



Appeal Decision

Site visit made on 29 January 2025

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2025

Appeal Ref: APP/C1435/W/24/3345143

Flitterbanks Barn, The Drive, Maresfield Park, Maresfield, East Sussex TN22 3ER

- 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 Ms S Barnes against the decision of Wealden District Council.
 - The application Ref is WD/2023/1633/O.
 - The development proposed is erection of four dwellings together with associated access.
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Decision

1. The appeal is allowed and planning permission is granted for erection of four dwellings together with associated access at Flitterbanks Barn, The Drive, Maresfield Park, Maresfield, East Sussex TN22 3ER in accordance with the terms of the application, Ref WD/2023/1633/O, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal is made in outline, with access to be considered. Details of appearance, landscaping, layout and scale are reserved for later consideration. I have treated the submitted plans as indicative insofar as they relate to layout.
3. On 12 December 2024, a revised National Planning Policy Framework (the Framework) and updated Housing Delivery Test results were published. I have sought further views from the main parties on this and have taken those comments into account in reaching my decision. I will refer to the updated paragraph numbers.
4. The first reason for refusal refers to Wealden Local Plan (1998) (LP) Saved Policy EN1 which sets out a commitment to pursuing sustainable development, having regard to the principles in Government guidance. The reason for refusal also refers to Wealden District Core Strategy Local Plan 2013 (CS) Policy WCS14 which contains wording similar to that of the National Planning Policy Framework (the Framework) and a previous iteration thereof. I have therefore taken these policies into account in my planning balance where I consider the proposal in light of the advice in paragraph 11 of the Framework.
5. The proposed development has the potential to affect the Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA) which are habitats sites under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). A completed planning obligation in the form of a unilateral undertaking (UU), dated 20 August 2024 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted to secure mitigation. The Council has indicated it is satisfied with the submitted obligation

and that this addresses the third reason for refusal. However, as competent authority, I must reach my own conclusion and have therefore considered this matter as a main issue.

Main Issues

6. The main issues in this appeal are:

- whether the site would be a suitable location for housing, with particular regard to the locational policies of the development plan and access to services, facilities and sustainable transport options;
- the effect of the proposal on the character and appearance of the area; and
- the effect of the proposed development on the integrity of the Ashdown Forest SAC and SPA.

Reasons

Suitable Location

7. It is not in dispute that the site lies outside of any defined settlement boundary. The site is geographically in proximity to Maresfield, a neighbourhood centre with limited facilities. However, access to these facilities would involve travelling some distance along the access road and Top Drive. The roads are quite narrow, without footpaths and are not likely to be attractive to walkers or cyclists, particularly in the hours of darkness or in poor weather. Nor does it seem likely that this would make the use of public transport services in Maresfield a realistic option. It would therefore be likely that future occupiers of the proposal would have a high degree of reliance on the private car.
8. The appellant has quoted from a nearby decision at Flitterbanks Farm¹. Five dwellings were allowed, and I saw works underway at the time of my site visit. The appeal site lies only a very short distance beyond this. However, I do not agree with the conclusion that the Council reached in that case on the accessibility of the site based on my observations at my site visit.
9. The proposal would be contrary to Wealden Local Plan (1998) (LP) Saved Policies GD2 and DC17 which seek to restrict residential development outside of defined settlement boundaries and CS Spatial Planning Objective SPO7 which seeks to reduce the need to travel by the private car.
10. CS Spatial Planning Objective SPO1 is not directly related to this reason for refusal as it refers to the management of countryside resources and the protection of recognised biodiversity and geodiversity attributes.

Character and Appearance

11. The appeal site is a field occupying an elevated position from Flitterbanks Barn. It has landscaped boundaries to what appear to be extensive residential grounds of surrounding properties and to the A22. The access passes along roads with dispersed residential development along them. The site is identified as lying within the Low Weald but due to the surrounding land uses, the site is not perceived as having an agricultural character.

