



Appeal Decision

Site visit made on 28 April 2025

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

an Inspector appointed by the Secretary of State

Decision date: 15th July 2025

Appeal Ref: APP/U1430/W/24/3356877

36 Pond Willow, North Trade Road, East Sussex, Battle TN33 0HU

- 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 Trinoak Holdings Ltd against the decision of Rother District Council.
 - The application Ref is RR/2024/1332/P.
 - The development proposed is demolition of existing garages and erection of 1no. single storey dwelling, associated car parking as well as soft and hard landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal is located within the High Weald National Landscape (HWNL). The Council has not specifically referred to the effects on the HWNL in its reason for refusal. However, the Council has indicated in its officer report that consideration of the proposal's effects on the HWNL are important. I also note the appellant's position on this matter and their reference to the relevant local and national policy in relation to it. As the decision maker I must seek to further the purposes of Protected Landscapes and have a duty to consider this matter further in the main issues as set out below.

Main Issues

3. The main issues relevant to this appeal are:
 - the effect of the proposed development on the character and appearance of the area, including whether the development would conserve and enhance the landscape and scenic beauty of the HWNL; and
 - whether future occupiers of the proposed development would likely experience acceptable living conditions in terms of privacy, noise and disturbance and external amenity space provision.

Reasons

Character and appearance

4. The appeal site is situated within Battle, a town located within the 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.

5. The High Weald National Landscape Management Plan (2024 – 2029) (HWNLMP) sets out that the special quality of the landscape, includes historic settlements set within a rural and distinct landscape with prominent expanses of woodland. It describes key characteristics of settlements within the HWNL which contribute to its beauty as being of a verdant character, with substantial soft landscaping which includes grass verges, hedgerows edging front curtilages, and full tree canopies breaking up the built form.
6. North Trade Road comprises a mix of single storey properties, chalet bungalows and two storey properties set back in spacious plots and dispersed in a ribbon style of development with a loose linear pattern along the road. Properties often feature pitched roofs, front facing gables, brickwork and white render.
7. There are a number of cul-de-sacs and back-land developments situated off North Trade Road which adds some depth to the development in the area. However, there remains a strong semi-rural character due to the area being well vegetated with spacious plots, and the influence of longer-range views into the wider HWNL between the gaps of buildings with trees breaking up the built form.
8. The appeal relates to a single storey flat roof garage block and associated hardstanding situated to the rear of the two-storey flatted building at 36 North Trade Road (No 36). The site is bound by well-established vegetation. It comprises previously developed land situated in a contained back-land location between two residential frontages and is mostly screened from longer range views. In this regard the appeal site has a limited contribution to the landscape and scenic beauty of the HWNL.
9. Due to the backland location and screening of the proposed development, along with the current limited contribution the appeal site makes to its qualities, the appeal proposal would not result in harm to the landscape and scenic beauty of the HWNL which would be conserved by the proposal.
10. However, the proposed dwelling would appear as an incongruous addition to the established local pattern of development by introducing a residential dwelling in such close proximity to No 36. The development would appear as a cramped addition that would be awkwardly juxtaposed at a different orientation to the surrounding properties.
11. Whilst the appeal proposal would replace an existing structure, the introduction of the residential use, dwelling and associated curtilage at the site would be far more prominent than the existing garage which currently has an unintrusive and subservient character and appearance.
12. In relation to the design of the dwelling itself, its shallow mono-pitched roof along with the vertical timber cladding would be significantly out of keeping with the architectural style of the properties within the surrounding area and therefore the appeal proposal would also fail to integrate to its local surroundings in this regard.
13. However, given the enclosed nature of the plot, the visual harm to character and appearance of the area would be predominantly limited to private views, notably from the rear windows of No 36. Nevertheless, the appeal proposal's appearance, scale and layout would have a localised harm to the character and appearance of the area.

14. The appeal proposal would therefore conflict with Policies OSS4, BA1 and EN3 of the Rother Local Plan Core Strategy (2014) (CS) and Policies HD4 and HD6 of the Battle Civil Parish Neighbourhood Plan (2021) (NP). 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 visually integrates with their surroundings.

Living conditions

15. Due to the proposed garden space being situated in front of the proposed dwelling and in close proximity to the rear windows of the first-floor flats of No 36, these neighbours would have direct and uninterrupted outlook towards the private garden. The proposed fencing bounding the garden would be insufficient to obscure views from the first floor of No 36. For this reason, I find that future occupiers of the appeal scheme would be subject to an unacceptable loss of privacy through overlooking from the adjacent neighbours which would be harmful to the future occupiers living conditions.
16. In relation to the amount of garden space provided, Policy DHG7 of the Development and Site Allocations Local Plan (2019) sets out that, appropriate and proportionate levels of private external space is expected and that, normally, garden spaces will be required to be of at least 10m in length. The parties both agree that the proposed depth of the garden would fall short of 10m.
17. I am mindful that Policy DHG7 allows for an element of judgement. In this case, I am satisfied that given the size of the property being a one bed dwelling, the garden area provided would be of a sufficient size to ensure living conditions of future occupiers would not be harmed in this regard.
18. In relation to noise and disturbance from the adjacent parking area, given that there are only four parking spaces adjacent to the appeal site associated with No 36, I am satisfied that the level of vehicle movements would be limited, and therefore, the associated noise and disturbance would be insufficient to harm the living conditions of future occupiers.
19. Although future living conditions would likely be acceptable with regard to noise and disturbance and external amenity space provision, I have found that future occupiers would experience unacceptable living conditions, with particular reference to privacy. Therefore, the appeal proposal would conflict with Policy OSS4 of the CS. This policy, amongst other matters, seeks to ensure that development meets the needs of future occupiers, including the provision of appropriate amenities and ensuring a development is compatible with existing uses of adjacent land.

