

Appeal Decision

Site visit made on 21 August 2024

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2024

Appeal Ref: APP/U1430/W/24/3336526

Winter Hill, Hastings Road, Battle, East Sussex TN33 0TP

- 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 Presland against the decision of Rother District Council.
 - The application Ref is RR/2022/2922/P.
 - The development proposed is the change of use to the land north of Winter Hill to allow for the installation of a private domestic access driveway to serve the residential dwellinghouse together with replacement entrance gates and proposed landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to the land north of Winter Hill to allow for the installation of a private domestic access driveway to serve the residential dwellinghouse together with replacement entrance gates and proposed landscaping at Winter Hill, Hastings Road, Battle, East Sussex TN33 0TP in accordance with the terms of the application, Ref RR/2022/2922/P, subject to the conditions in the attached schedule.

Preliminary Matters

2. For consistency, I have taken the description of development from the Council's decision notice and appellant's appeal form, omitting the reference to the scheme being part retrospective as this is not an act of development.
3. In November 2023, all designated Areas of Outstanding Natural Beauty became National Landscapes. However, the National Planning Policy Framework (the Framework) continues to refer to them as Areas of Outstanding Natural Beauty (AONBs). In this decision I have used the term AONB, consistent with the evidence and the Framework. The legal designation and policy status of such areas is unaffected, whichever term is used.

Main Issues

4. The main issues are the effect of the proposal on the character and appearance of the area; and b) highway safety.

Reasons

Character and Appearance

5. The appeal site comprises part of an existing field set behind a ribbon of houses located along the A2100, to the northeast of Crowhurst and south east of Battle. The appeal site and surrounding area is within the High Weald AONB. The area is characterised by an undulating topography of field parcels, punctuated by areas of woodland and sporadic development. Paragraph 182 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of the AONB. The development plan is broadly consistent with this approach.
6. The new driveway has now been in situ for a number of months. Unlike the Council, I therefore had the benefit of seeing the works bedded in with the access having now grassed over, giving it a natural landcover. As a result, it appears as a relatively informal route with the main visual effect being the tyre impressions from vehicles using the access rather than the base materials used to construct it.
7. The driveway is set slightly away from existing properties but having regard to the topography, this seems a reasonable and logical routing. The field in which it is located is generally enclosed by mature trees and vegetation and so the track is screened from wider views. There are no earthworks such as bunds or areas of cut-and-fill, and given the minimal visual effect of the scheme, there is no harm to the wider character of the area.
8. The drawings indicate fruit trees to be planted either side of the access. Whilst two lines of trees could draw attention to its routing, a less processional or domestic planting scheme would have benefits, particularly where neighbours might have sight of vehicles using the track or where parked vehicles might be more visible. A condition securing a planting scheme to be submitted to the Council for approval would address this matter.
9. Overall, the proposal would not be visually dominant in the landscape and would conserve and enhance the natural beauty of the AONB. It accords with Policies OSS3 (vi), OSS4 (iii), RA2 (viii), RA3 (v) and EN1 (i) & (viii) of the Rother Local Plan Core Strategy (2014), and Policies DCO2 (i) & (ii), DEN1 and DEN2 of the Rother Development and Site Allocations Local Plan (2019) which, amongst other things, require development to have regard to the character and appearance of the surrounding locality, particularly in the countryside and in the AONB, where the landscape will be protected and enhanced where possible.
10. The proposal also complies with paragraph 182 of the Framework which requires that in AONBs great weight be given to conserving and enhancing landscape and scenic beauty.

Highway Safety

11. There is no disagreement between the main parties that the existing main access serving the property is sub-standard. Given the existing visibility and with Telham Lane opposite, the Highway Authority accepts that it presents a material risk of driver conflict. Having used the access to exit the property, I

agree that visibility is far from satisfactory and emerging onto the A2100 is not straightforward.

