



Appeal Decision

Site visit made on 21 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/24/3357492

The Old Dairy, Rye Road, Playden TN31 7UL

- 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 J Bryant against the decision of Rother District Council.
 - The application ref is RR/2024/1152/P.
 - The development proposed is demolition of storage/stable building and removal of mobile home to allow construction of new dwelling (alternative to planning permission RR/2023/1580/P).
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of storage/stable building and removal of mobile home to allow construction of a new dwelling at The Old Dairy, Rye Road, Playden TN31 7UL in accordance with the terms of the application, ref RR/2024/1152/P, subject to the conditions in the accompanying schedule.

Preliminary Matters

2. Within the description of development, reference to the previously approved development at the site RR/2023/1580/P does not relate to an act of development proposed by this scheme. Accordingly, in the interests of conciseness and accuracy I have omitted this element of the description from my decision.

Main Issues

3. The main issues relevant to the appeal are the effect of the proposal on the:
 - character and appearance of the area, including on the High Weald National Landscape; and
 - living conditions of future occupants, with specific regard to the adequacy of the proposed external amenity space.

Reasons

Character and appearance

4. The appeal site relates to an area comprising a static caravan and single storey metal commercial building. The wider site contains a brewery directly adjacent to the appeal site, both of which are situated around a gravelled yard area. A single storey property is situated at the access to the site, and to the side of the appeal site is a large modern building with an agricultural appearance finished in a green metal. A prominent hedge and trees are situated on the boundary of the appeal site with Rye Road. The appeal site has a distinct character and appearance of a rural

commercial use with a previous agricultural history. The character of the area is rural, with low density development present within the streetscene.

5. The appeal site is situated outside of, but within the setting of the High Weald National Landscape (HWNL). 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. This includes development within the setting of a National Landscape.
6. The special qualities of the HWNL include its tranquil and rural landscape that feature a patchwork of agricultural fields bound by hedgerows and woodland. In this regard, the appeal site would feature positively to the setting as a former agricultural unit, although modern additions reduce its appreciation within the HWNL as a historic farmstead.
7. The design of the dwelling would read as a barn style building fronting onto the central yard alongside the brewery in a traditional agricultural arrangement, rather than an individual domestic residential building. As such, the width, scale and height of the proposed dwelling would appear well proportioned to its plot and in keeping with the character and appearance of the rural commercial unit. Furthermore, due to its non-domestic appearance and arrangement around the central yard, the location of the private external amenity areas to the side of the dwelling would be in-keeping with its character and appearance.
8. Views of the property would be possible from the nearby Rye Road, although the existing boundary vegetation would screen them to an extent, and from some longer-range views from within the HWNL. However, due to the design, the proposed dwelling would appear as a positive and integrated part of the established rural commercial unit, rather than a prominent and separate entity within the streetscene and landscape.
9. The proposal includes windows and rooflights, the size and number of which appears appropriate and proportionate to the size of the building. The shutters around the windows are helpful in keeping to the traditional barn style of the dwelling. However, the single pane design of the side windows above the ground floor would appear overly intrusive on the property and incongruous with the proposed design. Appropriate detailing to divide these windows from a single pane could be secured by a condition to overcome this matter. The exact wording of this condition I consider later in my decision.
10. Given the scale of the proposal for a single dwelling, that would appear as part of a wider rural commercial unit, designed with appropriately proportioned windows, the light spill from the use of the dwelling would be limited and not result in harm to the dark skies of the area.
11. Therefore, for the preceding reasons the proposal would be in keeping with the character and appearance of the area and would not result in harm to the wider landscape or the special qualities of the HWNL. As a result, the landscape and scenic beauty of the HWNL would be conserved.
12. The proposal would therefore comply with Policies OSS4, RA3, EN1 and EN3 of the Rother Local Plan Core Strategy (2014) (CS) and Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan (2019) (DASA). These policies,

amongst other criteria, seeks to ensure that development is of a high-quality design that contributes positively to the character and appearance of a site and its surroundings and ensures development conserves and seeks to enhance the landscape and scenic beauty of the HWNL.

Living conditions

13. Policy DHG7 of the DASA sets out appropriate and proportionate levels of private external space is expected and, normally, garden spaces will be required to be of at least 10m in length.
14. The policy allows for flexibility in its application based on the circumstances of the site. Given the shape of the plot, two external garden areas are proposed either side of the dwelling. Given the dwelling would not have a usual domestic appearance and has a single bedroom, the private external amenity space proposed to the side of the property would be both appropriate and proportionate to the proposal. Future residents would have sufficient space to undertake activities such as sitting outside and hanging washing. This arrangement would ensure that future occupants had adequate living conditions.
15. The appeal proposal would therefore comply with Policy DHG7 of the DASA. This Policy, amongst other criteria, seeks to ensure that appropriate and proportionate levels of private usable external space is provided in developments.

