



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: 4th October 2024

Appeal Ref: APP/M2270/W/23/3328013

Lamberhurst Winery, Lamberhurst Down, Lamberhurst, Kent TN3 8ER

- 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 Gold Property Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 22/03024/FULL.
 - The development proposed is 7 affordable homes, with associated access, parking, landscaping and a pedestrian link path to Town Hill.
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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 has become 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 of ways to further the purpose of conserving and enhancing the natural beauty of the AONB and HWNL.
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 (AONB Management Plan) is therefore a material consideration, as its objectives align with those in the Framework.
5. The Council have brought my attention to policies within the emerging Tunbridge Wells Borough Local Plan which is currently at examination. Although the Council have provided a number of emerging policies, these were not

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

referred to in the reasons for refusal and their relevance to this proposal has not been explained within the Council's case. As I have no evidence as to whether there are outstanding objections to the policies put to me, or how they might relate to the proposal, I can attach no more than limited weight to the emerging policies.

6. On 30 July 2024, a consultation was started on proposed changes to the National Planning Policy Framework (the Framework), alongside the publication of a Written Ministerial Statement (WMS) 'Building the homes we need'. Both main parties were invited to comment on the content of the proposed changes to the Framework and on the WMS. Responses were received from both main parties, and I have taken them into consideration in my decision.

Main Issue

7. The main issue is 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.

Reasons

8. Lamberhurst Vineyard is a working vineyard located at the western edge of Lamberhurst on a prominent hillside site running downhill from Furnace Lane towards the River Teise. Several Public Rights of Way (PRoW) cross the vineyard. The appeal site comprises an L shaped parcel of relatively level land bound by Furnace Lane and the vehicular access to the vineyard. It partially wraps around the rear of three dwellings adjacent to the site on Furnace Lane.
9. 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 Core Policy 4 of the Tunbridge Wells Borough Local Development Framework, Core Strategy, Development Plan Document June 2010 (Core Strategy) and Policy L2 of the Lamberhurst Neighbourhood Development Plan 2021 (LNDP).
10. The appeal proposal is for seven dwellings for social rent, along with parking, access, landscaping and a pedestrian and cycle path which would link the site to Town Hill.
11. Furnace Lane runs along a ridge. There is linear residential development to the south side of the road. There is some, albeit less, residential development to the north side, but the presence of the vineyard means that there are far reaching views from Furnace Lane over the Teise valley and wider HWNL. There are medium to long distance views of the appeal site from the valley sides to the north and closer views from Furnace Lane. Even though the land is cultivated, the openness of the appeal site and its undeveloped nature make a positive contribution to the landscape, scenic and natural beauty of the AONB and HWNL. The edge of village location, outside the limits of built development, signifies a transitional point where the village gives way to the surrounding countryside.

12. The appellants Landscape and Visual Impact Assessment (LVIA) assessed various representative viewpoints and was updated with wire-line verified views as part of the appeal submission. The wire-line views correspond with those views where the impact is judged as 'significant'.
13. Views 16, 17 and 18 are taken from Furnace Lane and Furnace Avenue. From view 16, taken from immediately opposite the site on Furnace Lane, the current sense of openness and views across the HWNL would be harmed as a result of the significant bulk of the two-storey detached house located next to the vehicular access to the site, along with the two-storey terrace adjacent. The positioning of the buildings either side of the play area would enable some views between them, but this would offer a small degree of mitigation. I therefore consider the assessment in the LVIA, that the magnitude of this impact would be 'moderate to major adverse', to be accurate. This is likely to reduce to 'moderate adverse/significant' after mitigation planting becomes established in 5 to 10 years.
14. In view 17, the view of the landscape from Furnace Avenue allows views over the countryside to the ridge on the other side of the Teise Valley. A significant part of this view would be obscured as a result of the two-storey terrace in the appeal proposal, reducing the openness and sense of connection to the wider HWNL. Again, I consider the LVIA's assessment of the magnitude of impact as 'moderate adverse', reducing to 'moderate adverse/significant' after mitigation planting establishment, to be accurate.
15. View 18 looks east along Furnace Lane towards Lamberhurst Down. Whilst there is residential development to the other side of the road, in this view the appeal site provides a significant contribution to the sense of openness to the north side of Furnace Lane and the HWNL. I consider the LVIA's assessment of this impact as 'moderate adverse' on completion, reducing to 'slight adverse/not significant' following planting establishment, to be accurate.
16. The mitigation planting referred to in the LVIA is indicatively shown on the drawings as some additional trees and native hedgerows within the appeal site. The landscaping and planting would be very unlikely to have sufficiently matured, as the LVIA acknowledges, for several years following planting, for there to be any degree of mitigation. Even once the landscaping has matured and softened the visual effect of the proposal, the effect of the scheme on the loss of openness and wider views across the HWNL from Furnace Lane would remain.
17. Views 8, 9, 10 and 11 are taken from points on the PRow across the Teise valley towards the appeal site. The proposal would be visible, although given the long-distance views it would be read in the context of other buildings to Furnace Lane along with significant tree cover and I do not find significant harm in this respect.
18. The small scale of the proposal, along with its linear form, would broadly reflect the pattern and grain of development locally, in line with the aims of Objective S2 of the AONB Management Plan, which aims to protect the historic pattern and character of settlements and is supportive of new homes being delivered through small scale development.
19. Nevertheless, the encroachment of built form on a prominent ridgetop site would appear as a visually intrusive extension into the countryside that would

