



Appeal Decisions

Site visit made on 17 September 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2024

Appeal A Ref: APP/U1430/W/23/3329602

Linkway, Vicarage Road, Burwash Common, Etchingham, East Sussex TN19 7LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
- The appeal is made by Mr Edward Mather (Colony Developments Ltd) against the decision of Rother District Council.
- The application Ref is RR/2023/569/PIP.
- The development proposed is the demolition of Linkway house & construction of 2-5 net additional houses.

Appeal B Ref: APP/U1430/W/24/3347618

Linkway, Vicarage Road, Burwash Common, East Sussex TN19 7LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Edward Mather (Colony Developments Ltd) against the decision of Rother District Council.
 - The application Ref is RR/2024/745/PIP.
 - The development proposed is the construction of 1-4 dwellings.
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above there are two appeals on this site. The development proposed under Appeal A seeks permission for between 2 and 5 net additional dwellings and the redevelopment of Linkway. The site area for Appeal B differs from Appeal A. The Appeal B scheme would retain Linkway whilst also delivering up to 4 dwellings. I have considered each proposal on its own merits. However, to avoid duplication I have dealt with the two schemes together where appropriate and unless indicated otherwise.
4. The proposals are for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable and the second (technical details

consent') stage is when the detailed development proposals are assessed. Both appeals relate to the first of these two stages.

5. The PPG also states that the scope of the considerations for permission in principle is limited to location, land use, and the amount of development¹. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeals accordingly.
6. For Appeal A, I have been provided with a site plan indicating how 6 dwellings, including the redevelopment of Linkway, could be delivered. I have also been provided with a site plan for Appeal B, which shows one way in which 4 dwellings could be laid out on the site. Given that the detailed design of the schemes is not a matter that is for consideration at this stage, I have treated the site plans as illustrative. The Appeal B site plan was not before the Council when it determined the application. However, the Council has had the opportunity to comment on the plan as part of the appeal process. Consequently, and given that the plan is illustrative, no prejudice is caused in me having regard to it in my consideration of the appeal.
7. On 22 November 2023, all areas in England and Wales designated as an Area of Outstanding Natural Beauty (AONB) were retitled as National Landscapes (NL). The legal designation and policy status of the landscapes are, however, unchanged. The references to AONBs in this decision are to reflect the wording in the National Planning Policy Framework (the Framework) and the development plan.
8. On 30 July 2024, the Government published a consultation on proposed reforms to the Framework. A Written Ministerial Statement (WMS) entitled "Building the homes we need" was also published. Whilst a direction of travel has been outlined within the WMS, the changes to the Framework can only carry limited weight at this stage, given that no final document has been published. The parties have had an opportunity to comment on the implications of the publications as part of the Appeal B process, and I have taken any comments made into account. Because the main issue is the same across both appeals, it has not been necessary to seek additional comments in relation to the Appeal A scheme.
9. The Council has consulted on the emerging Rother Local Plan 2024-2029 under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The emerging plan could make changes to defined settlement boundaries and the spatial strategy for housing. However, it is at an early stage of preparation and is subject to change. This limits the weight that can be afforded to it. Consequently, I have considered the appeal against the policies in the statutory development plan.

Main Issue

10. The main issue is whether the sites are suitable for residential development, having regard to their location, land use, and the amount of development proposed, with consideration to (a) the spatial strategy set out in the development plan and accessibility to services and facilities, and (b) the

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

effect of the developments on the character and appearance of the area including the High Weald NL.