Other Matters

20. The appellant has provided examples of planning permissions granted by the Council which they feel are similar to the appeal proposal. These include RR/2023/1698/P which is for four dwellings situated in the field opposite the appeal site, and RR/2014/2554/P as an example of a mono-pitched garage approved in 2014.
21. However, the scale of those two examples are not directly comparable to the appeal scheme, as one relates to a larger development on a greenfield site and the other a domestic garage. Furthermore, the individual circumstances present at the appeal site, including the relationship with the adjacent neighbours along with the specific

siting and design of the scheme before me has meant that I have found harm in relation to both main matters. The presence of those examples does not diminish the harm that I have identified in relation to the appeal scheme which I have assessed on its individual planning merits.

22. Letters of support were received stating the development would improve the private views from the flats at No 36 and the appeal scheme would increase the values of these properties. However, it is a well-founded principle that planning is concerned with land use in the public interest. As such, the planning system does not exist to promote the aforementioned private interests.

Planning Balance

23. The proposal is not in accordance with the aforementioned policies of the CS and NP. In my assessment, I have found that the appeal proposal would be harmful to the character and appearance of the area and would result in inadequate living conditions for future occupiers of the development. In these respects, the degree of harm to character and appearance would be moderate as the harm is localised due to the enclosed nature of the site, and the harm to living conditions would be significant given the considerable level of overlooking from nearby neighbours. For these reasons, the development conflicts with the development plan as a whole.
24. However, the Council cannot demonstrate a five-year housing land supply and have set out a position of 2.63 years. Furthermore, in the most recent Housing Delivery Test (2023), the Council delivered 43% against the homes required. In these circumstances, footnote 8 of the National Planning Policy Framework (2024) (the Framework) establishes that the policies which are most important for determining the application are deemed to be out of date and the provisions of paragraph 11(d) of the Framework are engaged. Given my findings on the HWNL, paragraph 11(d)(ii) is engaged.
25. Paragraph 14 of the Framework is also relevant. The NP was adopted within the last five years and therefore meets criteria a) of paragraph 14. The NP also contains allocations to meet the identified housing requirement set out in the CS. However, the CS and its housing requirement was adopted in 2014 some seven years before the adoption of the NP and prior to the introduction of the standard method for calculating housing need introduced in the 2024 Framework. Therefore, the housing requirement adopted by the NP was based upon dated figures from the CS. I do not consider the NP meets criteria b) and therefore paragraph 14 of the Framework is not engaged.
26. Paragraph 232 of the Framework sets out that due weight should be given to development plan policies according to their consistency with the Framework.
27. The importance of achieving well-designed development is a key aspect of sustainable development, as set out in section 12 of the Framework, where it is clear at paragraph 139 that development which is not well designed should be refused. Paragraph 135(f) seeks to ensure that development promotes health and well-being with a high standard of amenity for future occupiers. I also note that whilst paragraph 124 of the Framework seeks to make effective use of land, this is to be achieved while also ensuring safe and healthy living conditions. Furthermore, whilst paragraph 125(c) of the Framework advises that the use of suitable brownfield land within settlements for homes should be approved unless substantial harm would be

caused, I find that the adverse impacts of the appeal proposal would meet this level of harm.

28. Therefore, based on the high degree of consistency with the Framework, the conflict between the appeal proposal and Policies OSS4, BA1 and EN3 of the CS and Policies HD4 and HD6 of the NP would carry significant weight against the proposal.
29. The Government's objective is to significantly boost the supply of housing, including through small and medium schemes and utilising brownfield land within settlements. The proposal would contribute towards the Council's housing land supply in this regard. It would also introduce an M4(2) standard dwelling and short-term economic benefits through the construction of the appeal proposal, and longer-term economic benefits to local shops and services through the introduction of an additional household. The appeal proposal would reduce the total amount of hardstanding present and increase soft landscaping including the provision of a green roof which would result in improvements to local drainage and biodiversity. The appeal proposal would also be designed to be energy efficient and incorporates PV panels.
30. Whilst these matters weigh in favour of the appeal scheme, given the small scale of the proposal, this would at most attract moderate weight in favour of the proposal.
31. I note that some letters of support were received highlighting the appeal scheme would replace the unsafe garages and uneven driveway. This would carry limited weight given this benefit is not solely reliant on the specific appeal scheme before me.
32. As such, the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, in this case, the presumption in favour of sustainable development, as set out in the Framework, would not apply.

Conclusion

33. The proposal conflicts with the development plan and the material considerations, including the provisions of the Framework, do not indicate that a decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

C Housden

INSPECTOR