



Appeal Decision

Site visit made on 11 June 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2025

Appeal Ref: APP/C1435/W/25/3359274

Land fronting Toll Lane, Toll Lane, Bodle Sreet Green, East Sussex BN27 4UG

- 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 Mrs Catherine Stone against the decision of Wealden District Council.
 - The application Ref is WD/2024/0541/F.
 - The development proposed is to erect a three bedroom dwelling on the vacant land of Toll Lane. The proposal will be accessed from Toll Lane using an access gate to the east of the site.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) whether the appeal site is an appropriate location for the proposed development having regard to local and national policies for the distribution of housing;
 - b) the effect of the proposed development having regard to its proximity to a protected tree;
 - c) the effect of the proposed development on the character and appearance of the area, with particular regard to the National Landscape; and
 - d) the effect of the proposed development on the setting of a Grade II listed building.

Reasons

Location

3. Policies GD2 and DC17 of the Wealden Local Plan 1998 (LP) together with Policy WCS6 of the Wealden Core Strategy 2013 (WCS), seek to control the location of new housing. By encouraging development close to existing services and facilities, this both reduces the need to travel by car and also protects the open countryside from inappropriate sporadic development. Notwithstanding the age of these policies, they are broadly consistent with the National Planning Policy Framework (the Framework) with regard to the location of new housing.
4. The appeal site comprises an undeveloped piece of land on the northern side of Toll Lane. Although there is existing housing either side of the site and on the opposite side of the road, in planning policy terms, the site is considered to be within the open countryside.

5. There are some very limited facilities and services within Bodle Street Green. Herstmonceux, which is the closest settlement with basic day-to-day services is approximately 3.5km to the south of the site and accessed via a country lane. The Council indicates that there is a bus service to Eastbourne, but it only runs once a week. The adverse effect of all this would, to a limited extent, be mitigated by the site's proximity to Herstmonceux, thereby reducing the number of longer journeys future residents might need to take.
6. I am mindful that the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. As such, it would be unrealistic to expect occupiers of such sites to rely completely on walking, cycling or public transport journeys to access normal day-to-day services and facilities. Nonetheless, there are very limited options for sustainable transport and in reality, most occupiers of the proposed house would use a private car for most of their day-to-day needs.
7. Overall, the site is not in a location where the provision of new housing would be supported in principle by local policies. There is no evidence before me to indicate that the proposed development meets any particular policy exceptions or demonstrates that a countryside location is needed. Consequently, the proposal would conflict with the locational requirements of Policies GD2 and DC17 of the LP and SPO13, SPO14 and WCS6 of the WCS which, amongst other things, seek to control development in the open countryside.

Proximity to Protected Tree

8. The dwelling would be sited centrally within the plot. Immediately to its west would be a large, protected oak tree. It is a healthy specimen which contributes positively to the verdant rural character and amenity of the area.
9. The dwelling would be sufficiently close to the tree that it would encroach into its root protection area. However, the Council does not object to this per se but rather the initial crown lifting which would be required and the longer-term implications of the house being in such close proximity.
10. Being to the west of the building and given its size and height, the tree would inevitably cast a shadow across the side/rear patio area during the second half of the day. There are habitable rooms which have windows/openings which face onto this area. While these rooms have other windows on other elevations, the outlook and light which would be received would nonetheless be compromised to some extent. In the winter months the adverse effect may be heightened.
11. Given the proximity of this large deciduous tree, there could be additional inconveniences which future occupiers would be likely to experience. These would include leaf fall and clearance from gutters as well as fallen branches and other detritus associated with the tree. Whilst some of this would be an inevitable consequence of being in a countryside location, the proximity of the tree to the dwelling would intensify the effect and inconvenience.
12. A permeable surface would help prevent blocked drains and a drainage system could be designed to help manage surface water run-off but these would not overcome the inherent conflict which would arise from the proximity of the house to the tree. Furthermore, whilst it is said that future residents would be encouraged to undertake routine maintenance, this would be difficult to enforce and having to

undertake this work could equally be seen by future occupiers as a disbenefit of the tree's proximity to the house.

13. Consequently, while I note that the appellants are trying to be respectful of the tree, the adverse effects arising from the proximity of the house, could see pressure from future occupiers to lop, top or carry out other works to the tree. The loss of, or work detrimental to, the appearance of this protected tree, which makes a substantial positive contribution, would be harmful to the wider area.
14. On this basis I am unable to conclude that the proposal could be accommodated without causing adverse effects to future residents which in turn could cause unacceptable harm to the long-term longevity and well-being of the tree.
15. The proposal would be inconsistent with Policy EN27 of the LP which, amongst other things, requires development to be of an appropriate layout that ensures a satisfactory environment for future occupants.

Character and Appearance

16. The appeal site is in the High Weald National Landscape, an area protected for its landscape and scenic beauty. Toll Lane is to the south of the core of Bodle Street Green and is characterised by 20th century detached dwellings on its northern side and older historic buildings to the south.
17. The development would be seen sited between and experienced in the context of the other, more modern residential buildings on the northern side of the lane. It would also be of a style in keeping with these other buildings and along a similar build line to them.
18. It would have an L-shaped layout which would help to ensure the front elevation is not overly wide and enables the depth of the plot to be utilised while still retaining a well sized rear garden. It would be a sizeable structure with a ridge height greater than those dwellings on either side. However, it would be well spaced from these neighbouring properties and overall, the proposal would not appear overly prominent or out of scale with the plot or its setting.
19. Whilst there would be a change in how the site is seen from Toll Lane, the proposed house would be well-related to those on either side and would be seen in combination with them. I am therefore satisfied that the character and appearance of this part of the High Weald National Landscape would not be unduly harmed.
20. Therefore, notwithstanding my findings in relation to the layout and implications for the protected tree, the proposal would accord with Policies EN1, EN6, EN12, EN14 and EN27 of the LP; and Policy WCS14 and SPO1 and SPO13 of the WCS which collectively, and amongst other things, require developments to accord with the presumption in favour of sustainable development, have an appropriate design and regard to the landscape as well as conserve or enhance the National Landscape.

