



Appeal Decision

Site visit made on 18 February 2025

by **D Wilson BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th July 2025

Appeal Ref: **APP/R3650/W/24/3352194**

Land adjacent Tynley Woods GU10 2NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Creech against the decision of Waverley Borough Council.
 - The application Ref is WA/2024/00335.
 - The development proposed is outline planning application (all matters reserved other than access) for 2 serviced plots for self-build and custom housebuilding.
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Decision

1. The appeal is allowed and outline planning permission is granted for outline planning application (all matters reserved other than access) for 2 serviced plots for self-build and custom housebuilding at Land adjacent Tynley Woods GU10 2NZ in accordance with the terms of the application, Ref WA/2024/00335, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr Simon Creech against the decision of Waverley Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant submitted an amended proposed site plan with the appeal. The amended plan has reduced the area of the site contained within the red line and changed a section to be instead contained within a blue line. The Council had the opportunity to comment on the amended plan. The amended plan has not resulted in any significant changes to the proposed scheme's impact. Accordingly, I am satisfied that no one would be prejudiced were my decision to have had regard to the amended plan.
4. In December 2024 a revised National Planning Policy Framework (the Framework) was published. In respect of the main issues for consideration in this appeal, the revised Framework has changed Government Policy and so I have consulted the appeal parties who have had the opportunity to comment on the changes. In respect of the paragraphs submitted that are no longer correct, I have considered the most relevant paragraph in the current Framework.
5. The planning application was submitted in outline form with all matters reserved for future consideration apart from access. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative.

Main Issues

6. The main issues are:

- whether the appeal site's location within the zone of influence of the Wealden Heaths Phase I Special Protection Area and Wealden Heaths Phase II Special Protection Area (SPAs) provides a strong reason for refusing or restricting the proposed development,
- whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan Policies, and
- the effect on ecology and trees.

Reasons

SPAs

7. The appeal scheme proposes dwellings on a site that lies within the Zone of Influence of the SPAs. The Conservation of Habitat and Species Regulations 2017 require that, where a project is likely to have a significant effect on a European site, either alone or in combination with other projects, the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
8. The Council has an Information Note¹ concerning residential development within the zone of influence of the SPAs. However, this only states that sites outside 400 metres of the SPAs need to be considered on a case-by-case basis.
9. The interest features of the SPAs include nightjar, woodlark and Dartford warbler, which are the three internationally rare bird species for which it is classified. The overriding conservation objective is to ensure that any new residential development will not have any significant adverse impact on the SPAs. The appellant has not proposed any mitigation as part of the appeal scheme.
10. A threat to the integrity of the SPAs is recreational activities associated with additional development and I am aware that I am to consider the impact of the scheme alone or in combination with other plans or projects. However, the development is for two new dwellings, as such the number of additional recreational visitors would be limited. Natural England has been consulted and has confirmed it has no objection to the proposal, considering that proposals of more than 20 units will have a likely significant effect on the qualifying features of the SPAs. As such, based on the proposal for two dwellings it would not have likely significant effects on the SPAs.

¹ Habitats Regulations Information Note for Proposed Residential Development within close proximity to the Wealden Heaths Phase I and II Special Protection Area (SPA) (Undated)

11. The Council consider that the proposed development would be a threat to the integrity of the SPAs and have referred to this concern within their reason for refusal concerning ecology and trees. However, they have not completed an appropriate assessment, provided very little reasoning within their initial assessment of the proposed development and have not sought to expand on this matter further within their statement of case. As such, there is very little basis to suggest why the proposal should be considered an exception to Natural England's advice.
12. In reaching my view I have also had regard to the Council's consideration of a similar proposal² on the appeal site whereby they came to a similar view as well as a recent appeal decision³. I am also mindful of the appeal sites distance from the SPAs and the availability of alternative recreational opportunities nearby that would be more attractive and convenient for future occupiers to use thereby discouraging visits to the SPAs.
13. I therefore conclude that, given the size of the development and its relationship to alternative recreational opportunities, there are no relevant impact pathways in relation to the qualifying species of the SPAs, alone or in combination with other developments and so the scheme would not have a likely significant effect on the integrity of the SPAs. I find no conflict with Policy NE1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites February 2018 which amongst other things, seeks to conserve and enhance biodiversity. As such, the appeal site's location within the zone of influence of the SPAs does not provide a strong reason for refusing or restricting the proposed development.

