



Appeal Decision

Site visit made on 27 November 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2025

Appeal Ref: APP/M2270/W/24/3341849

Hillrise, Hayesden Lane, Tonbridge TN11 8AB

- 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 and Mrs Taylor against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 23/02471/PIP.
 - The development proposed is demolition of existing stable and erection of a replacement dwelling - like for like in terms of size.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is 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 two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle, and the second 'technical details consent' stage (TDC) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. Revised versions of the National Planning Policy Framework (the Framework) were published in December 2023 and again in December 2024. I have sought further submissions on the revised Framework, and note that the Council's five year housing land supply is such that, notwithstanding the exceptions set out in footnote 7 of the Framework, the provisions of paragraph 11(d) may now be effective. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.
5. Local road signs use the spelling 'Haysden' rather than 'Hayesden'. I have used the latter as it is used in the application form, decision notice and appeal form.

Main Issue

6. The site is in the High Weald Area of Outstanding Natural Beauty (the AONB) which, as of 22 November 2023, became the High Weald National Landscape

(NL). It is also in the Green Belt. The reason for refusal refers to both designations, and also to the location of the site. I consider all three to be within my remit in this appeal, given the scope to consider the location of development. As such, the main issue is:

- Whether the site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development.

Reasons

7. The Tunbridge Wells Borough Local Plan (the Local Plan) and Tunbridge Wells Borough Local Development Framework Core Strategy (the Core Strategy) date from 2006 and 2010 respectively, but the weight to be attached to them does not hinge only on their age. Paragraph 232 of the National Planning Policy Framework (the Framework) makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework.
8. The Framework describes the purpose of the planning system as being “to contribute to the achievement of sustainable development”, which includes an environmental objective of mitigating and adapting to climate change. This includes moving to a low carbon economy achieved, in part, by the promotion of walking, cycling and public transport. Paragraph 164 requires new development be planned for in ways that help to reduce greenhouse gas emissions, such as through its location.
9. The Core Strategy prioritises the allocation and release of previously developed land within the Limits to Built Development (LBD) as part of delivering housing in a plan-led fashion. The appeal site (the site) is outside of the LBD as defined in Policy LBD1 of the Local Plan and, as such, the appeal proposal does not have the support of these strategic policies. In respect of promoting sustainable development, the cited policies broadly accord with the Framework. However, the Council has confirmed the supply of housing land is at around 4.3 years, and this reduces the weight I attribute to them.
10. The site is in a secluded, rural location. The nearest settlement, the village of Bidborough, is around one mile away. No evidence has been supplied to show that it contains sufficient services and facilities to meet the needs of the proposed dwelling, and my visit to the village did not suggest otherwise. In any event, the routes to it from the site are largely narrow, unlit country lanes with no pavements, on which pedestrians are compelled to share the roadway with passing cars. Walking or cycling to services and facilities is likely to be an unattractive option therefore, particularly in adverse weather or during the hours of darkness. The site does not appear to be served by public transport.
11. Overall, it is highly likely that future occupiers of the proposed dwelling would rely heavily on the motor car to access services and facilities. Whilst the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, it nevertheless states that the planning system should actively manage patterns of growth in support of promoting sustainable transport.
12. The rationale behind permitted development rights to convert barns into dwellings is not a matter before me, though I note Class Q of the General Permitted Development Order (GPDO) includes a series of conditions and a

prior approval procedure, all of which must be satisfied before such conversions may occur. Also, in arranging the GPDO in its current form the Government identified a distinct line between rural conversions that do not require full planning permission and those that do. In appreciating the purpose of relevant planning regulations, the fact the appeal proposal requires permission is no less significant than the fact some other rural conversions may not. Overall, I do not find the GPDO indicative of a general acceptance of the conversion of rural buildings to dwellings, therefore.