Other Matters

16. By virtue of the site being located outside of a defined settlement, the evidence before me shows the proposal would conflict with Policy RA3 and OSS2 of the CS. These are policies which relate to settlement boundaries and the location of development. However, the Council's officer report, in assessing the principle of development, confirms given its inability to demonstrate a five year housing land supply, these policies relating to settlement boundaries and location of development are considered out-of-date. There are no other conflicts with the development plan given my findings on the main matters.
17. The appeal scheme and dispute between the parties relates solely to an alternative design for the dwelling, not the principle of the dwelling in this location. The principle of constructing a dwelling at the appeal site has already been established through the Council granting planning permission under application RR/2023/1580/P. Based on the evidence before me this represents a viable fallback position of very significant weight. Material considerations therefore indicate that planning permission should be granted.

Conditions

18. I have considered the conditions suggested by the Council and appellant against the tests in the National Planning Policy Framework (the Framework) and the advice in Planning Practice Guidance (PPG). In meeting the tests of the Framework, I have amended the wording of conditions where necessary.
19. The standard timescale condition for implementation and a plans compliance condition are imposed for the avoidance of doubt and in the interests of certainty.

20. I have imposed a condition requiring the submission and approval of details of the materials to be used in the external surfaces of the dwelling. This is necessary to ensure the proposal will preserve the character and appearance of the area.
21. A condition requiring the approval of foul and surface water drainage works is considered reasonable and necessary to ensure that surface water and sewage is dealt with effectively.
22. The approval of a hard and soft landscaping scheme is also considered reasonable and necessary in order to ensure the proposal will preserve the character and appearance of the area.
23. The Council has suggested two conditions to remove permitted development rights as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) in relation to extensions, alterations, garages, out-buildings, structures, walls, fences or other means of enclosure, caravans and mobile homes.
24. Paragraph 55 of the Framework states that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The PPG also advises that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
25. Whilst the retention of permitted development rights could result in additional built form at the site or alterations to the approved dwelling, the works would be limited to the confines of the site itself and to development defined within the GPDO. I do not have convincing evidence that suggests the extensions and alterations that could be undertaken through the GPDO for a single dwelling would lead to harm to the character and appearance of the area or to the nearby HWNL. As such, I do not find it reasonable or necessary to remove the broad range of permitted development rights as suggested by the Council.
26. A condition securing detailed drawings of the windows in the side elevations above ground floor level is considered reasonable and necessary in the interests of character and appearance of the area. Given my findings on lighting, the parties suggestion of securing details relating to glazing that prevents or significantly reduces light transmission is not considered necessary.
27. Requiring the retention of the frontage vegetation is considered necessary in order to protect the character and appearance of the area.
28. A condition ensuring the parking areas have been provided in accordance with the approved plans prior to the occupation of development is considered necessary to ensure acceptable parking and access arrangements are secured in the interests of pedestrian and highway safety.
29. Conditions securing the proposed dwelling to be constructed to meet M4(2) accessible and adaptable standards, and to achieve water consumption of no more than 110 litres per person per day is considered reasonable and necessary in the interests of accessibility and sustainability.
30. Whilst not directly suggested by the Council's list of conditions, its officer report considered it necessary to secure cycle storage facilities by condition. In the

interests of encouraging sustainable transport, it is necessary to impose a condition for the approval of cycle storage facilities.

Conclusion

31. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. Therefore, I conclude for the reasons given above the appeal should be allowed.

C Housden

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 7520/24/LBP, 7520/24/1/A, 7520/24/2/A and 7520/EX.
- 3) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development below ground level shall commence until a scheme for the provision of foul and surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until the drainage works to serve the development have been provided in accordance with the approved details. The drainage works shall be permanently retained in accordance with the approved details, unless otherwise agreed in writing with the local planning authority.
- 5) No construction above ground level shall take place until the hard and soft landscaping details have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.
- 6) The windows hereby permitted above ground floor level in the side elevations, shall not be installed until details of the glazing and sections for the windows have been submitted to and approved in writing by the Local Planning Authority. The windows shall be installed and thereafter retained in accordance with the approved details, unless otherwise agreed in writing with the local planning authority.
- 7) The roadside hedgerow/trees shall be retained at a height of no less than 2 metres above ground level, and shall not be felled without the prior consent of the local planning authority unless dead, dying or dangerous within 5 years of the completion of the development hereby permitted. Any trees or hedgerow removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced with trees or hedgerow of such size and species as to be agreed in writing with the local planning authority.
- 8) The development shall not be occupied until the parking area has been provided in accordance with the approved plans. Thereafter, the parking area shall be retained in perpetuity for the purpose of parking vehicles in connection with the development hereby approved.
- 9) The dwelling hereby approved shall not be occupied until it has been constructed in accordance with Part M4(2) (accessible and adaptable dwellings) of the Building Regulations 2010 (as amended).
- 10) The dwelling hereby permitted shall not be occupied until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the dwelling has been constructed to achieve water consumption of no more than 110 litres per person per day.

- 11) The development hereby permitted shall not be occupied until details of secure cycle storage have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved cycling facilities have been implemented in accordance with the approved details. The cycle facilities shall be permanently retained in accordance with the approved details, unless otherwise agreed in writing with the local planning authority.

-- End of Schedule --