Reasons

(a) Spatial strategy

11. Policy OSS1 of the Rother Local Plan Core Strategy (Adopted 29 September 2014) (CS) sets out that the focus of new development will be at larger settlements, with the more limited growth of villages that contain a range of services, and small-scale infill and redevelopment opportunities to meet local needs in other villages. Policy RA1 of the CS recognises that small-scale windfall sites will contribute towards rural housing needs in villages, in addition to allocated sites and existing commitments.
12. Whilst the Appeal A scheme would enable the redevelopment of Linkway, which is within the development boundary of Burwash Common, both appeal schemes propose to deliver housing outside of the settlement boundary. In such locations, development is generally not considered to be acceptable under the terms of Policies OSS2 of the CS and DIM2 of the Development and Site Allocations Local Plan (Adopted 16 December 2019) (DASA) other than in certain circumstances. The proposals would not be supported by specific other policies that support development in the countryside, including Policies RA2 and RA3 of the CS. Therefore, notwithstanding the proximity of the sites to the village, and even if I were to conclude the proposals had the character of infill developments, there would be conflict with the spatial strategy set out in the development plan.
13. There are some services and facilities within walking distance in Burwash Common, including a shop, café, pavilion and recreation ground, and a church. The proposals could be designed to improve connectivity to these destinations for pedestrians and cyclists at the technical details consent stage, if the appeal were to be allowed. However, the nearest service village of Burwash, which has additional facilities, including a primary school, post office, and GP surgery is located over 2 miles away on the A265. For a wider range of services, future occupants of the developments would need to head even further afield to higher order settlements, including Uckfield.
14. There is no consistent footpath or a cycleway along the A265 between the sites and these other settlements, and there is an absence of consistent street lighting. Consequently, and due to the speed and volume of traffic on the road, it is unlikely that future occupants of the developments would choose to travel regularly on foot, or by pedal or electric bicycle, particularly during hours of darkness or in inclement weather. Moreover, alternative leisure routes are long and circuitous and are not conducive to providing regular, convenient access to services.
15. There is a bus stop near to the appeal site, from which buses would provide access to Burwash, Heathfield, Uckfield, and to Etchington railway station for onward services by rail. The journey times would be short. The evidence also refers to an on-demand bus service. Therefore, there is some connectivity by sustainable transport options. However, the frequency of scheduled bus services is reduced on Saturdays and there are no scheduled services on

Sundays. Therefore, in all reasonable likelihood, future occupants would be reliant on the private car to meet their full daily needs.

16. The carbon emissions of car travel could be reduced as electric vehicles become more popular, and if such vehicles were used by future occupants. However, in all reasonable likelihood, the emissions would be greater than those associated with public transport, walking and cycling. Moreover, the combustion engine is likely to be a feature of travel for some time. Therefore, even if the number of car movements would be similar to those that could arise from existing and permitted uses, the reliance on the private car points to the sites being unsuitably located for the residential developments proposed.
17. Overall, whilst there is some connectivity by bus, the sites do not have the character of being accessible via a range of transport options as is required by Policy RA1 of the CS, and the developments would not meet the Framework's expectation that priority should be given first to pedestrian and cycle movements. Consequently, the proposals would undermine the spatial strategy for housing set out in the development plan which is to direct development towards existing settlements with the widest range of services and facilities, other than in certain circumstances which do not apply here. Therefore, there would be conflict with Policies OSS1, OSS2, OSS3, RA1, RA2, and RA3 of the CS, and Policy DIM2 of the DASA and the sites would not be suitably located for residential development as a matter of principle.
18. I have been referred to Policy OVE1 of the DASA which sets out the criteria for considering development proposals in settlements with an outstanding CS housing requirement where there is no neighbourhood plan for the settlement in force. However, because there is a neighbourhood plan in force for Burwash Common, I do not find Policy OVE1 to be determinative to my decision. Moreover, there would be conflict with Policy OVE1 in any event because the proposals do not accord with the spatial strategy.

(b) Character and appearance

19. The prevailing pattern of development in Burwash Common comprises frontage development along Vicarage Road and Vicarage Lane. Due to their lightly trafficked nature, narrow width, and steep gradient, these roads have a notably peaceful and tranquil quality. This contrasts significantly with the busy A265 which runs through the valley to the south. On my site visit, I observed that some dwellings were under construction on the north side of the A265, near to other buildings at the Ticehunt Hill junction. Both appeal sites are located within the High Weald NL, which is characterised by its rolling pastures, woodlands, and dispersed settlements.
20. The field to the south and west of Linkway slopes steeply from the A265 towards The Martletts. Whilst parts of some existing dwellings in the village are visible from the A265 and Ticehunt Hill, they are generally viewed from a distance given the intervening field that forms part of the appeal sites. Overall, Burwash Common is generally well-screened behind the ridge, and it has a discrete presence in the wider landscape. The absence of buildings on a large part of the appeal sites allows them to make a positive contribution to the rural landscape setting of Burwash Common.

