
Appeal Decision

Site visit made on 20 May 2025

by **C Housden BSc(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 July 2025

Appeal Ref: APP/U1430/W/25/3361338

Land on West Side of Whatlington Road, Battle TN33 0NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr & Mrs S Newbury against the decision of Rother District Council.
 - The application ref is RR/2024/1782/PIP.
 - The development proposed was single dwelling served by existing access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Procedural Matters

4. The description of development listed in the application form described the proposal as "proposed development of infill plot with single dwelling served by existing access. However, the text "infill plot" is superfluous and does not relate to an act of development, and therefore I have removed this from the description of development in the banner heading in the interests of clarity.

Main Issues

5. The main issues relevant to the appeal are whether the location, land use and amount of the proposed development is acceptable, having regard to the:
 - location of the development outside a defined settlement boundary;
 - accessibility to services and facilities for future occupants; and

- effect on the character and appearance of the area, including whether it would conserve and enhance the landscape and scenic beauty of the High Weald National Landscape (HWNL).

Reasons

Location

6. Policy OSS3 of the Rother Local Plan Core Strategy (2014) (CS) states that the location of development should be considered in the context of the spatial strategy for the area, which for the appeal site is set by Policies RA2 and RA3 of the CS for development within the countryside. Policy RA3 is clear that there are “extremely limited” circumstances where the creation of a dwelling would comply with the strategy for the area. The proposal for a residential dwelling would not meet any of these criteria.
7. The location of development would therefore conflict with Policies RA2, RA3 and OSS3 of the CS which sets out the evidence based spatial strategy and plan-led approach to development within the district.

Accessibility

8. The evidence before me suggests that the nearest settlement, Battle, is situated within approximately 1.2 miles of the appeal site. An individual would be required to travel along Whatlington Road to reach Battle which does not have a pavement or cycle paths and is unlit. Furthermore, it is subject to changes in gradient as you travel along it.
9. For these reasons, it is very unlikely that a future occupier would regularly cycle to Battle to undertake daily activities such as shopping. It is also unlikely that anyone other than a confident cyclist would undertake such a journey. Therefore, the proposal would introduce a dwelling where future occupiers would be highly reliant upon the private motor car to meet their daily needs.
10. Paragraph 110 of the National Planning Policy Framework (the Framework) seeks for decisions to account for differences between urban and rural areas in terms of access to sustainable transport solutions. In this case, the site is highly inaccessible to sustainable transport methods with extremely limited alternatives. Whilst journeys to and from Battle within a private motor car would not be excessively long in distance, this does not diminish the reliance the future occupiers of the development would place on the private motor car to undertake daily activities.
11. The proposed development would therefore conflict with Policy OSS3 of the CS. This policy seeks to ensure the location of development ensures future occupiers have sufficient access to existing infrastructure and services.

Character and appearance

12. The appeal site relates to a raised section of field within the HWNL, that steeply declines beyond the rear boundary of the site. Adjacent to Whatlington Road, the appeal site is bound by mature hedgerow.
13. Section 85 of the Countryside and Rights of Way Act (2000), as amended by section 245 of the Levelling-up and Regeneration Act (2023), requires relevant authorities to

seek to further the purpose of conserving and enhancing the natural beauty of National Landscapes.

14. The special qualities of the HWNL include its tranquil and rural landscape that feature a patchwork of fields bound by hedgerows and woodland. The appeal site therefore positively contributes to the HWNL in this regard. Furthermore, given the appeal sites elevated position there are wide ranging scenic views to and from the site into the wider landscape where these special qualities are readily appreciable.
15. Whilst the site is bounded by mature hedgerow, it features a prominent gap to facilitate the existing access which also provides attractive views from Whatlington Road into the wider HWNL which otherwise would be obscured by the hedgerow.
16. On the same side of Whatlington Road as the appeal site are the two properties Sunset and Green Man Cottage, whilst on the opposite side of the road are a small cluster of properties situated in an elevated positions behind mature vegetation. The area has a distinctly rural and verdant character and appearance.
17. Whilst the appeal site is situated between Sunset and Green Man Cottage, given the distance between these properties, the proposed dwelling would not read as an infill development. Rather it would appear as the domestication of an undeveloped field within the rural landscape. The introduction of a residential dwelling at the appeal site would introduce a significantly harmful urbanising presence which would diminish the positive character and appearance the site provides to the local streetscene and to the special qualities of the HWNL which I have described.
18. The appeal proposal would result in significant harm to the character and appearance of the area, including the HWNL. The development would neither conserve or enhance the landscape and scenic beauty of the HWNL.
19. The proposal would conflict with Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan (2019) (DASA) and Policies EN1, OSS3, OSS4, RA2 and RA3 of the CS. These policies, amongst other criteria, seeks to ensure that development contributes positively to the distinctive character and appearance of a site and ensures the landscape and scenic beauty of the HWNL is conserved and enhanced.