be particularly notable in views from the south and west. Although the visual impacts of the proposal would be localised, nonetheless they would neither conserve nor enhance the landscape, scenic and natural beauty of the AONB and HWNL. As such, the proposal 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 Core Strategy Core Policies 4 and 14, Tunbridge Wells Borough Local Plan 2006 (Local Plan) Policies EN1 and EN25, LNDP Policies L2 and L3 and Framework paragraph 182.

20. The Framework gives great weight to conserving and enhancing landscape and scenic beauty in AONBs, as they have the highest status of protection in relation to these issues. I therefore attach great weight to the harm to the AONB and HWNL.

Other Matters

21. Although not referenced in the reason for refusal, the Council states that the proposal would be contrary to Local Plan Policy LBD1 which seeks to restrict development to within the Limits to Built Development boundaries of existing settlements, along with Local Plan Policy H5 which restricts the degree of development within the settlement boundaries. LNDP Policy H1 is referred to in the reason for refusal. It similarly restricts development to within the settlement boundary unless the proposal is, amongst other things, a rural exceptions scheme. These policies are not directly relevant to the issues in dispute given that the parties agree that the appeal site is considered to be a rural exception site, where there are specific development plan policies which set out the circumstances where affordable housing would be appropriate outside settlement boundaries.
22. I have had regard to other matters raised by interested parties including, but not limited to, the effect of the proposals on habitat, biodiversity, loss of privacy, light and overshadowing, accessibility, traffic and highways, local infrastructure, air pollution and local climate. As I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Planning Balance and Conclusion

23. The provision of seven units of affordable housing on a rural exception site, including single storey accessible housing, would contribute to meeting affordable housing need within the Borough and this is a benefit to which I attribute considerable weight. There would be temporary and ongoing economic benefits from the development, through construction and use of local services by future residents. Given the small scale of the proposal, I attach those benefits limited weight.
24. Amongst other things, the WMS specifically aims to deliver more affordable homes, proposing changes to national policy to support the delivery of affordable homes, particularly in the social rented sector. I have had due regard to the court judgment referred to by the appellant and I attach moderate weight to the specific support for the provision of affordable homes as set out in the WMS.

25. There would also be biodiversity benefits arising from the introduction of new planting and native species. There would be improved pedestrian and cycle connectivity to Town Hill, which would potentially benefit current as well as future residents and improve sustainable transport options. I attach these benefits moderate weight. Although the appellant submits that the design of the scheme would be a planning benefit in itself, the expectation of local and national planning policy is that development schemes should be well designed; as such this would not constitute a planning benefit.
26. The Council has confirmed that as of April 2023, they could demonstrate a 4.29-year supply of deliverable housing sites pursuant to paragraph 226 of the Framework. As such, the appeal proposal does not benefit from the presumption in favour of sustainable development as set out by paragraph 11(d) of the Framework. In any event, 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.
27. The harm I have identified to the HWNL draws the proposal into conflict with the development plan read as a whole. The material considerations in this case, including the Framework and the WMS, 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