



Appeal Decision

Site visit made on 12 November 2024

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

an Inspector appointed by the Secretary of State

Decision date: 18th November 2024

Appeal Ref: APP/U1430/W/24/3336599

Walsingham, 83 Shrub Lane, Burwash, East Sussex TN19 7BU

- 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 and Mrs Andrew Barrow against the decision of Rother District Council.
 - The application Ref is RR/2023/1943/P.
 - The development proposed is erection of detached dwelling, including new access and detached garage.
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Decision

1. The appeal is dismissed insofar as it relates to the garage.
2. The appeal is allowed insofar as it relates to the dwelling and access and outline planning permission is granted for erection of a detached dwelling including a new access at Walsingham, Shrub Lane, Burwash, East Sussex TN19 7BU in accordance with the application Ref: RR/2023/1943/P, subject to the conditions set out in the attached schedule.

Preliminary Matters

3. The application was in outline with access, layout and scale to be determined whilst leaving matters relating to appearance and landscaping reserved for future consideration. I have determined the appeal accordingly.
4. 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

5. The main issues are whether:
 - a) the site is suitable for a residential development having regard to local and national policies for the location of housing:
 - b) the proposal would conserve or enhance the character and appearance of the High Weald National Landscape.

Reasons

Suitability of site

6. The appeal site is currently used as the side garden to No 83, a recently constructed replacement dwelling. The site is enclosed by mature hedges on its eastern and southern boundaries which appear to have been in situ for

some considerable time. The roadside boundary is less well-maintained but nonetheless comprises a length of mature hedgerow, typical of that which can be found along rural roads. However, the hedge does not occupy the full width of the site as there is a field gate which provides a means of entry at a point close the eastern edge of the site.

7. The Council contend that this access is unauthorised and that there is no planning record of the site being included within the residential curtilage of No 83. Permission for an access into the site to facilitate construction of the replacement dwelling was dismissed at appeal in 2016. The Inspector made no reference to the presence of any field gate in his decision. However, the appellant suggested that the gate had been obscured by growth of the hedge and has been revealed by recent maintenance work. Photographic evidence from the 1970s shows the gate and supports the appellant's contention that the site was historically used as a small paddock for horses. Nonetheless, even though the site is enclosed and has effectively been incorporated into the garden of No 83 without planning permission, it is beyond the defined settlement boundary of Burwash. It is therefore in the countryside for the purposes of planning policy.
8. Policies OSS2 and OSS3 of the Rother Local Plan Core Strategy (Core Strategy) and Policy DIM2 of the Development and Site Allocations Local Plan (DASA) seek to focus new development within settlement boundaries and on allocated sites. Beyond these boundaries the need for a countryside location would have to be demonstrated. Policies RA2 and RA3 of the Core Strategy seek to strictly limit new development in the countryside to that which supports the local economy and only permit residential development in extremely limited circumstances. There is no evidence before me to suggest that the proposal would meet any of the requirements set out in criterion (iii) of Policy RA3.
9. Based on the above policies the site is not a suitable location for a new dwelling as it lies outside the settlement boundary of Burwash, contrary to the Council's spatial strategy.

Character and appearance

10. In common with the entire parish of Burwash the appeal site is in the High Weald National Landscape, an area protected for its landscape and scenic beauty. As a ridge top settlement, the village has some beautiful views across panoramic expanses of countryside across large distances. Shrub Lane is outside the central core of the village and is predominantly characterised by ribbon development with cul-de-sacs off it serving 20th century development. The settlement boundary has been drawn tightly around the existing development.
11. With the exception of the public open space at Strand Meadow, development on the northern side of Shrub Lane is almost continuous. By contrast development on its southern side is more sporadic and separated by large fields which provide glimpses of the surrounding landscape and wooded areas to the south. In this context what is now the side garden of No 83 is a small, enclosed area which relates more to the surrounding built form than the wider landscape and field pattern. The established boundaries on its eastern and southern sides emphasise the change of character between the built-up area of the village and the surrounding open, undeveloped fields.

