



Appeal Decision

Site visit made on 5 February 2025

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/D3830/W/24/3347348

Redwood, Tiltwood, Hophurst Lane, Crawley Down, West Sussex RH10 4LL

- 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 Aidan Cook against the decision of Mid Sussex District Council.
 - The application Ref is DM/23/1394.
 - The development proposed is erection of a 4-bed dwelling with associated access, landscaping and parking.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a 4-bed dwelling with associated access, landscaping and parking at Redwood, Tiltwood, Hophurst Lane, Crawley Down, West Sussex RH10 4LL in accordance with the terms of the application, Ref DM/23/1394, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2024. However, insofar as the contents are relevant to this appeal, the Framework has not changed. Therefore, I am satisfied no party would be disadvantaged by not having the opportunity to comment on the revised Framework.
3. The Council is preparing an emerging draft District Plan, which is undergoing examination. I understand there are unresolved objections, and I am not aware of the extent to which its policies will be considered as consistent with the Framework. Consequently, in accordance with Framework paragraph 49, I give it little weight.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the surrounding area, including the likely long-term effect on trees;
 - the living conditions of the occupiers of Oak View, with particular reference to outlook; and
 - the integrity of protected European sites.

Reasons

Character and appearance, including trees

5. The appeal site is in an area known as the Tiltwood Estate on the outskirts of Crawley Down. The Estate comprises Tiltwood House and its former grounds, which together accommodate several dwellings developed within original buildings and on sub-divided plots. The siting of dwellings and shape of plots in the Estate is irregular. The newer houses are relatively large, with both one and two-storey elements. Their design, whilst traditional in form, is varied and includes some contemporary elements. Numerous mature trees make a positive contribution to the Estate's verdant and sylvan character. These include several on the appeal site itself, one of which is an impressive Redwood tree.
6. The proposed house would be sited and designed in response to the site's mature trees, taking the Redwood as its central focus. It would have a striking and contemporary crescent-shape, articulated by its first floor cantilevered away from surrounding properties. The resulting flat roof spaces would be covered in sedum, which, along with new soft landscaping at ground level, would help integrate the building into its semi-rural surroundings. The proposed brick finish at ground floor level would refer to more traditional materials within the Estate, while roughcast bronze cladding on the upper floor would complement this and draw attention to the colour and verticality of the Redwood. The proposed materials would therefore be appropriate to the site and, whilst unlike those used in newer dwellings on the estate, they would not look out of place.
7. The plot size and site coverage would be comparable to most of the other residential plots created within the former grounds of the Estate. The house would be no higher than Oak Wood, the nearest dwelling, notwithstanding the proposed use of a raised foundation. The perceived scale and mass of the building would be diminished by its cantilevered form and vertical detailing on the smaller upper storey. The house would not have a conventional back garden, but it would not be a conventional design: provision of external amenity spaces at either end would be appropriate in this context and given the site's shape and orientation.
8. Three trees would have to be felled, two of which are lower-value non-native specimens. The third is a semi-mature English Oak of moderate quality, with a relatively small one-sided crown, situated close to the Redwood. Although the loss of these trees would somewhat reduce the sylvan appearance of the site, I am persuaded on the evidence before me that their removal – particularly in the case of the Oak – would allow for the successful retention of the larger, higher-quality trees. Those are the trees on the site that primarily contribute to the character of the Estate. New soft landscaping incorporating native species would help mitigate the loss and improve biodiversity and could be secured by condition.
9. The proposed dwelling and driveway would be partly located within the root protection areas of the largest retained trees. Nevertheless, I am satisfied the proposed design takes account of this and the measures described in the appellant's Arboricultural Implications Assessment, including piled foundations, a cellular confinement system above soil level, and protection during construction, would be capable of safeguarding these trees. This was the original opinion of the Council's tree officer and there is little before me to substantiate their subsequent reservations. Be that as it may, to ensure adequate tree protection, were I to allow

the appeal I would require by condition the Council's agreement before work on site commences to the foundation design, tree protection plan, arboricultural method statement and scheme of supervision.