12. The new route involves utilising Hemingfold Lane to access onto the A2100. Having also exited from this point onto the A2100, I noted that the visibility was significantly better, and the overall ease of emerging onto the main road compared with the other access from Winter Hill was marked.
13. The width of Little Hemingfold appears only really wide enough for one car. The point of crossover with the A2100 is a little wider by virtue of the splays. Were two drivers to arrive at the junction at the same time, with one wishing to exit and one wishing to enter, then it would need the car waiting to exit onto the A2100 to complete the manoeuvre first. However the traffic in one direction would have come to a stop behind the car waiting to turn into Little Hemingfold, so the safety risk would seemingly be reduced.
14. The distance between Little Hemingfold's crossover with the A2100 and the entrance to the appeal site is relatively short, and it is used by only a small number of other properties. Therefore, while it is possible that two cars could meet on this short stretch of Little Hemingfold, the probability of this occurring does seem quite low. However, were it to happen, one vehicle is likely to need to reverse, with the onus no doubt being to let the vehicle exiting off the A2100 to complete its manoeuvre first. Given the length and width of Little Hemingfold, vehicles are likely to be travelling slowly, so again any risks of driver conflict seem low.
15. I accept that the situation would not meet the Highway Authority's preferred standards in terms of the width of Little Hemingfold although they acknowledge that it could be widened, if all the owners were willing to undertake the works. However, even if the owners were unwilling to widen the access, it seems to me that on balance it would still be a safer solution than the existing access being the only vehicular option for Winter Hill.
16. Overall, I find that the proposal would not cause harm to highway safety and would accord with Policy CO6 (ii) of the Rother Local Plan Core Strategy insofar as it seeks to improve safety for all road users.
17. The proposal would also accord with the Framework, which amongst other things, seeks to ensure that developments are not permitted if there would be an unacceptable impact on highway safety.

Other Matters

18. The Council has not objected to the proposed gates to the existing access. The Highway Authority has accepted its retention as an emergency access but indicated that the gates should be positioned at least 5.5m from the edge of the highway. Based on the information before me and my own observations I have no reason to reach an alternative conclusion.
19. The route of the access passes the rear of 191 Hastings Road. The Council has not raised any concerns in this regard. From my observations, vehicles using the access are set a reasonable distance away from this property. Given that the scheme is providing access to a single dwelling and that planting could be provided between the neighbouring property and the

access track, I am therefore also satisfied that the living conditions of this neighbour would not be unduly affected.

20. A number of representations have pointed to a 'second' existing access to Winter Hill. Although this is said to serve Winter Hill Barn, both are under the ownership of the appellant. However, the appellant confirms that they have no right of way across the 'ransom strip' that connects this second access to the highway. In addition, whilst the Highway Authority note that it has good visibility, subject to cutting back hedges, I have no substantive evidence to demonstrate that it offers better visibility than the current proposal. I am also mindful that this 'second' access is not part of the scheme which is before me. As I have found the appeal scheme to be acceptable, it therefore does not alter my findings.
21. Concerns have been raised that the proposal would represent an overall increase in harm to wildlife. However, the Council raises no such concerns and I see no reason to disagree.
22. Some representations have indicated that allowing this appeal would lead to other development occurring as a direct result. However, my findings are based upon the merits of this specific proposal and the particular circumstances of the case. Thus, it does not automatically follow that similar conclusions would apply to other proposals on or around the site.
23. It has been suggested that the proposal does not accord with the Battle Civil Parish Neighbourhood Plan 2019-2028 (BCPNP). The BCPNP was not cited in the Council's reasons for refusal, but I am mindful that its policies should be consistent with the wider development plan approach. I have found the proposal to accord with the wider plan policies and so the BCPNP does not provide a reason to reject the scheme.

Conditions

24. As the works have commenced, it is not necessary for me to impose the standard time limit condition. I have imposed a condition requiring the carrying out of the development in accordance with the approved plans in the interests of certainty.
25. As noted above, a condition to address the tree planting is also necessary to ensure the development does not detract from its surroundings.
26. Whilst I do not consider it necessary to seek a kerb in front of the existing access, a condition setting the proposed gates back 5.5m from the highway would contribute to the overall safety benefits of the scheme.

Conclusion

27. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Stewart Glassar

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing numbers:
Proposed Gates – 1061 - 16A
Proposed New Track – 1061 - 14F
- 2) Notwithstanding condition 1, the gates hereby permitted shall be positioned at least 5.5m from the edge of the highway.
- 3) Within 12 months of the date of this decision a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include the quantity, size, species, and positions of all trees to be planted, how they will be planted and protected, together with an implementation programme. The tree planting shall be carried out in accordance with the approved details.
- 4) Any trees or plants which within a period of 5 years from their date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

END