Other Matters

20. My attention has been drawn to a number of allowed appeal decisions within the broad locality, where previous Inspectors have found the locations of the sites to be dependent on the motor car to varying extents, however, have nevertheless granted planning permission. In each of these cases, the Inspectors reduced the weight they attributed to the conflict with the development plan in relation to the location of development, having had regard to the housing land supply position of the Council. This is an approach that I have also adopted in my decision, which I address in full in the planning balance section.
21. Specifically, regarding the appeal at Netherhay Barn¹, my attention has been drawn to this site being near the appeal site. However, Netherhay Barn is situated in an area the Inspector considered to be the edge of Battle. The extra distance required to reach the appeal site travelling along Whatlington Road separates it from the edge of Battle and is a challenging portion of the journey which has no footpaths, is unlit,

¹ PINS ref APP/U1430/W/18/3201084

has limited development and changing ground levels. Furthermore, the Inspector noted that the site was already driven to regularly by the appellants for the existing use which would offset some of the trips brought by the proposed dwelling. For these reasons, the sites are not directly comparable in terms of their accessibility to Battle.

22. The appellant has also referred to an application approved by the Council under delegated powers in Johns Cross. However, in this case I note there was an hourly bus, and some limited services and facilities which were accessible from the appeal site. This case is therefore not directly comparable with the appeal proposal.
23. In all these cases, the evidence does not show any harm was found in relation to the HWNL, which further makes these cases incomparable given the significant harm that I have found to the HWNL.

Planning Balance

24. The appeal proposal would be significantly harmful to the character and appearance of the area, including the HWNL and would be situated within a location which would be reliant on the private motor car and would be contrary to the Council's spatial strategy for the countryside. This results in conflict with the development plan taken as a whole.
25. However, the evidence shows that the Council cannot demonstrate a five-year housing land supply with a position of 2.63 years. Furthermore, in the most recent Housing Delivery Test (2023), the evidence shows that the Council delivered 43% against the homes required. In the circumstances, footnote 8 of the Framework establishes that the policies which are most important for determining the application are out of date and the provisions of paragraph 11(d) of the Framework are engaged.
26. The adopted spatial strategy is failing to meet the local housing needs of the area, which the evidence shows is significant. The development plan in is failing to meet paragraph 61 of the Framework which sets out the Government's objective of significantly boosting the supply of homes and ensuring sufficient amount of land can come forward. As such, conflict with the Policies OSS3, RA2 and RA3 of the CS, in so far as they relate to the location of development and access to services and facilities would carry limited weight against the proposal.
27. However, conflict with Policies DEN1 and DEN2 of the DASA and Policies EN1, OSS3, OSS4, RA2 and RA3 of the CS, in so far as they relate to character and appearance including the HWNL is given significant weight against the proposal. This is due to their consistency with the Framework, namely paragraphs 135 and 189 which seek to ensure development adds to the overall quality of the area and provides great weight to the conservation and enhancement to National Landscapes.
28. The significant harm to the HWNL which neither conserves or enhances its landscape and scenic beauty, would be a strong reason for refusing the development, in accordance with paragraph 11(d)(i) of the Framework. Consequently, the development would not benefit from the presumption in favour of sustainable development.
29. As mentioned, the Government's objective is to significantly boost the supply of housing, including through small and medium schemes. The proposal would contribute towards the Council's housing land supply. It would also lead to a small and time limited economic benefit during the construction phase, as well as some

limited social and economic benefits resulting from future occupiers. Given the small scale of the proposal, these matters at most attract moderate weight which is insufficient to outweigh the harms that I have identified.

Conclusion

30. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

C Housden

INSPECTOR