10. Given their proximity to the new house, the retained mature trees would inevitably cast shade and, in the case of deciduous specimens, drop leaves. However, the house design would complement and celebrate these trees, which would be integral to the scheme, including the layout of external amenity spaces. Shade from trees would help keep the house cool in summer. There is no pertinent evidence that light levels for future occupiers would be unacceptably compromised, bearing in mind the proposed fenestration design, or that the retained trees would be unsafe. The trees nearest the proposed house are already mature so would not be expected to increase significantly in size.
11. I therefore find it plausible that future occupiers of the dwelling would not choose to live there unless they were prepared to embrace the trees' presence. It follows that future pressure to remove or excessively prune them would not be unduly high. In any case, the Redwood is subject to a Tree Preservation Order, and the other retained trees could be protected by condition were the appeal to be allowed.
12. Taking all this together, I find the building's siting, form and complementary materials would enhance the varied layout and appearance of the Estate. The proposal would optimise the potential of the site to accommodate development without appearing cramped or bulky. Further, the retention and protection of the site's most important trees and the addition of new soft landscaping would preserve the verdant and sylvan character of the area. The proposed design of the development would therefore respond appropriately to its context through successful co-ordination of proportions, materials, colour and detail, and be of an appropriate scale, in accordance with Principles DG38 and DG39 of the Mid Sussex Design Guide Supplementary Planning Document 2020.
13. For the above reasons, I conclude the proposed development would have an acceptable effect on the character and appearance of the surrounding area, including the likely long-term effect on trees. Accordingly, I find no conflict with Policy DP26 of the Mid-Sussex District Plan 2018 (MSDP) or Policy CDNP05(a) of the Crawley Down Neighbourhood Plan 2016 (CDNP), which together seek high quality design that addresses the character and scale of surrounding buildings and landscape and protects trees that contribute to this character. I also find no conflict with MSDP Policy DP37, which requires development to incorporate existing important trees into its design and include appropriate tree protection measures throughout the development process.
14. Further, the proposal would accord with the Framework, where it seeks good design that is sympathetic to local character, including the surrounding built environment and landscape setting, while not discouraging appropriate innovation and ensuring existing trees are retained wherever possible.

Living conditions

15. The cantilevered first floor would step away from Oak View, so the built form closest to it would be single storey. This configuration would increase separation of the second storey from the shared boundary, in addition to mitigating the perception of bulk and mass. As noted, the maximum height of the new house would be comparable to that of the ridge of Oak View. Existing and new boundary

treatments would afford little sight of the new dwelling's ground floor and Oak View's upper floor windows would provide oblique views only of the new structure. Consequently, the development would not be overbearing or enclose the next-door garden to an unacceptable degree.

16. I therefore conclude the proposal would have an acceptable effect on the living conditions of the occupiers of Oak View, with particular reference to outlook. Accordingly, I find no conflict with MSDP Policy DP26 or CDNP Policy CDNP05, which resist significant harm to the amenities of nearby residents, including outlook.

Integrity of protected European sites

17. The appeal site is within the zone of influence of the Ashdown Forest Special Protection Area (SPA), which is a European site protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Under the Habitats Regulations, an appropriate assessment is required in relation to the effect of the development on the integrity of the site. This responsibility falls to me as competent authority in the context of this appeal.
18. The SPA comprises heathland and woodland that provide internationally important habitat for breeding populations of Dartford warbler and European nightjar. The SPA's conservation objectives are to ensure its integrity, including the extent, distribution, structure, function and supporting processes of the habitats, and population and distribution within the site of each of its qualifying features, is maintained or restored.
19. There is a threat to the SPA from increased recreational activity, such as walking and dog-walking, which would disturb the protected near-ground and ground-nesting birds. It is likely the occupants of the proposed dwelling would make use of the Forest for recreational activity, thereby increasing levels of recreational disturbance. Such an increase, alone or in combination with other plans and projects, would be likely to have a significant effect on the integrity of the SPA.
20. The Council has agreed a strategic solution to mitigate recreational disturbance to the SPA, in the form of Suitable Alternative Natural Greenspace (SANG) and a Strategic Access Management and Monitoring (SAMM) Strategy. This approach is reflected in MSDP Policy DP17 and has been agreed by Natural England (NE). In the case of one new dwelling, the strategic solution requires a financial contribution to both SANG and SAMM in accordance with published tariffs.
21. NE's comments on the original planning application confirm that specific measures, including financial contributions, identified in the Council's strategic solution will be reliable and effective in preventing adverse effects on the integrity of the SPA from recreational impacts associated with residential development. NE further confirms that, if all mitigation measures are appropriately secured in relation to the proposed development, there will be no adverse impact on the integrity of the European site.
22. The appellant has submitted an executed deed committing the owner not to commence the development unless and until SANG and SAMM contributions have been paid to the District Council, together with all indexation and interest payable. On the evidence before me, the sums committed accord with the Council's published tariffs. On this basis, I am satisfied all required mitigation would be appropriately secured as required by NE. There is therefore no need for me to consult NE again as part of this appropriate assessment.