21. Other than glimpses through the tall boundary hedging, the appeal sites are largely screened from views from the footpath to the east of Linkway. However, owing to the topography, views across the site and towards the rolling hills to the north can be gained from properties on The Martletts. Gaps in the boundary hedging also allow for views over the site from the footpath along the western edge of the field. The undeveloped nature of the field provides an attractive, scenic context for residents and users of the footpath, enriching their ability to appreciate the natural beauty of the NL.
22. The redevelopment of Linkway would not encroach significantly onto undeveloped land. However, the Appeal A scheme could also deliver housing on the upper slope of the field. The Indicative Landscape Statement submitted with the appeal considers these dwellings would be discretely located within the existing frame of trees. However, even if the new dwellings were to be single-storey and built at low density, the land profile would inhibit the effectiveness of the existing and proposed landscape screening, exposing the dwellings to public views.
23. The size and shape of the Appeal B site would allow for frontage development along the A265. The illustrative site plan for Appeal B shows that any dwellings could feasibly be setback from the road behind enhanced roadside hedging. However, in any potential iteration of the development, the introduction of up to 4 dwellings along the southern side of the A265 would significantly elongate the built form of the village onto an undeveloped field. It would also depart from the established pattern of development within the village, which is focused along the narrow, quiet streets of Vicarage Road and Vicarage Lane.
24. Unlike existing properties within Burwash Common, which are wholly or partly tucked behind the ridgeline, the proposed dwellings on both appeal schemes would be unduly prominent in the foreground of views from The Martletts and the footpath to the west of the field, due to the topography. Moreover, at any potential scale and layout, the Appeal A dwellings on the upper slope would be harmfully exposed in views from the A265 and Ticehunt Hill. Whilst landscaping could partly conceal any buildings built along the road frontage in both appeal schemes, the roofs and upper parts of these properties would be visible over hedging due to the sloping site. Moreover, any landscape screening would be less effective during the autumn and winter months when there are less leaves on the trees.
25. I acknowledge that the dwellings under construction on the northern side of the A265 have an urbanising influence on the road frontage opposite the appeal sites. I do not have sufficient information before me to establish the full circumstances that led to that development being accepted. However, the appeal proposals would be observed cumulatively with the development opposite, exacerbating the harm caused by the loss of green, undeveloped space on the appeal sites. Consequently, whilst these dwellings would be physically close to Burwash Common, they would cause harmful deleterious effects to the open character of the countryside and the rural landscape setting of the village.
26. Owing to their small-scale, the appeal schemes are not precluded as a matter of principle in the NL by Policy DEN2 of the DASA and the

Framework. Indeed, I have been provided with an appeal decision in the nearby settlement of Burwash² where housing has been permitted in the designated landscape.

27. However, the additional volume of buildings and associated domestic paraphernalia on land that is largely absent of built form would undoubtedly erode the contribution the appeal sites make to the rural landscape character of the NL. The loss of open space in the foreground of views would detract from the ability of local residents, and users of the footpath to the west of the site, from appreciating the scenic quality of the wider NL from elevated vantage points. This would result in harm to the NL, albeit at a moderate and localised level.
28. In coming to this view, I have had regard to the planning permission for a dog day care facility with an altered access from Vicarage Road. I have not been provided with sufficient information about the facility to be certain about its details. However, even if it would comprise buildings and hardstanding, there is no substantive evidence to indicate it would be comparable in nature and scale to the dwellings proposed. Therefore, in all reasonable likelihood, the dog day care facility would be less harmful to local character than the schemes before me, and I attach limited weight to it in my consideration of the appeals.
29. Overall, I conclude that both the Appeal A and the Appeal B schemes would cause harm to the character and appearance of the area, including the High Weald NL. Therefore, the proposals would conflict with Policy EN1 of the CS, Policy DEN2 of the DASA, Policy GP01 of the Burwash Neighbourhood Development Plan 2020-2028 (NP), and the Framework, which seek to conserve and enhance the landscape and scenic beauty in AONBs, and to ensure small-scale development in the AONB is in keeping with the landscape and settlement pattern.
30. There would also be conflict with Policies OSS3, OSS4 and RA3 of the CS, and Policy DEN1 of the DASA insofar as they expect proposals to account for the character, qualities, and setting of the landscape and area.
31. The conflict with these policies indicates that the sites are not suitably located for the amount of residential development proposed.

Other Matter

32. The evidence refers to a number of detailed design and technical matters, including highways issues, which would be considered at the technical consent stage if the appeals were to be allowed. Therefore, I have not considered these matters further.

Planning Balance

33. The proposals conflict with the aforementioned policies of the development plan, and with the development plan when read as a whole. Developments that conflict with the development plan should normally be refused unless material considerations indicate otherwise.

