



Appeal Decision

Site visit made on 28 January 2025

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2025

Appeal Ref: APP/C1435/W/24/3347199

Land at Barley Mow Lane, Punnetts Town, East Sussex TN21 9DJ

- 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 D Lambert-Gorwyn against the decision of Wealden District Council.
 - The application Ref is WD/2023/3026/F.
 - The development proposed is described as the erection of a colt bungalow and dependent works.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a colt bungalow and dependent works at Land at Barley Mow Lane, Punnetts Town, East Sussex TN21 9DJ in accordance with the terms of the application, Ref WD/2023/3026/F, subject to the conditions in the attached schedule.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. There are no changes that are material to the scheme before me, thus no further comments were sought by parties. Consequently, I have determined the appeal having regard to the revised Framework, and any references are to this version.
3. The Council's decision notice contains only one reason for refusal relating to the effect of the development on the character and appearance of the rural setting within the High Weald National Landscape (NL). However, the officer report and Councils Statement of Case clearly raise concerns in respect to the location of the proposal outside adopted development boundaries. This would conflict with the relevant development plan policies. Whilst not forming part of the reason for refusal, I consider that the location of the proposal outside adopted development boundaries should be considered as a main issue in this appeal.

Main Issues

4. The main issues are:
 - whether the proposal would contribute to a sustainable pattern of development having regard to the Council's spatial strategy and accessibility to services and facilities; and
 - the effect of the proposal on the character and appearance of the area with specific regard to its rural setting within the High Weald NL.

Reasons

Spatial Strategy

5. The appeal site is located outside a development boundary. Saved Policies GD2 and DC17 of the Wealden Local Plan (WLP) adopted December 1998 state that housing development will not be permitted unless it conforms with other policies in the plan. The supporting paragraph¹ of WLP Policy DC17 lists the types of development which are acceptable in principle outside development boundaries, and the specific local plan policy which applies to each. The proposal would not fall into any of these categories and therefore it would be in direct conflict with WLP Policies GD2 and DC17, and there is a presumption against this type of development in this location.
6. The Framework advises that housing development in rural areas should be located where it will enhance or maintain the vitality of rural communities and identify opportunities for villages to grow and thrive, especially where this will support local services. I have been supplied with limited details in respect to the services and functions offered within the settlement of Punnetts Town, nor details pertaining to public transport routes and/or other sustainable means of transport available to future occupants in the local area.
7. Given the scheme is outside of the defined limits of a settlement the proposal would be in conflict with WLP Policies GD2 and DC17 and the provisions of the Framework relating to sustainable access to shops and services. Nevertheless, the Council highlight that given the lack of a 5-year housing land supply, the boundaries are considered out of date and should be afforded less weight in the consideration of the scheme. I shall return to the weight I give this conflict in the planning balance below.

Character and appearance

8. Paragraph 189 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and NLs which has the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas. The scale and extent of development within these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. WLP Policy EN6 applies similar principles for protecting and enhancing these settings where possible.
9. The High Weald is characterised by predominantly open countryside of small pasture fields and blocks of woodland, enclosed by hedgerows and wooded shaws, in an undulating landscape of valleys and ridges. The settlement pattern tends to consist of smaller settlements strung out along the main roads which include remote farmsteads and villages.
10. The appeal site is located on the eastern side of Barley Mow Lane close to the junction with Battle Road. The development pattern consists of dwellinghouses fronting Battle Road providing a village feel within the area. The appeal site consists of a linear finger of land with a large single storey agricultural barn and

¹ WLP – Paragraph 5.91

several ancillary items and temporary structures associated with this use. There is a cluster of residential development opposite the site at the end of Barley Mow Lane, along with a converted public house to the north of the site. The surrounding area is mainly open, consisting of verdant fields and hedgerows providing a strong rural feel.

11. The proposal seeks to erect a modest 3-bedroomed bungalow, between the existing barn and the rear of the converted public house. Given its location between the existing structures and the backdrop of the residential properties opposite the site, it is within this context that the scheme should be assessed.
12. The proposed dwelling would be a detached single storey building, utilising cedar board cladding to provide a subtle appearance within its setting. The design of the proposal, with specific reference to its height, roof slope, proportions and use of materials would provide a modest dwelling that would be in keeping with the surrounding area. This treatment would provide a building that would make an appropriate and suitable contribution to the local vernacular and character of the area.
13. It is acknowledged that given the linear nature of the site, the dwelling would not front the roadside, however given it would share the existing access associated with the adjoining barn, its orientation would be appropriate in this case. The linear nature of the site also limits the positioning of the proposed dwelling on site. Nevertheless, the scheme has been suitably positioned within the site constraints and has been adequately spaced from adjoining structures. As a result, the appropriately modest design within this setting, provides a dwelling, which would not appear cramped or unsympathetic in its plot.
14. Given its context within the existing cluster of buildings the proposal would assimilate well, rather than appearing as part of the more open countryside to the south of the appeal site. In terms of public exposure, the appeal site is relatively concealed by the existing boundary treatments which are to be retained and could be enhanced by way of a condition. This would limit longer views of the proposal on the open rural character and the wider countryside surroundings. As such, the proposal would at the very least conserve the landscape and natural scenic beauty, visual qualities and essential characteristics of the High Weald NL, and the character and appearance of the surrounding countryside.
15. Accordingly, I conclude that the proposed dwelling would be an acceptable development in terms of the effect on the character and appearance of the area, including the High Weald NL. It would, therefore, comply with WLP Policies EN6 and EN27, along with policies WCS14, SPO1 and SPO13 of the Wealden District Core Strategy Local Plan (WCS), adopted February 2013 which collectively seek to secure high quality development, promoting local distinctiveness and ensuring development is appropriate to local landscape character and does not have a significant adverse impact on the setting of the High Weald NL, amongst other things.