13. The appellant cites Local Plan Policy T3, which addresses holiday lets, as evidence of a contradictory approach to development in the countryside, observing that if the appeal site is unsuitable for a dwelling, then it must also be unsuitable for use as a holiday let. Policy T3 addresses the conversion of existing buildings, whereas the appeal proposal is to erect a new one. Moreover, I have no evidence that the appeal site has, or would likely obtain, the benefit of a planning permission on the basis of Policy T3, or that use of the site as a holiday let would, in any event, result in traffic movements comparable to the appeal proposal. I therefore attach very little weight to the possible implications of Policy T3.
14. It is intended that the proposed dwelling be occupied by a family member of the appellants, who currently drives to the site for daily visits; These car journeys would be avoided if the proposed dwelling were built. The use of the dwelling for that person alone could only be ensured if any permission were personal to them.
15. Planning practice guidance¹ states that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. I do not find the circumstances described above to demonstrate an exceptional need that justifies a different approach. Whilst the proposed development would reduce the number of trips the intended occupant undertakes when seeing their family, other trips such as for work, leisure, social pursuits may require them to drive as much or more than they currently do. As such, the prospect has carried very little weight in my determination.
16. Whilst the provision of an electric charging point could be ensured by use of an appropriate planning condition, it could not be ensured that future occupiers of the site only use electric vehicles. Similarly, whilst any future occupier may work from home, it cannot be ensured that they do so. As a result, both prospects carry very little weight in my determination.
17. My attention has been drawn to five approved applications². Two of these, identified by the suffix PNQLA, were made under Part 3, Class Q of the GPDO which concerns the change of use of agricultural buildings to dwellings. As such, they included a determination from the local authority as to whether prior approval was required. Matters for consideration included whether the location or siting of the building made it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellings). The appellant contends that both sites were in the countryside, yet both were approved.

¹ Paragraph: 015 Reference ID: 21a-015-20140306

² 23/01778/PNQLA; 23/00640/PNQLA; 23/00559/PNR; 22/02293/PNR; 21/02639/PNR

18. However, it is established caselaw in respect of Class Q³ that whilst deciding if development is 'undesirable' is an exercise in planning judgment, it is also necessary 'to examine the purpose of the legislation and in particular the requirements of an individual class to properly interpret its provisions'. In that case, there was no error on the part of the decision maker to disregard policies in the Framework that limit new dwellings in the countryside, because applying them 'would have the potential to frustrate the purpose of the introduction of the class to increase the supply of housing through the conversion of agricultural buildings which by definition will very frequently be in the open countryside'.
19. Given the above, whilst I recognise that the Council considered location as part of the cited PNQLA applications, the regulatory context was materially different to that applied to the appeal proposals. I do not consider that a precedent is set by those decisions, or that an inconstant approach has been taken.
20. The applications identified by the suffix PNR were made under Class R of the GPDO, which allows the conversion of agricultural buildings to commercial uses, and which does not permit the Council to consider location. The approach taken by the Council in those cases cannot be compared to that taken in the appeal application, therefore.
21. Overall, the distance of the site from services and facilities and the difficulties in undertaking travel by means other than the motor car are such that the site is not a suitable location for the proposed land use and the amount of development. The proposal is contrary to Policies LBD1 of the Local Plan and Core Policies 6 and 14 of the Core Strategy.
22. The appeal site falls within the High Weald NL. Paragraph 189 of the Framework states that "Great weight should be given to conserving and enhancing landscape and scenic beauty in.... National Landscapes which have the highest status of protection in relation to these issues". Since December 2023⁴ relevant authorities must, in exercising or performing any functions in relation to an NL, *seek to further* the purpose of conserving and enhancing the natural beauty of the NL (my emphasis).
23. The Planning Practice Guidance (PPG) refers to the relevance of management plans for NLs in 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. The High Weald AONB Management Plan (2024-29) (HWMP) is therefore a material consideration. Furthermore, it is cited in the Tunbridge Wells Borough Landscape Character Assessment Supplementary Planning Document (2017).
24. The appeal site includes a simple, single-storey, stable building and an area of hardsurface. The stables open out onto a small area of grassland enclosed by low, post and rail fencing and gates (the grassland), which is also part of the site. The fence and gates segregate the site from a larger field within the appellants ownership (the field), but also allow movement between the two. Though larger than the site, the field is nevertheless modest in size. Its edges

³ East Hertfordshire DC v SSCLG [2017] EWHC 465 (Admin)

⁴ Section 245 of the Levelling-Up and Regeneration Act.

are marked by hedgerows, mature tree belts, and woodland. The appeal site also includes a small part of the field between the hardsurface and the entrance to the site from Hayesden Lane.