¹ WD/2022/2515/F

12. The proposal would introduce built development into a currently undeveloped area of land which would inevitably change its character. However, the A22 is an urbanising feature which severs the site and Maresfield more generally from the surrounding countryside. Although very dispersed, there is residential development beyond the site in the direction of Maresfield. The proposal therefore would only extend the built form into the countryside in a limited manner. Due to the position of the A22, this expansion would not cause unacceptable harm to the rural character of the wider area.
13. Due to the layout of the area, the site is perceived in the context of the development along the access road. While the surrounding area is characterised by dispersed residential development, newer developments in a more clustered form were apparent when travelling to the site. The proposal would extend the existing access road which would not be inherently uncharacteristic of the area. Layout falls to be considered at the reserved matter stage. Any proposal brought forward could then be assessed against the contextual characteristics and design principles set out in the Wealden Design Guide Supplementary Planning Document (November 2008). However, I have no reason to think that a scheme could not be brought forward which would integrate with the surrounding forms of development.
14. Views from the A22 would be limited due to the existing landscaping and the passing nature of any views. The need for further landscaping would be considered at the reserved matters stage.
15. The proposal would therefore have an acceptable effect on the character and appearance of the area. It would be in accordance with LP Saved Policies EN8 and EN27 and CS Spatial Planning Objective SPO1 and SPO13 which seek to conserve the low rolling agricultural character of the Low Weald, respect the character of adjoining land, protect the landscape and deliver high quality living environments.

Ashdown Forest SAC and SPA

16. The conservation objectives for the SAC seek to ensure the favourable conservation status of its qualifying features by, amongst other things, maintaining qualifying habitats. The qualifying features of the SAC are European dry heath and North Atlantic wet heath. The heathland habitat contains plants, mosses and lichens which are adapted to nutrient poor conditions. Increases in nitrogen deposition could result in changes to the chemical substrate, causing accelerated or damaging plant growth, altered vegetation structure and composition. This could disadvantage the characteristic species in favour of those with a greater tolerance for higher nitrogen levels. Consequently, there is the potential for the proposed development, in combination with other development, to result in a likely significant effect on the integrity of the SAC.
17. Assessments carried out for the now withdrawn Local Plan established that the development of 14,228 dwellings and 22,500 square metres of business floorspace within Wealden District could be carried out without an adverse effect on the integrity of the SAC in respect of the effects of changes in air quality. Development in the district is below this quantum. The evidence supporting the emerging Local Plan states that nitrogen deposition from traffic is not preventing the SAC from reaching its conservation objectives. I am therefore satisfied that the

proposed development, alone or in combination with other development, would not have a likely significant effect on the SAC due to air quality impacts.

18. The conservation objectives for the SPA seek to ensure that the integrity of the site is maintained or restored as appropriate and ensure the site contributes to achieving the aims of the Wild Birds Directive. The qualifying features of the SPA are European nightjar and Dartford warbler which are vulnerable to the effects of recreational disturbance. Evidence shows this occurs from residents who live within 7km of the SPA. The appeal site is within this distance.
19. Strategic mitigation measures to address these effects are set out in the Strategic Access Management and Monitoring Strategy (SAMM). This sets out tariff based contributions to contribute to the delivery of the strategy, including suitable alternative natural greenspaces (SANG). While the emerging Local Plan evidence indicates further SANG provision will be required, there is sufficient capacity at present to accommodate this development. The Council has expressed no concerns with the submitted UU. This would provide financial contributions of £4,680 (£1,170 per dwelling) as the SAMMS contribution and £20,000 (£5,00 per dwelling) as the SANGS contribution.
20. Natural England, in its role as the Statutory Nature Conservation Body, has confirmed that with these contributions secured, the potential adverse effects that would arise would be suitably mitigated.
21. I am satisfied that the above financial contributions are necessary to make the proposed development acceptable in planning terms. The obligation would contribute to established mitigation schemes. Given the location of the appeal site within 7km of the SPA, the contribution is directly related to the appeal scheme. As it relates to a standard charge based on the residential development proposed, I consider it to be fairly and reasonably related to the proposal in scale and kind. For these reasons, I am satisfied that the planning obligation would meet the requirements of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 58 of the Framework.
22. I am satisfied that with the proposed mitigation measures in place, secured through the planning obligation, the potential adverse effects of the development would be adequately mitigated, respecting the integrity of the Ashdown Forest SPA. The development would therefore comply with the Habitats Regulations. It would also be in accordance with LP Saved Policies EN1 and EN15 and CS Policy WCS12.

Other Matters

23. The existing access road would be extended into the appeal site. Only a limited number of additional trips would be generated by four dwellings and I have no reason to think the surrounding highway network would not be capable of accommodating this increase, including with the other permissions that have been granted along The Drive. There was construction being undertaken along The Drive at the time of my site visit so I have no reason to think that construction traffic to this site could not be similarly accommodated. The nature of the area is that there will be pedestrian use of the carriageway, particularly where this includes public rights of way, and the potential for conflict would not be materially increased by this proposal.

24. The proposal was accompanied by a preliminary ecological appraisal and a great crested newt survey report. These confirmed that effects on protected species, particularly great crested newts, could be avoided through mitigation. The Council's ecological consultant confirmed this matter could be addressed and I have no reason to disagree. The proposal would therefore have an acceptable effect on protected species. The proposal is not subject to the statutory condition for biodiversity net gain, but enhancement measures could be secured by condition.
25. The site lies within an area of archaeological interest. The Council's archaeology consultant is satisfied that this matter could be addressed by condition and I have no reason to find otherwise.
26. At my site visit, noise from the A22 was clearly audible. However this is not uncommon for residential development and could be addressed by a suitable condition. The collection point for waste would be addressed as part of the consideration of layout at a later stage, as would the scale and consequent number of bedrooms within each dwelling.
27. The Council has an emerging Local Plan. However, this is at an early stage and would not alter the conclusions I have reached.

Planning Balance

28. It is not in dispute that the Council cannot demonstrate a five year deliverable supply of housing land. The application of policies in the Framework that protect areas of particular importance would not provide a strong reason for refusing the development proposed. Paragraph 11d)ii of the Framework is therefore engaged. This sets out that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having regard to key policies.
29. The adverse effects of this development are the conflict with the development plan with respect to the location of the site and the dependence of future occupiers on the private car. I attach limited weight to this given the nature of the surrounding residential development and the short distance of the site to Maresfield.
30. The benefits of this proposal would be the delivery of an additional four dwellings in an area which cannot demonstrate the requisite supply of housing land. I attach significant weight to the delivery of four additional dwellings in light of this shortfall. There would also be economic benefits arising from the proposal during both the construction and occupation stages of the development. These would be of limited weight, given the small scale of the proposal.
31. The proposal would have an acceptable effect with respect to the character and appearance of the area, the operation of the highway, biodiversity, archaeology and living conditions insofar as can be assessed at this stage. These are to be expected of any well designed development and are therefore neutral in my assessment.
32. While the Framework at paragraphs 110 and 115 seeks to prioritise the use of sustainable means of transport, it does acknowledge that opportunities for this can vary between urban and rural areas. Given the rural character of much of the

district and the locational factors I have identified above, I find that these adverse impacts do not significantly and demonstrably outweigh the benefits from the delivery of additional housing. The proposal therefore benefits from the presumption in favour of sustainable development.

Conditions

33. The Council has suggested conditions should I be minded to allow the appeal. I have had regard to these in light of the tests set out in paragraph 57 of the Framework and I have made amendments to some of them for consistency and clarity purposes. In the interests of certainty, I have imposed conditions regarding the submission of reserved matters, implementation and approved plans. The Council suggested a more limited time period of eighteen months for the submission of reserved matters and again for the subsequent development to commence. The appellant would prefer that the standard period for commencement be imposed and has directed me to another decision² where the Inspector declined to reduce this time. However, that decision was taken one year ago, when the Council was only required to demonstrate a four year supply of housing land. The Council can, at best, demonstrate a 4.45 year supply of housing land. The appellant's uncontested evidence is that the Council has failed to demonstrate the requisite supply for a number of years. National policy remains to significantly boost the supply of housing and I therefore consider a more limited period of two years in which to submit the reserved matters and then 18 months for implementation is reasonable in order to deliver much needed dwellings.
34. A scheme of construction management is reasonable and necessary to mitigate the effects of the construction stage on surrounding occupiers and the environment. This also addresses the requirement to prevent pollution to the pond where there is potential for great crested newts. It is not necessary for this to include waste management measures. Given the proximity of the site to the A22, it is reasonable and necessary to secure noise mitigation measures.
35. In the interests of biodiversity, it is reasonable and necessary to secure mitigation and enhancement measures. I have amended the suggested conditions to separate the precautionary measures necessary with respect to great crested newts, ensure the reserved matters make appropriate provision for this and ensure wider biodiversity enhancement. I have removed the reference to the retention of the GCN Fencing as this is provided for in the mitigation plan. I have amended the trigger for the submission of the biodiversity enhancement plan to ensure the condition is enforceable.
36. As the site lies within an area of archaeological interest, it is necessary to secure investigation and mitigation in this respect. It is necessary to ensure the retention and protection of trees in the interests of visual amenity. It is necessary to ensure that ground conditions will be suitable for end users, so provision for mitigation of unexpected contamination is reasonable.
37. Paragraph 164b) of the Framework requires that any local requirements for the sustainability of buildings in plans should reflect the Government's policy for national technical standards. The policies of the development plan do not make any reference to those standards, therefore such a condition would not be

