



Appeal Decision

Site visit made on 7 October 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2024

Appeal Ref: APP/M2270/W/24/3339009

Plot 9-11, Land off Redwings Lane, Pembury, Kent TN2 4AD

- 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 Frankie Dunphy against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 23/01668/FULL.
 - The development proposed is change of use of land for private equestrian activities and siting of a lodge for office and site management activities.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In 2023, 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. Section 245 of the Levelling Up and Regeneration Act 2023 (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of National Landscapes, 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"¹. 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 HWNL.
4. After the planning application was refused and before the submission of the appeal, the Pembury Neighbourhood Plan 2020-2038 (PNP) was made in October 2023. I have been directed to the relevant policies.
5. The Council has brought my attention to policies within the emerging Tunbridge Wells Borough Local Plan which is currently at examination. Although the Council has provided a number of emerging policies, these were not 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

¹ AONB and National Landscapes are interchangeable terms.

they might relate to the proposal, I can attach no more than limited weight to them.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, including any effect on openness having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- 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 HWNL;
- the effect of the proposal on ground water, surface water and drainage; and,
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the 'very special circumstances' required to justify the proposal.

Reasons

Whether Inappropriate Development

7. The appeal site comprises a parcel of land located centrally within a large field bounded by Redwings Lane and Maidstone Road, A228. The land has been in agricultural use though is not currently cultivated. It runs from a belt of trees and vegetation bordering the A228 downhill towards Redwings Lane, beyond which is a reservoir before the land rises to the north. The land is very open, with far reaching views across the valley to the north and west. The vehicular access to the field off the single-track Redwings Lane is located adjacent to the appeal site. A Public Right of Way (PRoW) runs along the ridge next to the belt of trees and the outbuildings of another farm.
8. It is proposed to use the site for equestrian purposes. An access track would be provided from the nearby field access, along with parking for six vehicles. Two new single storey buildings are proposed, labelled on the drawings as a stable and a lodge. The appellant indicates the lodge would be for site management purposes. The submitted drawings, however, show the lodge laid out as a two-bedroom single storey dwelling.
9. The Framework identifies that the construction of new buildings in the Green Belt is inappropriate development. However, paragraph 154 sets out several exceptions to this. Paragraph 154(b) allows the provision of appropriate facilities (in connection with the existing use of land or change of use) for, amongst other things, outdoor sport and outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Policy MGB1 of the Tunbridge Wells Borough Local Plan 2006 (Local Plan) and Core Policy 2 of the Tunbridge Wells Borough Core Strategy Development Plan Document 2010 (Core Strategy) broadly reflect the approach of the Framework.
10. The facilities proposed in connection with the change of use to be considered under 154(b) would be the stable building along with the single storey lodge

laid out as a two-bedroom dwelling. The appellant states the lodge would be for site management purposes and would not be used as a dwelling, yet the drawings clearly show two bedrooms, a living area, kitchen and bathroom. The evidence provided does not indicate why a two bedroomed dwelling would be required as an appropriate facility in connection with the equestrian use. On the basis of the evidence submitted with the appeal, the proposed lodge would not be an appropriate facility in connection with the change of use.

11. Openness is an essential characteristic of the Green Belt; it can be perceived both spatially and visually. The footprint of the proposed buildings in relation to the overall size of the appeal site would be significant. Given that the land is currently undeveloped, the proposed buildings would significantly reduce the spatial openness of the Green Belt in this location.
12. In visual terms, I accept that visibility from Redwings Lane itself and from the A228 would be limited due to the extent of trees and vegetation lining both roads. Nevertheless, given their prominent central location within the field, the proposed buildings and parking area would be visible from the main vehicular access from Redwings Lane and from the PRow running along the ridge. As such, there would also be a harmful effect upon the visual openness of the Green Belt as a result of the proposed buildings.
13. The Framework describes the Green Belt as serving five purposes. The appellant states that the proposal would meet paragraph 143(c) in that it would assist in safeguarding the countryside from encroachment. The effect of development as encroachment on the countryside may be in the form of loss of openness or intrusion, and through the loss of openness, there can be an intrusion or encroachment into the countryside. The proposal would have a greater impact on the openness of the Green Belt, result in an encroachment onto undeveloped land and therefore would be contrary to the purpose of including land within it.
14. The proposed development, when judged against the criteria of paragraph 154 of the Framework, Policy MGB1 of the Local Plan and Core Policy 2 of the Core Strategy is therefore inappropriate development in the Green Belt.
15. The Council has also referred to Local Plan Policy LBD1 in its reason for refusal. This policy relates to the limits to built development and does not directly reference the Green Belt, as such I find that it is not determinative on this matter.

Character and Appearance

16. Planning Practice Guidance (PPG) refers to the relevance of management plans for National Landscapes 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 areas. In this case, there is a management plan, The High Weald AONB Management Plan 2019-2024 (AONB Management Plan), which is therefore a material consideration. The AONB Management Plan finds that the HWNL in this area is characterised by a historic irregular field pattern, surrounded by hedges and areas of dense woodland. Its outstanding beauty derives from its essentially rural and human scale character, high proportion of natural surfaces, tranquillity and dark skies.