25. The nearest development to the site is the domestic property Hillrise, which is also in the appellants ownership. The dwelling at Hillrise is the northernmost in a short row of domestic dwellings on the eastern side of Hayesden Lane, all of which are substantial, detached buildings. The gap between Hillrise and the stables is wide, and whilst there is some domestic development therein, it is modest. Land north of the stables is undeveloped. Overall, there is a distinct visual separation between Hillrise and the site; the former appears as part of a short row of large, detached houses, the latter as a small, simple, rural structure in open land.
26. The HWMP sets out core character components to the natural beauty of the NL. The appeal site corresponds to these, in that it is part of a small, irregular field bound by hedgerows and woods, has no evident impact on the dark night sky, and has a timeless, rural, and tranquil character. The HWMP also sets out the top issues facing the NL. These include the erosion of NL character through the cumulative effects of suburbanisation, and the increased light pollution in rural areas from a variety of buildings and structures including new developments. The appeal site is visible from Hayesden Lane, including the stretch linking Ensfield Road to Gate Farm Road, as well as from neighbouring land.
27. It is proposed to demolish the existing stables and erect a dwelling with the same size footprint on the grassland. A new access road would be built on the field.
28. Whatever design approach were taken, the replacement of the stables with a residential dwelling would inevitably result in the suburbanisation of the site, in that it would create a new residential use with at least one new occupant coming and going. It would bring development further north into the open, undeveloped field, and the grassland would become a residential garden, which someone would use as such. However, the dwelling was arranged, it would at least require glazed openings and internal lighting and, as such, would contribute to light pollution to the detriment of dark night skies in a way the existing site does not. It is not evident that this effect could be substantially mitigated by a planning condition.
29. Overall, and given the requirements of the Framework and LURA as set out above, the effects of the proposed development on the NL provide a strong reason for refusing the development.
30. The proposal would not be in a suitable location having regard to the proposed land use and the amount of development, in that it would fail to enhance the natural beauty of the NL. The proposal is therefore contrary to Policies LBD1, EN1 and EN25 of the Local Plan, and Core Policies 4, 5, and 14 of the Core Strategy.
31. Paragraph 154 of the Framework requires that a local planning authority regard the construction of new buildings as inappropriate in the Green Belt save for certain exceptions. Though the proposal involves the replacement of a building with one not materially larger, it would not be in the same use class and, as such, does not benefit from exception (d). Exception (g) however,

limited infilling or the partial or complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt, is pertinent.

