



Appeal Decision

Site visit made on 5 November 2024

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2024

Appeal Ref: APP/C1435/W/24/3339518

**Land at Sindens Nursery, Cross-in-Hand Road, Heathfield, East Sussex
TN21 0SH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Harry Simpson against the decision of Wealden District Council.
 - The application Ref is WD/2023/0747/O.
 - The development proposed is construction of 2 new dwellings and associated works with new access to Eastbourne Road (A267). Existing access to be stopped up.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline with only access to be determined at this stage. Matters relating to layout, scale, appearance, and landscaping were reserved for future consideration. Nevertheless, I have had regard to an indicative block plan which illustrated how two detached dwellings, each with 4 parking spaces and served by a shared driveway, could be provided on the site.
3. All Areas of Outstanding Natural Beauty (AONBs) have been renamed as National Landscapes. I therefore refer to the High Weald AONB as the High Weald National Landscape in this decision letter.

Main Issues

4. The main issues are whether the proposal would:
 - a) conserve or enhance the landscape and scenic beauty of the High Weald National Landscape:
 - b) prejudice highway safety.

Reasons

Landscape and scenic beauty

5. The appeal site is a triangular shaped, undeveloped field on the southern side of the A267 between the town of Heathfield and the village of Cross-in-Hand. It is outside any defined settlement boundary and therefore in the countryside for the purposes of planning policy. The site's roadside boundary comprises a mature and attractive beech hedge. Post and rail fences denote the other boundaries. To the west is the long garden of Sindens Nursery, a large, detached house. Beyond the south-eastern boundary is an extensive area of

Ancient Woodland which gives the site a significant sense of enclosure. The site's eastern end is a small area of degraded hard surfacing, separated from the grassed field by a post and rail fence and wooden field gate. The existing entrance into the whole site from the A267 is via a metal gate into this area. This access would be closed, and the proposal served by a new one further to the west.

6. Although there is sporadic development along this section of A267, the southern side of the road has a distinctly rural appearance. It is characterised by a wide highway verge, long lengths of uninterrupted mature hedgerows and a significant number of trees. To the west of Sindons Nursery, the only dwelling, are the playing fields and pitches of the rugby club. This open and sylvan appearance of the southern side of the A267 positively contributes to the character of the High Weald National Landscape. It differs from the low-density ribbon development that characterises the northern side of the road between Cross-in-Hand and Heathfield. It also has a different feel from the more developed approach to Heathfield east of the A265/A267 junction.
7. The site slopes gently downhill away from the road. However, in order to avoid any harm to the ancient woodland to the south, the dwellings would have to be located on the highest part of the site. In all probability their roofs would be visible to passing traffic. To provide a new access a short section of the beech hedge would be lost, and the wide wildlife verge would be disrupted by the insertion of a 4.5m wide strip of tarmac. This would be detrimental to the rural character of this side of the A267. The introduction of two dwellings, the associated hard surfacing of the shared driveway and car parking spaces, together with the domestication of the plots would result in the loss of a sensitive undeveloped area close to Ancient Woodland. This would be harmful to the character and appearance of the National Landscape even if the height of the dwellings was modest. Whilst additional planting could screen the development from public viewpoints, it is not the purpose of landscaping to hide otherwise unacceptable development.
8. Policy EN6 of the Wealden Local Plan 1998 (Local Plan) states that development within the AONB will only be permitted which preserves or enhances the natural beauty and character of the landscape. Spatial Planning Objective SPO1 of the Core Strategy¹ seeks the protection, enhancement and management of the District's landscapes particularly those which are nationally designated. These policies are consistent with the National Planning Policy Framework (the Framework) which states that great weight should be given to conserving and enhancing landscape and scenic beauty of AONBs which have the highest status of protection in relation to these issues. The Levelling Up and Regeneration Act 2023 amended the duty in respect of National Landscapes to seek to further the purpose of conserving and enhancing their natural beauty.
9. In addition, Policy GD2 of the Local Plan seeks to resist all development beyond settlement boundaries. The centre of Cross-in-Hand lies just over 500m to the west of the appeal site and whilst alternative boundaries for the village were considered in the 2015 draft local plan and again in 2019, neither of these were progressed. In any event, with both these options the appeal site lay in the countryside, beyond either of the suggested boundaries. Policy DC17 of the

¹ Wealden District (incorporating part of the South Downs National Park) Core Strategy Local Plan 2013

Local Plan specifically resists residential development in the countryside. There was no evidence to indicate that the proposal would meet any of the exceptions set out in the supporting text to that policy.

10. As no trees would be lost there would be no conflict with Policy EN13 of the Local Plan. Policy EN27 of the Local Plan and SPO13 of the Core Strategy address and layout and design; these are not matters which are relevant to my assessment of an outline proposal.
11. Nevertheless, for the above reasons, I conclude that the proposal would fail to preserve or enhance the landscape and scenic beauty of the High Weald National Landscape, contrary to the aforementioned policies and the provisions of the Framework to protect landscapes of national importance.