17. There is sporadic development in the area around Redwings Lane and the A228. Notably, the barn and other outbuildings at Obury Farm are located between the A228 and the appeal site, along with converted farm buildings at Spring Grove Farm further along Redwings Lane. Notwithstanding this, the appeal site is a small part of a much larger open field that is free from built development. The open undeveloped land of the appeal site contributes positively to the character and appearance of the HWNL. Although I acknowledge that equestrian uses are supported by the Framework in certain circumstances, in this location the introduction of the proposed buildings and parking would be a prominent and intrusive feature in an open, rural landscape. The extent of built development and hardstanding would have an urbanising effect on the appeal site and would potentially introduce clutter from domestic paraphernalia on the site given the proposed layout of the lodge.
18. The proposed development would be highly visible from the vehicular entrance from Redwings Lane, as well as from the PRoW running along the ridge, which has extensive views across the field and beyond the reservoir. This view is specifically identified by Policy P11 of the PNP as a locally significant view which should be protected.
19. The proposed mitigation in the form of hedgerow planting around the appeal site, whilst potentially providing some screening once mature, would also have the effect of enclosing the appeal site as a small area within a larger open field. This would not respect or reflect the landscape characteristic of the HWNL where hedgerows would generally be located along field boundaries.
20. Whilst the appellant has drawn my attention to the presence of other buildings in the area, I have not been provided with any specific details or context of where planning permission has been granted for other similar developments to the appeal scheme. In any event, the appeal scheme is necessarily considered on its own merits.
21. Taken together, the buildings and hardstanding would harm the rural character and appearance of the area. The proposal would neither conserve nor enhance the landscape, scenic and natural beauty of the 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 HWNL, as expressed in Core Strategy Core Policies 4 and 14, Local Plan Policies EN1 and EN25, along with Policy P11 of the PNP insofar as it seeks to protect locally significant views. It would also fail to comply with Local Plan Policy LBD1, which cross references proposals outside the limits to built development with other relevant policies in the Local Plan.
22. The Council has also referred to Core Strategy Core Policy 6 in its reason for refusal. This policy relates to housing provision and is not therefore relevant to the character and appearance of the area. As such, it is not determinative on this matter.

Ground Water

23. The appeal site is located close to Pembury's reservoir. The objections raised by both the Environment Agency and South East Water indicate that the proposal would lead to a significant risk of contamination to the ground water

and surface water that feed into the reservoir, and that there is no mains sewer in this location for the proposed lodge to connect with. No substantive evidence was submitted with the appeal to demonstrate that any assessment of the contamination risk has been undertaken, or how it could effectively be mitigated. Similarly there are no details with the appeal of how the drainage to the lodge would be dealt with, beyond the appellant in the planning application form confirming their intention to connect to a mains sewer.

24. I note the view of the appellant that planning conditions could be used to secure appropriate details of drainage and treatment of waste from the proposed use, along with conditions stipulating that no manure or waste materials shall be burned and to require details of a sustainable urban drainage scheme. However, given the degree of uncertainty as to the magnitude of risk to groundwater and surface water, I do not consider the matter can reasonably be dealt with by planning condition.
25. My attention has been drawn to an extract of consultation responses provided by the Environment Agency and South East Water in relation to another planning application. There is no context to explain the response and how it specifically relates to the appeal proposal and as such I attribute it little weight in my assessment of the appeal scheme.
26. I have also been referred to two examples of Screening Opinions made under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for similar development for equestrian use off Redwings Lane, where it was determined that the proposal was not Environmental Impact Assessment (EIA) development. I also note that a Screening Opinion has been issued in relation to the appeal scheme itself, also confirming that it would not be EIA development. Nevertheless, this does not mean that it is accepted that the proposals would have no effects on the local environment that would not need to be assessed against the development plan.
27. It has therefore not been demonstrated that the proposal would not result in unacceptable contamination to water that drains into the reservoir. Without these matters being resolved or having sufficient information to show they are capable of being resolved, the development conflicts with Local Plan Policies EN1 and EN16, Core Strategy Core Policy 5 and PNP Policy P5. Taken together and amongst other things, these policies require the proposed use to be compatible with neighbouring uses and ensure that there would be no unacceptable effect upon the quality of groundwater and no adverse impact on the water quality within, or water supply to, lakes, ponds, wetlands and other watercourses.

Green Belt Balance

28. I have found that the proposal would be inappropriate development in the Green Belt, a matter to which the Framework requires me to attach substantial weight. 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 Policies 4 and 14 of the Core Strategy and Local Plan Policy EN25. I therefore attach great weight to the harm I have identified to the landscape, scenic and natural beauty of the HWNL. It has also not been demonstrated that the proposal would not result in unacceptable contamination to water that drains into the reservoir, to which I attach moderate weight.

29. I acknowledge that equestrian uses can sometimes be classed as not inappropriate development in the Green Belt and that they are a commonly occurring use in the countryside. However, for the reasons set out above, the proposal would be inappropriate development within the Green Belt. I also acknowledge that the scheme would assist in the development and diversification of a land-based rural business, as supported by paragraph 88 of the Framework. I attribute this benefit moderate weight.
30. The Council do not consider that the proposals would be harmful to the living conditions of nearby residents or to highway safety and the detailed design and materials of the buildings would be appropriate. The evidence does not lead me to disagree with these conclusions. The absence of harm in these respects is a neutral factor which does not weigh for or against the proposal.
31. Therefore, the other considerations are not matters that clearly outweigh the harm arising from inappropriateness, including the harm to the character and appearance of the countryside with particular regard to the HWNL, and harm to groundwater and surface water. Consequently, the 'very special circumstances' necessary to justify the development do not exist.

Conclusion

32. For the reasons set out above, the proposal would conflict with the development plan when 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.
33. For the reasons given above the appeal should be dismissed.

L Francis

INSPECTOR