Whether inappropriate development

14. Paragraph 143 of the Framework sets out the purposes of the Green Belt which are; to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
15. Paragraph 154 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. There is no dispute that the proposed development would not meet any of these categories of development.
16. Paragraph 155 of the Framework sets out that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:
 - a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - b. There is a demonstrable unmet need for the type of development proposed;
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and

² Council reference: WA/2021/03162

³ APP/R3650/W/24/3358096

- d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.
17. Grey belt land is defined in the Glossary at Annex 2 of the NPPF as: land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development. In this regard I have already found that the sites location within the zone of influence of the SPAs would not provide a strong reason for refusing development.
18. The appeal site is a parcel of land which mostly contains mature trees, open area of grass and a disused tennis course. The site is surrounded by built form on all sides and for this reason it does not contribute to checking the unrestricted sprawl of large built-up areas nor does it prevent neighbouring towns merging into one another. The appeal site is not located within a historic town and as such there would be no conflict with this criterion. I therefore consider that the proposal would utilise grey belt land and would not fundamentally undermine the purposes of the remaining Green Belt and thus satisfies criterion 155a.
19. The Council is unable to demonstrate a five year housing land supply. The figure quoted by the appellant is 1.28 years which is not disputed by the Council. The dwellings are also proposed to be self-build/custom housing for which the Council has an unmet need. The self-build/custom housing has been secured by a completed Unilateral Undertaking. As such, there is a demonstrable unmet need for the development proposed, satisfying criterion 155b.
20. The appeal site is located nearby a bus stop which would be accessed by walking a short distance along a footpath that provided regular services to larger settlements. The footpath also connects the appeal site to Beacon Hill and while the distance is moderate there are a number of facilities that could be accessed. I therefore find that the development would be in a sustainable location having regard to Paragraphs 110 and 115 of the Framework and complied with criterion 155c.
21. The proposal as amended would not constitute major development and as such, there is no need to comply with criterion 155d. I therefore consider that the proposed development would meet the tests outlined in Paragraph 155 of the Framework and would therefore not constitute inappropriate development.
22. Insofar as relevant I find no conflict with Policy RE2 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites February 2018 and Policy H1 of the Haslemere Neighbourhood Plan: 2013 – 2032. Amongst other things, these seek to protect the green belt against inappropriate development.

Ecology and trees

23. The Council consider that significant issues in relation to ecological and tree survey information remain to be resolved. These include clarification of whether impacted trees have been assessed and submission of further bats survey work, reptile surveys, clarification of grassland species list and assessment of impact on the adjacent lowland deciduous woodland Habitat of Principal Importance.

24. The appeal was accompanied by an updated Arboricultural Impact Assessment & Method Statement dated September 2024 which provided further information and states that no trees are required to be removed and no works to trees are required to facilitate the proposed development. Furthermore, the appellant confirms that the tree group identified as TG2 lacks any potential roosting features for bats. This appears to satisfy the Council's concerns and I have no reason to conclude otherwise.
25. A walkover survey was undertaken by the appellant's ecological consultants in March 2024, which confirmed that no reptile species were present within the site. The appellant is also actively managing the site to ensure that no habitats are created. As such, on the basis of the recent survey and management of the site I am satisfied that there would be no harm to reptiles.
26. The Council consider that grassland species have not been clarified, however, the appellant's ecology note is clear in identifying the species of grassland within the site which are typical of amenity grassland.
27. The appeal site is adjacent to a lowland deciduous woodland Habitat of Principal Importance (HPI) and it has already been established that no felling of any trees that make up this area would be required. I am satisfied therefore, that providing that the construction phase of the development is managed, through a Construction Environmental Management Plan that any possible impact of the development on the adjacent HPI would be avoided.
28. I therefore conclude that the proposed development would not result in harm to ecology and trees. I find no conflict with Policies NE1 and NE2 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites February 2018, Policies DM1 and DM11 of the Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies March 2023, Policy H9 of the Haslemere Neighbourhood Plan: 2013 - 2032 and Paragraphs 187 and 193 the Framework. Amongst other things, these seek to ensure that biodiversity is conserved and enhanced, not cause harm or damage existing environmental assets and retain woodland, important trees and groups of trees.