Other matters

16. I have considered all of the other matters and concerns raised in the submissions by interested parties, which include but are not limited to impacts on ecology and biodiversity at the site, and other issues that I have addressed above. The Council have raised no objections to the development in respect to ecology and

biodiversity matters. Subject to the provision of suitable conditions, I have no reason to disagree with this assessment, as I have not been presented with any compelling evidence to reach an alternative view.

Planning balance

17. In regard to housing land supply, both parties agree the Council cannot currently demonstrate an appropriate supply of deliverable housing sites. Therefore, the provisions of footnote 7, paragraph 11 (d)(ii) of the Framework should be applied. As such, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the scheme.
18. The proposal would not harm the character and appearance of the area, integrating well within its surrounds and therefore would accord with paragraphs 129 and 135 of the Framework which collectively seek development that is well-designed and makes efficient use of land. The proposal would also conserve the landscape and scenic beauty of the High Weald NL, thus providing a development that is sympathetic to local character including the landscape setting.
19. Having regard to the Government's objective of significantly boosting the supply of homes, the proposed development would have a moderate benefit of contributing a new dwelling towards the undersupply of housing in Wealden District. Whilst this is a limited increase it is an increase, nonetheless, thus carries moderate weight in favour of the proposal.
20. There would also be economic benefits relating to the provision of jobs during the construction phase, albeit on a temporary basis, and the subsequent local spending by prospective residents of the proposed development. These social, economic and environmental benefits all attract moderate weight also in favour of the proposal.
21. The proposal would be located outside the development boundary and would thus conflict with WLP policies GD2 and DC17, which weigh moderately against the proposal given the current under provision of housing. Consequently, in this case, I find the harm identified does not outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development applies which points towards the grant of planning permission.

Conditions

22. The Council has provided a list of suggested conditions that it considers would be appropriate. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance (PPG) and have amended the wording of some without altering their fundamental aims. I sought the views of the parties on the conditions, including the appellant's agreement to pre-commencement conditions.
23. To expedite the delivery of housing, the Council has sought a shorter time limit for the commencement of development. Whilst noting the current shortfall in housing across Wealden district, I have been provided with little evidence that non-commencement has previously had negative impacts on delivery in the area. Consequently, this condition would be unreasonable, and I have imposed the

standard implementation condition, alongside a condition to ensure that the proposal is carried out in accordance with the approved plans to provide certainty.

24. Conditions relating to materials and hard and soft landscaping are necessary to secure the satisfactory appearance of the High Weald NL and the enhancement of the immediate setting. A condition securing on-site ecological enhancement is necessary in order to ensure the development protects and improves biodiversity features of the site. I have also imposed a condition in respect to the tree protection which is necessary to secure the satisfactory appearance of the development in the interests of the surrounding character, neighbouring amenity and encouraging wildlife and biodiversity.
25. I also have imposed conditions to ensure that there is appropriate vehicle and bicycle parking at the site and that a suitable car parking layout is maintained in the interests of highway and pedestrian safety and the living conditions of future residents.
26. I have not attached the Councils suggested condition in respect to the restriction of national permitted development (PD) rights. Paragraph 55 of the Framework states that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. The PPG also advises that conditions restricting the future exercise of PD rights may not pass the test of reasonableness or necessity². I find that given the scale and the location of the proposal, it would be unnecessary and unreasonable to remove the freedom to carry out PD in this case, and the Council has not provided me with any substantive evidence to the contrary.

Conclusion

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Collectively the material considerations in this particular case, when set against the particular policy context and housing shortfall, clearly outweigh the harm as a result of the breach of WLP Policies GD2 and DC17.
28. For the reasons given above I conclude that the appeal should be allowed.

Robert Naylor

INSPECTOR

² PPG paragraph 21a-017-20190723

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 drawing nos: 8471 / P3-01(b); 8471 / P3-03(a) and 8471 / P3-04(a).
- 3) No development shall take place until details / samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by Local Planning Authority. The development shall be carried out in accordance with the approved details / samples.
- 4) No development shall commence until a scheme of landscape proposals shall be submitted to and approved in writing by the Local Planning Authority, which shall include full plans and specifications for all hard and soft landscape works and indications of all existing trees and hedgerows on the land to be retained. The scheme shall incorporate full details of the finished levels of the parking areas and retaining wall together with all boundary treatments.

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 building(s) 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.

- 5) No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the prior written approval of the Local Planning Authority. If any retained tree is removed, uprooted or destroyed or dies, a replacement tree shall be planted and that tree shall be of such size and species and shall be planted at such a time and in a position to be agreed with the Local Planning Authority.
- 6) No development shall commence until a scheme until a Precautionary Working Methods Statement (PWMS) prepared by a suitably qualified ecologist, detailing reasonable avoidance measures for great crested newts has been submitted to and approved by the Local Planning Authority. Construction of the development shall be undertaken in accordance with approved details.
- 7) No development shall commence until an updated Arboricultural Impact Assessment that incorporates a detailed tree protection plan drawn to a recognised scale, along with an Arboricultural Method Statement which shall include numbering and detailing trees, confirming root protection areas, position of the new building, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with

associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details.

- 8) The car parking spaces and turning areas shown on drawing numbered 8471 / P3-04(a) hereby approved shall be provided in accordance with details before occupation of the dwelling or completion of the development, whichever is the sooner, and shall thereafter be retained for such purpose.
- 9) Notwithstanding the approved plans, details of secure, covered cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority and completed on site prior to first occupation of the dwelling, and shall be continuously available and retained for the life of the development hereby approved.

END OF SCHEDULE