32. Local Plan Policy MGB1 pre-dates the Framework and is inconsistent with it, in that it does not contain the same list of exceptions, including (g) above. Core Policy 2 of the Core Strategy also predates the Framework but contains a proviso that any new development [in the Green Belt] should accord with the national planning provisions of PPG2, or its replacement, which is the Framework. Where two development plan policies conflict, that conflict must be resolved in favour of the more recent⁵ which, in this case, is Core Policy 2. I will therefore proceed on the basis that the development plan as a whole accords directly with the Framework, and attribute full weight to it, therefore.
33. The site plan shows the appeal site, including the existing stables building, adjacent hardsurface, the grassland, and part of the field. As above, the grassland is enclosed by a fence and gates, and the stables open out onto it. I have no reason to treat the grassland and the stables building as distinct planning units.
34. In my view, the whole appeal site is previously developed land as defined in the glossary to the Framework, in that it has been lawfully developed and is or was occupied by a permanent structure and fixed surface infrastructure associated with it, including the curtilage of the developed land. Whilst the Framework states that it should not be assumed the whole of the curtilage should be viewed as developed, in this case I find that the proximity of the fence and gates to the stables, as well as their evident functional relationship, is sufficient to distinguish the site from the field.
35. The appeal proposal is described as replacing the existing stables with a dwelling that is like for like in terms of size. As above, the plans show both the existing stables and the proposed dwelling to have a footprint of 60m². The appeal proposal includes a new access road on what is currently part of the field. It is not proposed to remove a development equivalent in size to the new access road from another part of the site, and so the new access would comprise additional development.
36. The appellant contends that the access road could be built using the General Permitted Development Order (GPDO) but has not specified which class of permitted development they consider applicable. I have considered whether Part 2, Class B of the GPDO may be relevant, but it is not evident that such an access road would be required in connection with development permitted by any Class in that Schedule of the GPDO. In the circumstances, I cannot ascribe any weight to the prospect.
37. Even if the plans are indicative, the proposal for a new access road is both clear and fundamental to the principle of the proposal. Given my remit to consider the amount of development, it is appropriate that I factor the creation of a new access road into my determination at the permission in principle stage.
38. In principle it is possible for the overall volume and height of the proposed dwelling to be no greater than that of the stables (albeit it would be a small

⁵ Planning and Compulsory Purchase Act 2004, s38(5).

dwelling), that the sensitivity of the landscape would justify the removal permitted development rights to erect additional domestic outbuildings and other residential development, and for the land the stables currently occupy to be returned wholly to grass. The access road would be modest additional development in terms of surface area, height, and visibility. Overall, the additional development at the site would not, in comparison to that which exists, cause substantial harm to the openness of the Green Belt.

39. My attention has been drawn to an appeal on a nearby site⁶ in which the demolition of a dwelling and its replacement elsewhere on the same site was allowed. That scheme was found to be inappropriate development in the Green Belt, but was allowed as other considerations clearly outweighed the substantial harm caused to the Green Belt. Those considerations included a substantial portion of the proposed dwelling being subterranean and, as such, that scheme was significantly different to the appeal proposal and does not act as a precedent in this case.
40. Even though I have found the site to comprise previously developed land, the proposed development does not benefit from paragraph 155 of the Framework as the effects on the NL provide a strong reason for its refusal.
41. The appeal proposal would comprise the complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt, as per paragraph 154 (g) of the Framework. As such, it would not be inappropriate development, and would accord with the Development Plan taken as a whole, as well as with the provisions of the Framework.

Planning Balance

42. I have found the appeal proposal would not conserve and enhance the NL, and that this provides a strong reason to refuse the development proposed. As set out in footnote 7, paragraph 11d(ii) of the Framework, which requires development be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, is not engaged. Nevertheless, the benefits of the proposed development are material in my determination.
43. The proposal would yield a net gain of one new house towards the Government's aim of significantly boosting supply, and the dwelling could be built quickly. The benefits of housing delivery carry significant weight, but are tempered by the modest scale of the scheme. The proposal would make use of previously developed land, notwithstanding the visual effect of introducing development on a part of the site which is currently open.
44. There would be temporary economic benefits associated with the construction phase. Thereafter, there would be ongoing local economic benefits relating to the occupation of the site, and local facilities may benefit from increased demand. Nevertheless, given the relatively modest scale of the proposal and the small number of new residents brought about, these benefits would be minor. These benefits are set against the failure of the proposal to conserve and enhance the NL, and the high likelihood of car dependency.

⁶ APP/M2270/A/14/2216804

45. Overall, the benefits from the appeal proposal would be greatly outweighed by the harm caused by its unsuitable location having regard to the proposed land use and the amount of development, as set out above.

Conclusion

46. Whilst I have found the proposed development not to constitute inappropriate development in the Green Belt, the proposal would nevertheless conflict with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

A Knight

INSPECTOR