Other Matter

29. The Council refused planning permission as the development was inappropriate development in the Green Belt and they considered very special circumstances did not apply. Most of the Council's case relates to the very special circumstances, particularly self-build and custom-build housing undersupply. However, as I have found that the proposal would not be inappropriate development I have not needed to consider these matters further.

Conditions

30. I have considered the Council's suggested conditions in the event I were to allow the appeal. Where necessary, and in the interests of clarity and precision, I have slightly altered them to more closely reflect the advice in the Framework and the Planning Practice Guidance.

31. Condition 1 is the standard time condition for the approval of reserved matters. Condition 2 specifies which reserved matters need to be applied for and condition 3 specifies the plans on which the development shall be carried out in the interests of certainty.
32. Condition 4 requires a construction transport management plan to be submitted and approved in order to manage highway impacts. Condition 5 requires arboricultural details to protect existing trees and hedges. Condition 6 requires visibility splays to be implemented in the interests of highway safety.
33. Condition 7 requires details of how the building adjacent to the access road will be protected and condition 8 requires scheme of climate change and sustainability measures. Condition 9 requires a landscape and ecological management plan and condition 10 requires trees to be retained in accordance with the approved plans and particulars in the interests of the character and appearance of the area.
34. Condition 11 requires space to be laid out for vehicle parking and turning in the interests of highway safety. Condition 12 requires cycle storage and charging facilities to encourage sustainable travel. Condition 13 requires sustainable drainage in order to manage to risk of flooding. Condition 14 site operating and delivery hours in the interests of protecting the living conditions of neighbouring occupiers.

Conclusion

35. For the reasons given above the appeal should be allowed.

D Wilson

INSPECTOR

Schedule of Conditions

1. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. The approval of the details of the appearance, landscaping, layout and scale ("the reserved matters") shall be obtained from the Local Planning Authority in writing before development is commenced and shall be carried out as approved.
3. The plan numbers to which this permission relates are:
Location plan (unnumbered);
Proposed Site Plans ref. PL-21e
The development shall be sited in accordance with the approved plans. No material variation from these plans shall take place unless otherwise first agreed in writing with the Local Planning Authority.
4. No development shall commence until a Construction Transport Management Plan (CTMP), has been submitted to and approved in writing by the Local Planning Authority, to include details of:
 - a) parking for vehicles of site personnel, operatives and visitors
 - b) loading and unloading of plant and materials
 - c) storage of plant and materials
 - d) programme of works including measures for traffic management
 - e) provision of boundary hoarding or other security measures
 - f) means of protection of the building immediately adjacent to the accessway during the construction phase of the development
 - g) HGV deliveries and hours of operation
 - h) measures to prevent the deposit of materials on the highway
 - i) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused
 - j) Site access and on-site turning for construction vehiclesThe CTMP shall be implemented in full during the construction phase of the development.

5. No development shall take place until further arboricultural details have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. This scheme shall include details of: the existing trees and hedges to be retained in the form of a Tree Survey and an updated Arboricultural Method Statement, in line with BS5837:2012, and shall include details of all current and proposed hard surfaces, walls, fences, access features, and ground levels as well as the measures taken to protect existing trees and hedges during construction, demolition, and delivery of materials / machinery, and a tree protection plan in line with BS5837:2012. The statement should pay particular attention to the installation of the access drive and include existing and final levels information and cross sections across several sections to demonstrate feasibility. The scheme should contain a schedule of arboricultural supervision.