12. The proposed dwelling would be sited parallel to the replacement dwelling. It would be similar in form with a gable feature closest to the existing dwelling. The upper floor would be served by dormer windows so the eastern flank wall would be of modest proportions beneath the triangular shape of the roof. The proposal would introduce additional built form into the protected landscape and represent a small encroachment of development into the countryside. However, as there are other clusters of development on the approach to the village from the north, the perception of change would be minimal. The intervening field would provide a significant gap between the new dwelling and existing development nearer the edge of the village. With the house set back from the street views of it for anyone travelling in a northerly direction along Shrub Lane would be minimal until almost opposite the site. I am therefore satisfied that the character and appearance of this part of the High Weald National Landscape would not be unduly harmed.
13. The proposed access would be immediately adjacent to the northern boundary with No 83. The layout plan indicates an intention to reinstate the hawthorn hedge in place of the existing field gate. The siting of the new access would enable a suitable planting scheme to be agreed across the remainder of the roadside boundary as part of the reserved matters. This would create an appropriate sense of enclosure and ensure effective integration with the existing hedge which bounds the adjacent undeveloped field. Any harm to the wider landscape of the High Weald would therefore be very limited.
14. In contrast, the proposed double garage would be a large and bulky building sited immediately adjacent to the roadside boundary. It would harmfully impede views towards the open countryside for anyone travelling out of the village along Shrub Lane. Its roof form would be highly visible when approaching the village from the north. The combined effects of its size, bulk and roof form would make it an unjustified and intrusive feature in the High Weald National Landscape.
15. Drawing the threads of my assessment together, I conclude that the proposed dwelling and access would cause very limited harm to the character and appearance of the High Weald National Landscape. However, the garage would cause unacceptable harm to the protected landscape.
16. Insofar as it relates to the garage the proposal would conflict with Policy EN1 of the Core Strategy, Policies DEN1 and DEN2 of the DASA, and Policy GP01 of the Burwash Neighbourhood Plan, all of which seek to protect the district's nationally designated landscapes. As National Landscapes have the highest status of protection in relation to conserving and enhancing the landscape and scenic beauty, this is a matter the Framework requires me to give great weight in my assessment of the proposal. This element of the scheme would also conflict with Policy OSS4 and EN3 of the Core Strategy, which require high quality design that respects its context. Although Policies GP03 and GP04 of the Burwash Neighbourhood Plan set out requirements for development within the settlement boundary, it follows that conflict with them also applies to this element of the scheme.
17. Insofar as it relates to the dwelling and the access, there would be conflict with the above policies which seek to protect the High Weald National Landscape. However, these elements of the scheme would comply with the above policies in respect of the design and their effects on the street scene.

Other Considerations

18. The Council has not provided evidence of the current position in respect of its five-year supply of deliverable housing sites. By reference to a recent appeal decision the appellant suggests that it is 2.79 years. The housing delivery test published in December 2023 gave the Council's performance as 41%. There is therefore a significant shortfall in housing provision. In these circumstances, paragraph 11 d) of the Framework is engaged. Conflict with development plan policies that seek to restrict development outside existing settlement boundaries cannot carry full weight.
19. I have been referred to various appeal decisions where Inspectors have permitted small scale developments within the High Weald National Landscape. I have had regard to these decisions in which the Inspectors undertook site-specific assessments and balanced any identified harm against the benefit of providing additional homes. I have taken the same approach with the appeal proposal.