Heritage Asset

21. Toll Farmhouse, which is located on Toll Lane opposite the appeal site, is a Grade II listed building. I must therefore have regard to section (66)1 of the Planning

(Listed Buildings and Conservation Areas) Act 1990, which requires special regard be paid to the desirability of preserving listed buildings and their settings.

22. Toll Farmhouse is a two-storey dwelling that appears to date from the 18th century and whose front ground floor is red brick and first floor is tile but which looks to have an earlier rear wing. Together with the clay tiled roof, chimneys and architectural detailing, it is a good example of a vernacular farmhouse. For the purposes of this appeal, its aesthetic and historic value is from where its significance is derived.
23. The listed building sits within its own sizable garden, with various single storey outbuildings to its east. This can be appreciated from Toll Lane where the closely associated grounds of the Farmhouse form its immediate setting. It is from here that the asset is best appreciated. This immediate setting contributes to the asset's special interest and significance.
24. Toll Lane itself forms part of the wider setting of the listed Farmhouse. The limited built form and sense of spaciousness within this wider setting allows an appreciation of the standalone nature of the building. This wider setting contributes positively to the special interest and significance of the listed building.
25. Given the nature of the houses opposite and that they are set well back within their plots, they do not unduly detract from this wider setting. The proposed dwelling would follow a similar building line to the existing dwellings and retain a sense of spaciousness around it. Furthermore, its height would not be so excessive that it would draw the eye and disrupt the current environment.
26. It is said that the appeal site once provided access to a former windmill to the north of the site. There are no obvious indications of there having been such a relationship between the Farmhouse and appeal site. While the Council considers it to be more of an intangible relationship, there is no substantive evidence before me to suggest it is an important and historic part of the setting of the listed building.
27. Overall, having regard to the specific details of the appeal site and the proposal, in this instance, I am satisfied that the proposed development would preserve the setting and special interest, and would not harm the significance, of the Grade II listed building. On this basis, there would be no conflict with the statutory presumption set out in section 66(1) of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment. It would also comply with SPO2 of the WCS which, amongst other things, seeks to ensure the intrinsic quality of the historic environment is protected.
28. In finding no harmful effects to the special interest and significance of the Grade II designated heritage asset, the requirements of Paragraphs 213, 214 or 215 of the Framework are not engaged.

Other Matters

29. The Council is currently unable to demonstrate a 5-year supply of deliverable housing land. At the time of the Council's appeal submission, it was said to have some 3.68 years' supply. The Council's current planning boundaries for the district are therefore failing to deliver the houses required to meet government targets.

30. I have been referred to several approvals for new dwellings in the area. I have not been provided with specific details of each case but the descriptions which have been provided indicate that these schemes involved the removal of an existing building and its replacement with a dwelling. The appeal before me does not involve the removal of an existing building and thus I cannot be sure that the examples quoted represent a direct comparison. This therefore limits the weight that can be attributed to them.
31. The proposed dwelling is said to include various sustainability features including high performance cavity wall insulation, optimising solar gain and rainwater harvesting. Although such measures are becoming more common, they nevertheless can be given a small amount of positive weight.

Planning Balance

32. The proposal would be outside the planning boundaries identified in the LP. Nevertheless, given the current under provision of housing land supply and my observations in relation to the site's position on Toll Lane, I give this conflict limited weight.
33. I have concluded that the relationship between the protected tree and proposed dwelling would not create a satisfactory environment for future occupiers and so could lead to the future loss or harm to the tree. I give this conflict significant weight.
34. The proposed dwelling would not cause harm to the National Landscape nor the listed Toll Farmhouse. Consequently, they represent an absence of harm and so would be neutral matters within the overall balance.
35. Given the absence of a 5 year supply of housing land and that there are no policies in the Framework which offer a strong reason for refusal, Paragraph 11(d)(ii) of the Framework is engaged.
36. The proposal would make a positive, albeit modest contribution towards boosting housing supply. It would also result in some economic benefits during the construction phase and subsequently upon occupation. There may also be some social benefits too. The Framework highlights the importance of ensuring an adequate supply of housing sites, and the need to support economic growth and productivity but, having regard to the scale of the proposal, I give the benefits advanced in favour of the scheme moderate weight.
37. Weighed against this is the harm that I have identified in relation to the site's location but in particular the adverse effect the proposal would have on the environment of future occupiers and the implications for the protected tree. These harms are likely to be substantial and long lasting. The need to avoid them is perennial and in direct compliance with the Framework. Indeed, there is nothing in the Framework which indicates that the provision of housing should be at the expense of living conditions of future users or the natural environment. Accordingly, I ascribe this harm substantial weight.
38. I therefore find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development does not apply in this case.

Conclusion

39. I have found that the appeal site is not a suitable location for the proposed development and that it conflicts with the development plan when taken as a whole. While there are some benefits associated with the appeal proposal, neither they nor any of the other matters before me, including the contribution which the appeal proposal would make to the supply of housing in the local area, outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR