



Appeal Decision

Site visit made on 19 March 2025

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 May 2025

Appeal Ref: APP/C1435/W/24/3339914

Lynton, Five Ash Down, Uckfield, East Sussex TN22 3AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr & Mrs. J Sturt against the decision of Wealden District Council.
 - The application Ref WD/2023/2954/RM sought approval of details pursuant to condition No 1 of an outline planning permission Ref WD/2021/2129/O, granted on 6 March 2023.
 - The application was refused by notice dated 1 March 2024.
 - The development proposed is phased development of three self-build dwellings and provision of a new vehicular access, landscaping and other associated infrastructure.
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely details of appearance, landscaping, layout and scale submitted in pursuance of condition No 1 attached to planning permission Ref WD/2021/2129/O, dated 6 March 2023, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr J Sturt against Wealden District Council. This application is the subject of a separate decision.

Preliminary Matter

3. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of the appeal. Both main parties have had the opportunity to comment upon the revisions insofar as they relate to the appeal and I have taken the comments received into account.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. Five Ash Down is characterised by predominantly 2 storey detached dwellings in a linear arrangement, set back from the road within generous gardens. Dwellings are varied in form and age, but commonly feature brick and render elevations and pitched, tiled roofs, with occasional examples of timber cladding.

6. The appeal site comprises extensive garden land to the rear of Lynton, a detached single storey dwelling. The garden of Lynton extends to the belt of woodland adjacent to the A26. There is a Public Right of Way (PRoW) running to the south-west and the site runs behind several other rear gardens of houses along Five Ash Down.
7. The Inspector, in the decision on the outline appeal (ref APP/C1435/W/21/3287775), acknowledged that the proposal would inevitably entail a different pattern of development and different plot sizes and shapes to those typically found along Five Ash Down. Furthermore, it was recognised that the proposal would appear as a visually distinct development, separate to the existing properties which surround it.
8. Although necessarily distinct from the linear development on Five Ash Down, the houses would sit comfortably in their plots and would be a low-density form of development. The proposed arrangement of the houses would allow sufficient garden space and the buildings would not appear as an overdevelopment in relation to the size of each plot.
9. The proposal would involve a limited amount of filling and levelling to the lowest part of the land, but due to the topography, the ridge height of the proposed houses would still be lower than that of Lynton and 1 Coopers Row. The proposal would not result in an unacceptably imposing form of development in relation to surrounding built form because of its position on lower ground coupled with the considerable distance from the rear of the houses on Coopers Row and Five Ash Down.
10. With regard to the proposal's effect upon the Low Weald Landscape Character Area, Wealden Local Plan (1998) Policy EN8 indicates that development in the Low Weald will only be permitted if it conserves the low rolling agricultural character of the landscape. It states particular regard will be had to, amongst other things, the setting of settlements, and the retention of woods, boundary trees and hedges. As garden land which is bound by the A26, other gardens and the PRoW, I do not find that it makes a significant contribution to the 'low rolling agricultural character' of the landscape as described in Policy EN8. As established by the outline permission, and with regard to the reserved matters before me, the landscaping would retain most of the trees within the appeal site. The detailed design and scale of the buildings, as set out above, would be appropriate as an edge of settlement development, read in the context of the existing built development along Five Ash Down.
11. Whilst of a contemporary form, the detailed design of the houses would incorporate pitched roofs and dormers. These features are typically found in the surrounding area, although not in the form presented in the appeal scheme. Although the materials and detailed design would not reflect the common brick and render finish of most of the houses on Five Ash Down, there are some limited examples locally of the use of dark timber cladding. I note the Council's concern over the solid to void ratio and boxy style of dormers, but nevertheless, a contemporary approach using references from the surrounding area, including the outbuildings within the garden, would be appropriate and would add visual interest. Despite being a significant departure from the style and form of housing on Five Ash Down, I consider it an acceptable form of architecture for a contained, visually distinct development in a location which, as set out above, I do not consider sensitive in terms of its effect on the low rolling agricultural landscape of the Low Weald. I have had regard to the advice contained in the Wealden Design Guide, which does not specifically preclude contemporary forms of development in appropriate locations.

12. From public vantage points, the proposed development would be clearly visible looking towards the A26 from the PRow as it passes the garden of Greenhays on Five Ash Down. I do not find that this view would be harmful given that the dwellings would form part of the settlement through which the PRow passes and that there are already views of housing from the PRow in this location. There would also be views towards the appeal site from the A26 and the PRow as it passes to the north of the A26 towards Cobdown Lane. The houses would be visible, but they would be seen against the more extensive built form along Five Ash Down; I do not consider there would be harm to the landscape or character and appearance of the area arising from these views. The strip of woodland alongside the A26 would also provide significant screening of these views when the trees are in leaf.
13. The proposed houses would also be clearly visible from the rear of the surrounding dwellings on Coopers Row/Five Ash Down. Given my findings regarding their scale and appearance, the houses would not be unacceptably intrusive in views from these private vantage points.
14. In conclusion on this main issue therefore, the proposals would not be harmful to the character and appearance of the area. They would be in line with the aims of Policies EN8 and EN27 of the Wealden Local Plan (1998), and SPO1, SPO13 and WCS14 of the Wealden District Core Strategy Local Plan (2013) and the Wealden Design Guide 2008. Taken together and amongst other things, these policies seek to manage and conserve the distinct landscapes of the district, require a high standard of design, promote local distinctiveness through good design, as well as reflecting the Framework's presumption in favour of sustainable development.

Other

15. The proposed landscaping scheme shows the gardens mostly laid to lawn, with areas of planting and defensible space in front of each dwelling. The proposed hard landscaping would include parking forecourts and turning areas as well as detailing refuse and cycle storage.
16. The landscaped strip to the northern boundary of the access road would not be to the Council's preferred width of 2m and the Council suggest a condition is necessary to secure a 2m planted border. The Council have clarified that this is not a matter they consider to be a main issue in the appeal, but following discussions during the consideration of the planning application their suggestion was for a 2m deep border in this location. I also note the concern of the interested party in this respect. There is little compelling evidence before me of the necessity of a 2m width to achieve appropriate planting or natural screening. The proposed width of around 1m would be sufficient to maintain a planted border which could achieve visual screening and separation of the access road from the adjacent dwelling. It would be necessary to secure a suitable planting plan by condition.
17. The landscaping plan shows refuse storage arrangements. Whilst I note the concern of the Highway Authority regarding the distance that bins or refuse sacks might have to be moved to the collection point, I do not consider this would represent an unusual arrangement for a site such as this, set back from the main highway. There is no substantive evidence before me which would lead me to conclude that the refuse collection arrangements would harm the safety, or operation, of the highway.
18. I note the concerns of neighbouring occupiers regarding the potential effect of the proposal on their privacy. I am satisfied that the position of the windows to habitable

rooms in the proposed houses would not cause direct overlooking into rear windows of nearby houses. There would be limited views of gardens, but I do not consider this would be any more than would reasonably be expected on any residential street. At ground floor level, the boundary treatments between the appeal site and neighbouring houses would provide privacy. At first and second floors, there are bathroom and other secondary windows which would face the rear windows of neighbouring houses. To maintain privacy, a condition requiring the use of obscured glazing to these windows is necessary.

19. Other matters raised by interested parties including drainage and access do not fall to be considered as part of the reserved matters before me.
20. The appeal site is within the 7km zone of influence of the Ashdown Forest Special Protection Area (SPA) which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended. The SPA is designated for its populations of breeding Dartford Warbler and Nightjar. An appropriate assessment was carried out by the Inspector in allowing the outline scheme, with mitigation provided by financial contribution to a strategic mitigation scheme, secured by planning obligation. I am satisfied that the reserved matters before me would not introduce any additional effects over and above those already considered at outline stage.

Conditions

21. The Council has provided some suggested conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a consequence, I have amended or omitted some of the suggested wording. I have attached a plans condition (1) as this provides certainty. Condition 2 regarding external materials is necessary to ensure a satisfactory appearance. The additional landscaping details required by condition 3 are necessary to ensure an appropriate planting scheme is achieved in the interests of character and appearance. The car parking and turning spaces secured under condition 4 are necessary to ensure appropriate car parking and maintain highway safety. Condition 5 requiring obscure glazing to some windows is necessary to protect privacy.
22. I have omitted the Council's suggested time limit condition since this is covered by the associated outline permission, requiring the development to take place not later than 2 years from the date of approval of the last reserved matters to be approved. I have also omitted the visibility splay condition since access does not form part of the appeal scheme; it is not necessary and a condition requiring the access to be built in accordance with the details provided is attached to the outline permission.

Conclusion

23. I have found that the proposal is in line with the development plan read as a whole, and the material considerations in this case do not indicate that a decision should be taken otherwise than in accordance with it. For the reasons set out above, the appeal should be allowed.

L Francis

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with drawing Nos: 2319.3/A001 rev A; 2319.3/A003 rev A; 2319.3/A005; 2319.3/A006; 2319.3/A007; 2319.3/A008.
2. Prior to the commencement of works above damp-proof course level, full details and specifications of the materials to be used for all the external surfaces of the development, including those to be used for hard surfacing, parking and turning areas, shall be submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details before first occupation and thereafter maintained for as long as the development remains in place.
3. Prior to the commencement of works above damp-proof course level, a soft landscaping scheme shall be submitted to and approved by the local planning authority. The scheme shall include:
 - (a) details of new on-site planting in a planting specification (location, spacing, species, quantity, maturity),
 - (b) landscape implementation details and timetable.

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.

4. The car parking spaces and turning areas shown on drawing No 2319.3/A003 rev A shall be provided prior to first occupation of the dwellings and thereafter shall be retained for such purposes for as long as the development remains in place.
5. The first and second floor windows in the east facing (side) elevation of House Type A in Plot 1, and the first and second floor windows in the east facing (side) elevation of House Type B in Plot 2, shall be obscure glazed and restricted to opening no more than 150mm and thereafter maintained as such, where any part of the window falls below 1.7m of finished floor level.

End of Schedule