable development.

18. Furthermore the development would not be in accordance with the Framework which establishes that good design is a key aspect of sustainable development and which seeks high quality design sympathetic to local character and that the quality of approved development is not materially diminished between permission and completion.

Planning Balance and Conclusion

19. The benefits of the appeal scheme include a more cohesive layout at ground floor in terms of kitchen and dining space, along with the addition of a study. The garden depths would also be increased as a result of locating the dwellings closer to Tanyard Lane and Baxters Lane.
20. The appellant maintains that the thermal efficiency would be enhanced by a more uniform building envelope compared to the previously approved schemes, and there would be reduced maintenance liability from the simplified design approach. Little substantive evidence has been provided with the appeal to support or substantiate these benefits. Accordingly I attach some, albeit limited, weight to them.
21. The appeal proposal would not contribute any additional housing to local supply over and above that already granted permission at outline stage, and for which there are two extant reserved matters approvals referred to above.
22. I note the Council cannot demonstrate a five-year supply of deliverable housing sites. The appellant maintains that there is currently a 3.66 year supply of deliverable sites. 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.
23. I have found the proposal would harm the character and appearance of the area, including the HWNL. As such, the proposal conflicts with the development plan read as a whole. Material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal should be dismissed.

L Francis

INSPECTOR