23. For the above reasons, I conclude the proposed development would not have an adverse effect on the integrity of protected European sites. Accordingly, I find no conflict with MSDP Policy DP17.

Other Matters

24. Concerns have been raised about transport, access and highway safety, having regard to the cumulative effect of recent developments at Tiltwood. I have considered the evidence provided on these matters and note there is no connection between the two points of access to the Estate. However, the eastern access is already used by several dwellings and there is no quantified evidence of an existing safety problem, or that one would arise from one further dwelling. I recognise Hophurst Lane has no footway, but there are bus-stops very near the site connecting it to Crawley Down and other settlements. I therefore find no compelling reason to reach a different conclusion to the Council on these matters.
25. The appellant's Preliminary Ecological Assessment (PEA) has considered habitats and species on and around the site. I am satisfied the recommended ecological mitigations and enhancements would be sufficient and could be secured by condition were the appeal to be allowed. Concerns have been raised about harm from recent clearance of vegetation on the site. On the evidence before me, this largely comprised overgrown and invasive Rhododendron, with little ecological value. In any case, new soft landscaping, including native species, would replace this and enhance the biodiversity of the site.
26. This would be an environmental benefit of the development. The proposal would also have social and economic benefits through provision of an additional dwelling, construction, and future occupiers' use of local services and facilities. Together, these benefits would further the three-fold objectives for sustainable development at Framework paragraph 8. This supports the Council's finding that the principle of developing the site for housing would accord with the tests for expansion of settlements in MSDP Policy DP6. I see no reason to disagree with this conclusion.
27. The only window with potential to overlook neighbours could have obscured glazing and restricted opening secured via condition. There is no pertinent evidence of an unacceptable reduction in light for neighbouring occupiers.
28. The circumstances in this appeal are particular to the site in question, so concerns they would set a precedent for further development at Tiltwood are not a significant consideration. Each application must be considered on its individual planning merits. The suggestion that cost would inhibit the current scheme's delivery is unsubstantiated, so has had little material bearing on my assessment of the appeal.

Conditions

29. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. I sought the views of the main parties on the conditions and have taken account of their responses. The appellant has accepted the pre-commencement conditions.
30. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.

31. The condition relating to drainage is necessary to manage the disposal of foul water and mitigate surface water flood risk. This is a pre-commencement condition because such measures could affect preparatory works on site. The conditions securing approval of hard and soft landscaping and tree protection measures are necessary for the reasons given above. These are pre-commencement conditions to ensure adequate protection of trees before any part of the development begins.
32. A further condition protecting retained trees and requiring their replacement in the event of loss is necessary to safeguard local character in the long term. The condition requiring samples of external materials and finishes to be approved is necessary to ensure the development achieves the design objectives noted above.
33. The condition restricting construction hours is necessary to protect the living conditions of neighbouring occupiers during construction. The conditions securing the recommended ecological mitigation and enhancement measures, appropriate ecological supervision and a lighting design strategy for biodiversity are necessary to protect species and enhance biodiversity in accordance with the PEA. However, the justification for a further biodiversity enhancement strategy secured by condition is not sufficiently clear to satisfy the tests of necessity and reasonableness.
34. The conditions relating to vehicle parking spaces and bicycle storage are necessary for highway safety and to promote cycling. The condition securing obscured glazing and restricted opening for the first-floor window facing Oak View is necessary for the reason given above. There would be no other openings giving access to the first-floor roof, so a condition preventing its use as a balcony would not be necessary, however.