Planning Balance

a) The garage

20. The provision of a garage as part of a residential scheme would be a benefit to the occupant of the house. However, without it there would be ample space to park vehicles on the site to ensure compliance with the development plan's requirements in respect of parking provision. A garage is therefore not a public benefit which carries any weight in my assessment.
21. I have concluded that the garage would be harmful to the High Weald National Landscape, a negative factor of great weight. This harm provides a clear reason for refusing this element of the development. There is no need to refer to the test in paragraph 11 d) ii) of the Framework and the presumption in favour of sustainable development does not apply.

b) The dwelling and access

22. The provision of a new home would be of both social and economic benefit. However, these benefits would be limited as the development is for a single dwelling. The proposed layout, access and scale of the proposed dwelling would be acceptable and comply with the development plan. This is a neutral factor in the balance. However, the very limited harm to the High Weald National Landscape would not provide a clear reason to dismiss the appeal. In these circumstances it is necessary to apply the test of paragraph 11 d) ii) of the Framework.
23. The scheme would conflict with the Council's spatial strategy, but in view of the significant shortfall of housing supply, this can carry only limited weight the balance. This, combined with the very limited harm to the protected landscape, leads me to conclude that the adverse impacts of the development would not significantly and demonstrably outweigh the benefit of providing an additional dwelling. The presumption in favour of sustainable development therefore applies to this element of the proposal. I therefore propose to issue a split decision allowing the dwelling and access, whilst refusing permission for the garage.

Conditions

24. The Council has suggested conditions in the event that the appeal was allowed. I have considered these in the light of the tests set out in paragraph 56 of the Framework and the advice of the Planning Practice Guidance (PPG). Amendments were required to reflect the fact that this appeal relates to an application for outline planning permission with appearance and landscaping reserved for future consideration. Other amendments were necessary to ensure clarity and precision.
25. In addition to conditions setting out the standard time limits associated with an outline permission, a plans condition is essential for the sake of clarity. Drawing No 2023-38-02 is specifically excluded from the list of approved plans as it relates to the garage. The conditions suggested by the Council in respect of materials and landscaping (including hard surfacing) are unnecessary as these matters will be addressed through the discharge of the reserved matters.
26. A condition requiring provision of foul and surface water drainage is justified to prevent pollution and reduce flood risk.
27. As permission for the garage has been refused, it will be necessary for details of parking areas and secure cycle storage to be agreed with the local planning authority and ensure that these are implemented prior to occupation.
28. The PPG advises that conditions restricting the future exercise of permitted development (PD) rights may not pass the test of reasonableness and necessity. However, as this site is within the High Weald National Landscape, a condition to remove rights in relation to extensions, roof alterations, separate curtilage buildings and boundary treatments is justified in the interests of conserving the appearance of the protected landscape.

Conclusion

29. The proposal as a whole would conflict with the development plan. The garage is unacceptable, and the other considerations do not indicate that a decision on that element of the scheme should be taken other than in accordance with the development plan.
30. However, the garage is physically and functionally severable from the remainder of the proposal, and the other considerations indicate that a decision in respect of the dwelling and access should be made other than in accordance with the development plan.
31. For these reasons the appeal should be dismissed in part and allowed in part.

S M Holden

INSPECTOR

Schedule of conditions

- 1) Details of the appearance and landscaping (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this decision.
- 3) The development hereby permitted, namely the detached dwelling and access, shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing No: 2023-38-01 dated June 2023
Drawing No: 2023-38-03 dated June 2023, only insofar as it shows the dwelling and access.
- 5) No development shall take place unless and until a scheme for the provision of foul and surface water drainage has been submitted to and approved in writing by the local planning authority. The dwelling shall not be occupied until the drainage works have been provided in accordance with the approved details.
- 6) The dwelling hereby permitted shall not be occupied until parking areas have been provided in accordance with details which have previously been submitted to and approved in writing by the local planning authority. The areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.
- 7) The dwelling hereby permitted shall not be occupied until secure covered cycle storage has been provided in accordance with details which have previously been submitted to and approved in writing by the local planning authority. The secure covered storage shall thereafter be retained for that use and shall not be used other than for the parking and storage of cycles.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that order with or without modification), no extensions or alterations as defined within classes A, B and E of Part 1 of the Schedule 2 of the order and no wall, fences or other means of enclosure as defined within Class A of Part 2 of the Schedule 2 of the order, shall be carried out to the dwelling hereby approved, otherwise than in accordance with a planning permission granted by the local planning authority.

End of Schedule of conditions