Ten working days prior to the commencement of works on site and after the installation of the tree protection in accordance with (a) above the applicant shall inform the Local Planning Authority, to allow inspection and verification of the protection measures. The Council may request photographic evidence be sent for verification rather than visit the property.

6. No development shall commence on the proposed dwellings until the existing vehicular access to Churt Road has been provided with visibility splays in accordance with the approved plans, Drawing No. VS-01c, and these visibility splays shall be kept permanently clear of any obstruction over 0.6m high, during both the construction and the occupational phases of the development.
7. No development shall commence (other than site clearance in accordance with other conditions in this decision) until details of the permanent protection of the corner of the building immediately adjacent to the access road, to comprise bollards or other permanent feature(s) have been submitted to and approved in writing by the Local Planning Authority, and the approved details shall be permanently retained for the duration of the residential use of the site.
8. No above ground development shall commence (other than site clearance in accordance with other conditions in this decision) until a scheme of climate change and sustainability measures has been submitted to and approved in writing by the Local Planning Authority. The scheme shall have regard for the content of the Council's Climate Change and Sustainability SPD (2022) and shall include the provision of on-site generation of renewable energy, recycling of grey water and use of stored rainwater for the irrigation of soft landscape planting. The approved scheme shall be implemented prior to first occupation of the development and thereafter retained.

9. Submission of the reserved matter of landscaping should include a Landscape and Ecological Management Plan (LEMP) , to include details of:
- a) Description, a plan and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management, including long term design objectives, management responsibilities and maintenance schedules for the landscaped areas and communal spaces within the development;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions, together with a plan of management compartments;
 - f) Preparation of a work schedule, including an annual work plan capable of being rolled forward over a five-year period;
 - g) Details of the body or organisation responsible for implementation of the plan;
 - h) Ongoing monitoring and remedial measures;
 - i) Legal and funding mechanisms by which the long-term implementation of the plan will be secured by the applicant with the management body(-ies) responsible for its delivery;
 - j) Monitoring strategy, including details of how contingencies and/or remedial action will be identified,
 - k) a Sensitive Lighting Management Plan (SLMP), and
 - l) A final Biodiversity Net Gain (BNG) Strategy that shall achieve a minimum BNG of 10% over existing conditions.
- The development shall be carried out and maintained strictly in accordance with the approved LEMP.

10. In this condition 'retained tree' means an existing tree, which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of five years from the first occupation of the development.
- a. no retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Borough Council. Any pruning shall be carried out in accordance with British Standard 3998 (tree work) and in accordance with any supplied arboricultural method statement.
 - b. if any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Borough Council.
 - c. tree protection shall be maintained in-situ and not moved or removed until all construction has finished and equipment, materials, or machinery are removed from site.
 - d. any arboricultural protection information and plans submitted as part of the application, and listed in the approved plans condition, or submitted to meet a condition of consent shall be implemented and adhered to at all times during the construction process unless otherwise agreed in writing with the Borough Council. This shall include any requirement for arboricultural supervision and site monitoring. This condition may only fully be discharged on completion of the development subject to satisfactory written evidence of contemporaneous supervision and monitoring of tree protection throughout construction by the appointed arboriculturist.

11. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with a layout to be approved at reserved matters stage, providing for vehicles parking and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
12. The development hereby approved shall not be first occupied unless and until facilities for the secure, covered parking of bicycles and the provision of a charging point with timer for e-bikes by said facilities have been provided within the development site in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority and thereafter the said approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.
13. Submission of the reserved matters should include surface water drainage details. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. Prior to first occupation of the development, surface water drainage shall have been provided in accordance with details that has been submitted to and approved in writing by the planning authority.
14. No machinery or plant shall be operated, no process shall be carried out and not deliveries taken or dispatched from the site except between the hours of 08:00-18:00 Monday to Friday, 08:00-13:00 on Saturday and not an any time on Sundays, Bank or Public Holidays.