Conclusion

35. For the above reasons the proposal accords with the development plan, read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude the appeal should be allowed.

C Carpenter

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 drawing nos: 100 Site Location Plan; 101 Site Plan Proposed; 700 Floor Plans – Elevations – Site Plan Proposed; 7107-200/Rev B Drainage and External Works Layout; 7107-250/Rev A Drainage and External Works Details; 7107-251/Rev A Pumped Outfall Chamber and Main Details.
- 3) Notwithstanding condition 2, no development shall take place until a detailed foul and surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and,
- iii. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 4) Notwithstanding condition 2, no development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- i. existing trees and hedgerows on the site and indication of those to be retained;
 - ii. a statement setting out the design objectives and how these will be delivered;
 - iii. earthworks showing existing and proposed finished levels;
 - iv. hard surfacing materials;
 - v. vehicle parking layouts;
 - vi. green/blue roofs including a maintenance scheme to show how they will be regularly maintained;
 - vii. specification of all proposed planting, including the quantity, size, species and positions of plants; and
 - viii. boundary treatments.

All planting, seeding 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 or plants which within a period of 5 years from the completion of the 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.

The green/blue roofs shall be maintained in accordance with the approved maintenance scheme.

- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

- 6) No development shall take place until details of foundation design to take account of existing trees/future tree planting/tree removal have been submitted to and approved in writing by the local planning authority. The development shall thereafter take place in accord with the approved details.
- 7) No development shall take place until a scheme of supervision for the arboricultural protection measures required by conditions 5 and 6 has been submitted to and approved in writing by the local planning authority. This scheme shall be appropriate to the scale and duration of the works and shall include details of:
 - i. induction of staff in awareness of arboricultural matters;
 - ii. identification of individuals and their responsibilities;
 - iii. statement of delegated powers;
 - iv. timing and methods of site visiting and record keeping, including updates;
 - v. procedures for dealing with variations and incidents.

The scheme of supervision shall be administered by a qualified arboriculturist instructed by the applicant and approved in writing by the local planning authority. The scheme of supervision shall be implemented as approved.

- 8) If any retained tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the local planning authority. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 9) No development above ground level shall take place until samples of all external facing materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 10) Demolition or construction works shall take place only between 08.00 and 18.00 on Mondays to Fridays and between 09.00 and 13.00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 11) Further surveys, ecological mitigation measures and biodiversity enhancements shall be carried out in full in accordance with the recommendations in the Preliminary Ecological Appraisal report by David Archer Associates dated November 2023. This shall include the appointment of an appropriately competent person (Ecological Clerk of Works) to provide on-site ecological expertise during construction and carry out or supervise implementation of the further surveys, ecological mitigation measures and biodiversity enhancements. The ecological mitigation measures shall be adhered to for the duration of the construction works and the biodiversity enhancements shall be retained and maintained thereafter.

- 12) The development hereby permitted shall not be occupied until a lighting design strategy for biodiversity in accordance Bats and Artificial Lighting Guidance Note GN 08/23 has been submitted to and approved in writing by the local planning authority. The strategy shall (a) identify those areas/features on and around the site that are particularly sensitive for bats, including their breeding sites, resting places and/or routes used to access key areas of their territory, for example for foraging; and (b) show how and where external lighting will be installed on the site (including lighting contour plans and technical specifications) to mitigate disturbance to bats and/or their territory, foraging routes, breeding sites and resting places.

All external lighting shall be installed and thereafter maintained in accordance with the approved details.
- 13) The development hereby permitted shall not be occupied until space has been laid out within the site for covered and secure storage for bicycles in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and that space shall thereafter be kept available at all times for the storage of bicycles.
- 14) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with the approved plans. Thereafter those spaces shall be retained for the parking of vehicles only.
- 15) The development hereby permitted shall not be occupied until the window at the first floor of the rear (west) elevation as shown on drawing no 700 has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

End of schedule