Highway safety

12. The A267 is a busy road. In May 2022 average traffic flows were observed to be 19,800 vehicles per day. The road is subject to a 40mph speed limit and the 85th percentile speeds were 37mph in the westbound direction and 42mph in the eastbound direction. Based on these observations the highway authority requires visibility splays which accord with the Design Manual for Roads and Bridges (DMRB). These would be 2.4m x 102m to the west and 2.4m x 123m to the east.
13. The proposed access would be on a bend in the road and where there is a slight downward gradient in the direction towards Heathfield. Nevertheless, the highway authority was satisfied that its requirements for visibility splays could be met, subject to trimming the vegetation within the highway verge. This normally takes place at least twice in each growing season. However, as part of an initiative to improve biodiversity, this particular verge has been designated as a wildlife verge which is managed by Heathfield and Waldron Parish Council. Whilst the appellant contests the justification for the designation, this verge is included in a legal agreement between the Parish and the County Council as highway authority and therefore a matter which I must take into account. The agreement states that cutting shall only be undertaken once a year and should not take place between 1 April and 31 August unless there is a safety issue.
14. To ensure safety there should be no obstructions between 0.6m-2.0m. Whilst the identified seed mix may only grow to a maximum height of 1m, there is nothing to prevent other common roadside plants also growing in the verge which may exceed this height. There is therefore a considerable risk that during the growing season vegetation would reach heights that would reduce the visibility. Obstruction to the visibility would be along a significant proportion of the splays, including immediately adjacent to the access. This would make it difficult and potentially dangerous to turn out of the proposed access in the summer months, especially for anyone wishing to turn right towards Heathfield. If it was therefore deemed necessary to cut the verge before the end of August to serve a new access, the purpose of its designation would be undermined, contrary to the clear aims of the agreement reached between the two authorities.
15. Whilst there was no evidence of crashes in the immediate vicinity of the site, collisions have been recorded at nearby junctions, and at one of the accesses to the west. I acknowledge that Manual for Streets (MfS) advocates the use of

judgement in considering the risks associated with obstacles to visibility and suggests that occasional ones may not have a significant impact on road safety. However, its advice is primarily focused on situations where traffic speeds and volumes are low. That is not the situation along this section of the A267. In these circumstances, I am not satisfied that the proposed access could be negotiated safely during the summer months without having to cut the verge. The existing access is unsuitable to serve two dwellings. Its occasional use as a field access cannot be compared with the proposal and its closure would not be a significant benefit.

16. I therefore conclude that the introduction of a new access to serve the proposal would be prejudicial to highway safety. There would be conflict with Spatial Planning Objectives SPO 12 which requires development to provide safe places, and SPO13 which seeks to improve the District's road safety record. The access would also fail to accord with Policy TR3 of the Local Plan which requires means of access to meet local highway authority standards. Neither would it comply with the Framework's requirement that safe and suitable access to the site can be achieved for all users.

Other Considerations

17. The Council is unable to demonstrate a five-year supply of deliverable housing sites (5YHLS), which currently stands at only 3.92 years, a significant shortfall. In these circumstances paragraph 11 d) of the Framework is engaged. In view of the Council's shortage of housing land, conflict with Policies GD2 and DC17 carries only limited weight in my assessment of the proposal.
18. The Council accepted that although some distance from local facilities and services future occupants would not be wholly reliant on private car trips and they could make use of services in Cross-in-Hand. I see no reason to disagree, so the proposal would not conflict with Spatial Planning Objectives SPO7 and SPO8 of the Core Strategy.
19. My attention has been drawn to housing development permitted by the Council on the north side of the A267. A pair of semi-detached properties between Gorse Cottages and Heath Cottages was considered to be an infill development which would conserve the character of the National Landscape. The development of four dwellings to the west of Tilsmore Wood was acceptable as it was closer to Heathfield and the loss of that particular field was deemed to cause a very low degree of harm to the National Landscape. It was therefore concluded, on balance, that the benefits of that proposal outweighed the identified harm.
20. Other schemes put to me were much closer to Cross-in-Hand. Consequently, none of these developments was directly comparable with the appeal scheme which I have determined on its individual merits having regard to the site's specific and unique characteristics. In doing so I have concluded that there would be harm to the High Weald National Landscape which provides a clear reason for refusing the development. There is therefore no need to refer to the test in paragraph 11 d) ii) of the Framework. Consequently, the presumption in favour of sustainable development does not apply.

Planning Balance and Conclusion

21. Given the shortage of housing supply, the provision of a two new dwellings would be a moderate benefit. However, the scheme would cause harm to the High Weald National Landscape and the proposed access would be prejudicial to highway safety. The benefits of the proposal would not outweigh these collective harms. The proposal would conflict with the development plan when considered as a whole.
22. There are no other considerations which indicate that the appeal should be determined other than in accordance with the development plan and for this reason, the appeal is dismissed.

S M Holden

INSPECTOR