² Appeal Decision Ref. APP/U1430/W/21/3274795, dated 27 October 2022

34. However, the Council concedes that it cannot currently demonstrate a five-year supply of deliverable housing sites and the delivery of housing has fallen below 75% of the requirement over the previous three years. The evidence is inconsistent as to the precise housing land supply position. However, even if I were to accept the Council's position that the housing supply is 3.09 years, this amounts to a significant shortfall at a time when the WMS has reiterated the importance of housing delivery. In these circumstances, paragraph 11(d) of the Framework is engaged.
35. The development plan pre-dates the current version of the Framework. However, the Framework is clear that due weight should be given to existing policies in accordance with their degree of consistency with the Framework.
36. In seeking to restrict housing to within defined settlement boundaries, Policies OSS2 and DIM2 of the CS are not wholly aligned with the Framework, which states that rural housing should be located where it would enhance or maintain the vitality of rural communities. The Council concedes that the housing supply position indicates that development may need to be delivered beyond site allocations and existing settlements. I therefore attach limited weight to the conflict with these policies.
37. However, when read together, the overall spatial strategy and the approach to locating development is to focus housing growth at larger settlements with good accessibility to a range of services, facilities, and employment opportunities, whilst protecting the rural character of the countryside and the NL. This approach is broadly consistent with the aims of the Framework. Therefore, I see no reason to reduce the conflict with Policies OSS1, OSS3, OSS4, RA1, RA2, RA3, and EN1 of the CS, Policies DEN1 and DEN2 of the DASA, and Policy GP01 of the NP.
38. I have found moderate and localised harm would be caused to the landscape and scenic beauty of the NL by each appeal scheme. However, having regard to case law³, and in the specific context of the appeal sites, the harm would not, in and of itself, be significant enough to provide a clear reason for refusing the developments under the provisions of paragraph 11(d)(i) of the Framework. Notwithstanding the approach taken by the Inspector in deciding an appeal at St Margaret's at Cliffe⁴, it follows that I must therefore consider the appeals under the provisions of paragraph 11(d)(ii) of the Framework.
39. The delivery of additional homes would undoubtedly make a meaningful and positive contribution to local housing supply. Moreover, it is clear from the evidence that opportunities for planned growth around Burwash and Burwash Common are limited. Consequently, there is a need for small-scale windfall sites to come forward to deliver local housing needs, and this is likely to include sites in the NL. The delivery of housing carries significant weight in support of both appeal schemes in these circumstances.
40. The schemes could provide specialist housing for older people, for which there is a need and for which there would be support through Policy C05 of the CS and Policy DHG5 of the DASA. However, this would be a matter for consideration at the technical details consent stage. The Council has

³ *Monkhill Ltd V SSHCLG & Waverley Borough Council [2021] EWCA 74 Civ*

⁴ Appeal Decision Ref. APP/X2220/W/21/3278274, dated 13 January 2023.

expressed concerns about the suitability of the location in meeting the specific daily needs of older people. Therefore, there is a high degree of uncertainty as to whether specialist housing for older people would be secured. I therefore attach limited weight to this benefit at this stage.

41. The economic benefits arising from the proposals would include the creation of construction jobs and increased longer term spending in the local community. The proposals would therefore support local services and trades in Burwash Common and other nearby rural settlements. Indeed, the Framework notes that development in one village may support services in a nearby village. However, given the scale of the proposals the contributions would be reasonably modest, and these benefits carry moderate weight.
42. The Appeal A scheme would make some use of previously developed land (PDL) through the redevelopment of Linkway. Moreover, if implemented, the dog day care facility would change the character of part of the field. However, it is clear from the illustrative site plans that both proposals could extend onto a large area of undeveloped field, leading to encroachment into the open countryside. I therefore attach limited weight to the use of PDL in respect of the proposals before me.
43. Due to its site area, the Appeal A scheme would be required to contribute towards affordable housing provision. If this were to be secured at the technical details consent stage, it would provide a benefit that would carry positive weight. However, even if I could guarantee that affordable housing would be secured, the contribution would be small. Therefore, this benefit carries moderate weight in support of the Appeal A scheme.
44. Notwithstanding these benefits, I have found the appeal sites would be unsuitable locations for housing with poor access to services and facilities. This, along with the harm that would be caused to local character and the landscape and scenic beauty of the NL, would be contrary to the provisions of the Framework. Collectively, these adverse impacts carry great weight and they significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework, when taken as a whole, even allowing for the significant weight I attach to housing delivery. Therefore, the presumption in favour of sustainable development does not apply to either proposal.

Conclusion

45. Both appeal schemes A and B would conflict with the development plan and the material considerations, including the provisions of the Framework, do not indicate that the appeals should be decided other than in accordance with it. Therefore, the sites are not suitably located for the amount of residential development proposed.
46. I conclude that, for the reasons given above, Appeal A should be dismissed and Appeal B should be dismissed.

E Catchside

INSPECTOR