² APP/C1435/W/23/3328328 allowed 8 March 2024

reasonable. The provision of lighting measures is required by the ecological mitigation condition.

Conclusion

38. The proposed development conflicts with LP Saved Policies GD2 and DC17. For the reasons given above, I have attached limited weight to this conflict, and there are no other material considerations which would weigh against the proposal. The policies of the Framework are a material consideration which weigh strongly in support of the appeal as the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposed development.
39. I therefore consider that in the specific circumstances of this case, the material considerations indicate that the decision should be taken other than in accordance with the development plan. In reaching this conclusion, I have had regard to LP Saved Policy EN1 and CS Policy WCS14.
40. The appeal should therefore be allowed.

Jennifer Wallace

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale ("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 the expiration of two years from the date of the grant of this outline permission.
- 3) The development hereby permitted shall commence not later than the expiration of eighteen months 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 plan: Site Location Plan no. FTB.SLP.01 rev.B.
- 5) Before the development commences, a Code of Construction Practice (CoCP) shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall detail good practice measures for all temporary buildings, plant, vehicles and stacks of materials associated with the development, site working to mitigate potential impacts from construction including:
 - a) Protection of retained features and surface water bodies on or adjacent to the site;
 - b) Control of run off;
 - c) An indicative programme for traffic management;
 - d) Wheel washing facilities;
 - e) Details of any external lighting;
 - f) Measures to minimise noise and vibration from the construction process;
 - g) Delivery and construction working hours;
 - h) The parking of vehicles of site operatives and visitors;
 - i) Loading and unloading of plant and materials;
 - j) Storage of plant and materials used in constructing the development.The approved CoCP shall be adhered to throughout the construction period for the development.
- 6) Before the development commences, full details of a scheme for the insulation of the residential development against the transmission of airborne sound in accordance with the recommendations in the Noise Impact Assessment Report No. MRL/100/1965.1v1 March 2023 are submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the recommended thresholds in British Standard: BS 8233:2014: Guidance on sound insulation and noise reduction for buildings and the ProPG guidance document are met. The noise mitigation measures shall be implemented in accordance with a submitted timetable and prior to first occupation of each related dwelling and shall be retained thereafter.

- 7) The details submitted pursuant to condition 1 shall provide for the retention of the terrestrial habitat at the boundary of site as identified in the Great Crested Newt Survey Report Reference No. TOW001 dated June 2022.
- The development hereby approved shall be carried out in accordance with the Mitigation Plan for Great Crested Newts Reference No. 001 (Rev001) dated August 2023. The GCN fencing must remain and be maintained until the development is completed and other measures forming part of that plan shall be carried out in accordance with it.
- 8) Before the development reaches damp proof course level, a scheme for the enhancement of the site for biodiversity purposes, in accordance with Section 4 Table 6 of the Preliminary Ecological Appraisal, Section 6 of the Great Crested Newt Survey Report and Section 3 of the Mitigation Plan for Great Crested Newts, to include timescales for implementation and future management, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter retained.
- 9) No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
- 10) The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation.
- 11) No development shall commence until the tree protection measures have been installed in accordance with the details contained in the Arboricultural Report and as shown on the Tree Protection Plan within this document. The tree protection measures shall remain in position until such a time that all construction works on the site are completed.
- 12) In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling.