



Appeal Decision

Site visit made on 11 December 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th January 2025

Appeal Ref: APP/C1435/W/24/3341961

**Silver Birches, Street End Lane, Broad Oak, Heathfield, East Sussex
TN21 8TS**

- 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 and Mrs Wheele against the decision of Wealden District Council.
 - The application Ref is WD/2023/1927/F.
 - The development proposed is the development of 4No. dwellings - 2No. 4bed traditional style houses, and 2No. 3bed traditional style chalet.
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Decision

1. The appeal is allowed and planning permission is granted for the development of 4No. dwellings - 2No. 4bed traditional style houses, and 2No. 3bed traditional style chalet at Silver Birches, Street End Lane, Broad Oak, Heathfield, East Sussex TN21 8TS in accordance with the terms of the application, Ref WD/2023/1927/F, subject to the conditions in the attached schedule.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published by the Government in December 2024, after the determination of the planning application. I have taken it into account in determining this appeal.

Main Issues

3. The main issues are a) whether the proposed development is suitable for the site having regard to local and national policies for the location of housing; and b) the effect of the proposed development on the character and appearance of the area, with particular regard to the High Weald National Landscape.

Reasons

Location

4. Policies GD2 and DC17 of the Wealden Local Plan 1998 (LP) seek to control the location of new housing. By encouraging development close to existing services and facilities, this both reduces the need to travel by car and also protects the open countryside from inappropriate sporadic development. The Council acknowledges that its strategic housing policies and development boundaries are out of date but nonetheless there is broad consistency between the objectives of these policies and those in the Framework regarding the location of new housing.

5. The appeal site comprises undeveloped paddocks on the northern side of Street End Lane. Although there is existing housing either side of the site and on the opposite side of the road, in planning policy terms, the site is considered to be within the open countryside.
6. There are some very limited facilities and services within Broad Oak and there is a bus service which runs to Heathfield, which is the closest settlement with a reasonable range of services and facilities. As such, there are some options for sustainable transport but in reality, most occupiers of the houses would use a private car for most of their day-to-day needs.
7. This adverse effect would to some extent be limited given the site's proximity to Heathfield, thereby reducing the number of longer journeys future residents might need to take. Furthermore, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. As such, it would be unrealistic to expect occupiers of such sites to rely completely on walking, cycling or public transport journeys to access normal day-to-day services and facilities.
8. Nonetheless, the site is not in a location where the provision of new housing would be supported in principle by local policies. There is no evidence before me to indicate that the proposed development meets any particular policy exceptions or demonstrates that a countryside location is needed. Consequently, the proposal would conflict with the locational requirements of Policies GD2 and DC17 of the LP which, amongst other things, seek to control development in the open countryside.

Character and Appearance

9. The site lies within the High Weald National Landscape (HWNL) an area designated for its landscape and scenic beauty. Within such a designation, there is a statutory requirement to have regard to the purpose of conserving and enhancing the natural beauty of the area, and a national policy expectation to give great weight to conserving and enhancing its natural beauty. I have determined the appeal with these duties and responsibilities in mind.
10. The countryside surrounding the appeal site, particularly to the north, is generally characterised by undulating and verdant landscape, interspersed by tree belts and occasional buildings. On my visit, I observed how the site is well contained within this wider landscape, with well-defined boundaries and nearby built form. At present, the enclosed nature of the small paddock means the appeal site makes a limited contribution to this part of the HWNL.
11. Despite being more open to the north, this context results in the site having a closer connection to Street End Lane and the nearby dwellings than it shares with the more open expansive fields beyond. Indeed, being on lower lying ground, the proposed dwellings would not be as evident along Street End Lane as some of the more established areas of housing.
12. The development would be seen sited between and experienced in the context of other residential buildings along a similar build line. Therefore, whilst there would be a change in how the site is seen from Street End Lane, the proposed development would be well-related to existing houses and would be seen in combination with them. Given the modest scale of the overall scheme, the

spaced layout of the houses and a similar design to existing properties nearby, the proposal would not appear incongruous in this setting.

13. Additionally, the external materials of the houses and hard landscaping could be secured by condition to prevent any detrimental visual impact through inappropriate colours or surfacing materials. The site's frontage does not appear to be historic and within the prevailing context of Street End Lane the new access arrangements would not be unduly impactful.
14. The recent developments near the site have extended the more suburban characteristics of the village northwards. As such the historic settlement pattern has largely been eroded and the appeal site would have limited effect in this regard. Furthermore, the Officer Report acknowledges that the appeal scheme does not directly remove any medieval/historic field boundary or interrupt the field pattern. Given current levels of intervisibility between Street End Lane and the fields to the north of the site, any appreciation of the existing field patterns would not be noticeably lessened.
15. The tops of the proposed houses might be evident in some longer distance views from the north. However, the distances involved, in combination with the design, layout and scale of the development would be sufficient to ensure the proposal would not be detrimental to the appreciation of the landscape from these vantage points. Furthermore, the visual impact of the development would further improve over time as the materials and new landscaping mature and become assimilated into their surroundings.
16. Overall, I therefore find that the proposal would sympathetically and logically form a part of Street End Lane and as a result, would not have a transformative effect but complement surrounding uses that currently exist in the immediate vicinity of the site. Furthermore, given the limited scale of development and that the activity associated with the appeal scheme would be minimal in nature, it would not harm the tranquillity of the HWNL.
17. I conclude on this issue that the development would not have an adverse effect on the character and appearance of the area, and it would not be contrary to the statutory purpose to conserve and enhance the natural beauty of the HWNL.
18. For the above reasons, the proposed development would not conflict with Policies EN6 and EN27 of the LP and Spatial Planning Objective SPO1 and Policy WCS14 of the Wealden Core Strategy Local Plan 2013 (CS) insofar as they seek to protect the intrinsic character of the area and conserve and enhance the landscape quality of the HWNL.
19. The proposal would also accord with the aims of the Framework in conserving and enhancing the landscape and scenic beauty of National Landscapes.

Other Matters

20. The Council is currently unable to demonstrate a 5-year supply of deliverable housing land. At the time of the Council's appeal submission it was said to have less than 4 years' supply and the officer report references a 3.92 years supply. I have not been presented with any additional details in this regard. The Council also acknowledges that the current planning boundaries for the district will need to be breached in order to deliver the houses required to meet government targets.

21. Interested parties have raised concerns regarding water run-off although these concerns appear to be largely in relation to other recent developments in the area. The planning conditions on other sites, whether for water run-off or other matters, is beyond the remit of this appeal as the enforcing of planning conditions rests with the Council. The issue of surface water at the appeal site could be addressed by condition and the Council would similarly retain control for agreeing and enforcing the details.
22. Although concerns are raised that were this appeal to be successful other sites in the vicinity would be developed, each case must be considered on its own merits. It therefore does not automatically follow that the same circumstances would apply to other sites and other proposals.
23. I have noted interested party concerns that some services, such as schools, are not available in Broad Oak. However, the Council raises no such direct concerns and I see no reason to disagree. The broader issue of proximity to services and facilities has been addressed in the main issues of this decision.
24. There is no substantive evidence to indicate that the proposed houses have insufficient parking or garden areas or would fail to comply with any particular policies in that regard.

Planning Balance

25. The proposal would be outside any planning boundaries identified in local policy. In terms of the character and appearance of the area, and in particular the HWNL, I have concluded that the proposal would not conflict with the requirements of the LP or CS. The distinctive character and quality of the countryside would be protected. The site would not be too far from Heathfield and there would be some limited options for future occupiers to use sustainable transport but there would be a reliance on private cars by future occupiers. Overall, the harm that would arise from the conflict with the development plan would attract modest weight.
26. The Council's appeal statement acknowledged that the policies relating to the Council's spatial strategy were out of date and that Paragraph 11 of the Framework would be engaged. In light of the latest Framework policies regarding housing land, the Council cannot demonstrate a supply that accords with national policy, and so this too would require the proposal to be considered in accordance with Paragraph 11.
27. The Framework's policies seek to boost the supply of housing. In numerical terms the proposal is a modest addition to the supply. However, in the context of a spatial strategy which is acknowledged as not being able to meet its objectives and which does not accord with national policy, four new houses carries considerable weight.
28. The site is located on the fringes of Broad Oak, and future residents would be able to access the village and contribute to the local economy and to the vitality of the community. There would be some social benefits from the additional housing. In the shorter term, the proposed development would also bring associated economic benefits such as construction expenditure and jobs. When considered collectively, the above represent considerable benefits of the proposal.

29. Overall, the more limited adverse impacts associated with the conflict with the site's location do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development, and this indicates that permission should be granted.

Conditions

30. I have had regard to the conditions set out in the Council's submissions and relevant guidance on the imposition of conditions. Both parties have had the opportunity to comment on the conditions. I have obtained the appellant's written agreement where it has been necessary to impose pre-commencement conditions.
31. In addition to the standard time limit, a condition specifying the approved plans is required in the interests of certainty. The Council suggest 18 months would be a sufficient period within which to commence development in order to expedite the provision of housing at a time when there is an undersupply. However, I do not consider this in itself to be sufficient justification to warrant a departure from the timescales in the Town and Country Planning Act 1990.
32. Given the site's context it is necessary for there to be conditions relating to archaeological investigation, tree protection, biodiversity enhancements, hard and soft landscaping.
33. To ensure the development functions as intended it is necessary to secure surface and foul water details, water and energy efficiency measures, access and visibility details.
34. To protect the character and appearance of the area it is necessary to impose conditions relating to site levels, materials/detailing and external lighting.
35. To protect the living conditions of neighbouring occupiers and future occupiers of the approved dwellings obscure glazing is necessary on certain elevations.
36. Given the site's location, its sensitivity to change and that the dwellings have been designed to minimise their effect on the landscape, it is necessary to remove certain permitted development rights in terms of additions to the buildings and their curtilages. The Council would therefore retain control over any further expansion of the dwellinghouses or development within their gardens.

Conclusion

37. The proposal would not accord with the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal is allowed.

Stewart Glassar

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings and documents:

Location Plan	-	01-Rev P2
Block Plan	-	02 Rev P3
Massing Plan	-	03 Rev P3
Proposed Site Plan	-	06 Rev P3
Proposed Plans & Elevations: Unit 1	-	07 Rev P2
Proposed Plans & Elevations: Unit 2	-	08 Rev P2
Proposed Plans & Elevations: Unit 3	-	09 Rev P2
Proposed Plans & Elevations: Unit 4	-	10 Rev P3
Proposed Site Plan - Colour	-	20 Rev P1

Preliminary Ecological Appraisal by The Ecology Partnership (June 2023)
Arboricultural Survey and Planning Integration Report by Quaife Woodlands – Reference AR/4269/jq (June 2023)
- 3) No development shall take place until:
 - (i) An archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and
 - (ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, the access road, pathways, driveways, steps and ramps in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No site clearance, preparatory work or development shall take place until the scheme for the protection of the retained trees as set out in Arboricultural Survey and Planning Integration Report AR/4269/jq have been fully implemented. These shall fully comply with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced). The scheme for the protection of the retained trees shall be carried out as approved.

Within the protected areas of the retained trees:

 - i) Land levels shall not be raised or lowered in relation to the existing ground level;
 - ii) No roots shall be cut, trenches dug or soil removed;

- iii) No buildings, roads or other engineering operations shall be constructed or carried out;
- iv) No fires shall be lit or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree;
- v) No vehicles shall be driven or parked;
- vi) No materials or equipment shall be stored

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 6) No development shall take place above ground level until a detailed surface water drainage scheme for the site (including a timetable for its implementation), has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development shall take place above ground level until a detailed foul water disposal scheme for the site (including a timetable for its implementation), has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) No development shall take place above ground level until full details for the incorporation of water and energy efficiency measures, the use of renewable energy and sustainable construction measures within the development have been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained.
- 9) No development shall take place above ground level until a detailed scheme of landscaping has been submitted to and approved in writing by the local planning authority. The details shall include full plans and specifications for all hard and soft landscape works, specifying native tree and hedge planting.

All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All hard landscaping comprised in the approved details of landscaping shall be carried out before the completion or first occupation of the development, whichever is the sooner.
- 10) No development shall take place above ground level until a detailed scheme for the enhancement of the site for biodiversity purposes, in accordance with the recommendations of the Preliminary Ecological Appraisal by The Ecology Partnership (June 2023) have been submitted to and approved in writing by the local planning authority. The submitted scheme shall include timescales for implementation and future management. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter retained.

- 11) No development shall take place above ground level until the layout of the vehicular access and specification for the construction of the access have been submitted to and approved in writing by the local planning authority. The dwellings hereby permitted shall not be occupied until the approved details have been fully implemented.
- 12) No development shall take place above ground level until a schedule detailing brick bonding and samples of materials and finishes to be used on the external surfaces of the development have been submitted to and approved in writing by the local planning authority.

These details shall include a sample panel of brickwork constructed on site of not less than 1m x 1m showing mortar mix, bonding and pointing type (for each bonding proposed) for the local planning authority to inspect.

The development shall be implemented in accordance with the approved details and the approved sample panels shall be retained on site until completion of the works.
- 13) No development shall take place above ground level until details of all new joinery, including windows, rooflights, dormers, doors, garage doors, balconies and balustrades, railings, barge boards, porches, canopy brackets and posts have been submitted to and approved in writing by the local planning authority. The submitted details shall include elevations and sections through cills, frames and opening lights, including glazing bars and mullions, showing the relationship to the structure. The development shall be implemented in accordance with the approved details, and they shall thereafter be retained.
- 14) Prior to the occupation of any dwelling hereby permitted, the visibility splays shown on approved drawing number 06-P3 shall be free of any obstruction exceeding 0.6m in height and shall be retained as such thereafter.
- 15) Details of any floodlighting security lighting or other external means of illumination shall be submitted to and approved in writing by the local planning authority before the buildings are occupied. Development shall be carried out in accordance with the approved details.
- 16) Prior to the first occupation of any dwelling hereby permitted, the first floor window in any side elevation shall be obscurely glazed (minimum Level 3) and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level, and shall be retained as such thereafter.
- 17) No trees and/or hedgerows on the site, unless dead or dangerous, shall be felled, reduced, pruned or destroyed without the consent in writing of the local planning authority.
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A - E of Part 1 of Schedule 2 to the Order shall be undertaken.
- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order with or without modification) no windows or openings (other than those expressly authorised by this permission) shall be inserted

into the southwest elevation of Unit 1 or the northeast elevation of Unit 4 and no rooflights (other than those expressly authorised by this permission), dormer windows or other openings or extensions shall be added above eaves level to the southwest elevation of Unit 1 or the northeast elevation of Unit 4 hereby permitted.

- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected within the curtilage of any dwellinghouse hereby permitted.

END