



Appeal Decision

Site visit made on 4 June 2025

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 AUGUST 2025

Appeal Ref: APP/C1435/W/24/3352611

Greenhouse, 81 High Street, Heathfield TN21 8JA

- 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 The Vivian Brown Discretionary Settlement Trust 2023 against the decision of Wealden District Council.
 - The application Ref is WD/2024/1122/F.
 - The development proposed is the demolition of existing single storey building and erection of a three-storey building with class E retail unit at ground floor and four residential flats above.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing single storey building and erection of a three-storey building with class E retail unit at ground floor and four residential flats above at Greenhouse, 81 High Street, Heathfield TN21 8JA in accordance with the terms of the application, Ref WD/2024/1122/F, subject to the conditions in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (Framework) was revised in December 2024. The views of the main parties were sought in respect of the implications of this for the Council's housing land supply. I have determined the appeal in light of the representations made and the revised Framework.
3. The Council's third reason for refusal concerns the lack of sufficient information to demonstrate that the proposed development would not result in land instability, in relation to a former railway tunnel located near the site. However, following the submission of a letter from Dixon Hurt Consulting Civil and Structural Engineers as part of the appeal, the Council has confirmed in its statement of case that it no longer seeks to defend this reason for refusal.
4. Although the letter was not submitted with the original planning application, the appeal process has allowed both the main parties and interested parties the opportunity to comment on its contents. I have therefore taken this evidence into account in determining the appeal.
5. The submitted letter explains that the tunnel is a brick-lined structure of elliptical section, and that the proposed development would exert loadings comparable to those of two existing buildings constructed directly above the tunnel. On this basis, the letter concludes that there are no structural grounds to resist the proposal.
6. While some interested parties have raised concerns regarding the age of the site investigation report used to assess the soil composition, the reference to this

report is not necessarily critical to the overall conclusion. It is evident that the author of the structural letter was aware of its age and considered it within the context of a broader assessment. In the absence of any substantive counter-evidence, I am satisfied that the third reason for refusal has been adequately addressed, and I have framed the main issues of the appeal accordingly.

Main Issues

7. The main issues are the effect of the development: on
- the living conditions of the occupier(s) of no 77 High Street, with particular regard to outlook;
 - the character and appearance of the area; and
 - whether the proposal would provide an acceptable standard of accommodation for future occupiers, with particular regard to outlook and natural light, in the context of the proximity to off - site trees.

Reasons

Living conditions

8. The Framework makes clear that developments should provide a high standard of amenity for existing and future users.
9. No. 77 is a two-storey semi-detached dwelling and is a direct neighbour to the appeal site. It has a modest garden and a parking space, which together offer only limited separation from the rear boundary of the appeal site. Many of the main habitable room windows at No. 77 face this boundary, overlooking the garden. At present, both the internal living areas and the garden enjoy a high-quality outlook across the appeal site's rear yard and external display area.
10. During my site visit, I observed that the garden at No. 77 is well maintained and clearly functions as a pleasant and usable outdoor space. The open outlook is largely attributable to the low height of the existing building which permits uninterrupted views across the yard at first-floor level and above. There is also a notable difference in ground levels between the two properties: the land at No. 77 slopes downward toward the dwelling, resulting in ground floor windows that sit significantly lower than the existing building on the appeal site.
11. The proposed development would bring the new building much closer to the rear boundary with No. 77. It would introduce a substantial increase in height, bulk, and mass—rising to three storeys at the front and two storeys adjacent to the boundary. These changes would be particularly prominent when viewed from No. 77 which is on lower ground. The limited separation provided by the parking space would do little to reduce the visual dominance of the new structure.
12. Although both main parties agree that the proposal meets the British Research Establishment 25-degree rule, this test only assesses the impact on daylight to internal rooms. It does not consider the effect on outdoor amenity space, nor does it address the loss of outlook or the overbearing nature of the development. In this case, the height and proximity of the proposed building would introduce a strong sense of enclosure where none currently exists.

13. While higher-density development is often expected in town centre locations, this does not justify inadequate living conditions. While the garden at No. 77 would remain physically usable, the enjoyment of this space would be significantly reduced. The development would materially change the character of the garden, replacing an open and pleasant outlook with a dominant and enclosing built form.
14. I have not identified harm in terms of privacy or loss of natural light. However, these factors do not outweigh the harm caused by the loss of outlook and the overbearing impact of the proposed building. This would result in a clear and harmful sense of enclosure to the detriment of the amenity of neighbouring occupiers.
15. In conclusion, the impact on the living conditions of No. 77 would be considerable and would result in a clear conflict with Policy EN27 of the Wealden Local Plan 1998 (LP) and the requirements of the Framework. Policy EN27 requires, amongst other things, that development does not create an unacceptable adverse impact on the amenities of adjoining developments. The proposal would also conflict with the requirements of the Framework.

Character and appearance

16. The appeal site occupies a corner position at the junction of the High Street and a service road. The existing single-storey building has a notably low profile in comparison to its surroundings. An external yard wraps around the rear and sides of the building, currently serving as an external display area. The wider High Street presents a vibrant and attractive environment, characterised by active ground-floor retail and commercial uses, with secondary and residential uses above. With the exception of the appeal site, buildings along the High Street are typically two to two-and-a-half storeys in height, with occasional three-storey structures contributing to the varied roofscape.
17. The proposal would replace the existing single storey building with a new mixed-use development, with retail at ground floor and four residential flats spread over the two upper floors. While the proposed building's depth may appear substantial—particularly when viewed from the service road—this is not atypical in a central high street context, where higher building densities often result in plots with considerable depth relative to their width. Indeed, there are comparable examples both to the west and east of the appeal site, including a notably deep building immediately west of the appeal site. In this context, the proposed dense form would appear consistent with the surroundings and would align with the established urban grain of this busy, built-up high street. The proposed height and overall scale would sit comfortably within the prevailing roofline and building heights, whereas the current low-profile structure appears anomalous and aesthetic mismatch from its surroundings.
18. In terms of architectural appearance, the proposal incorporates slate roof tiles, a mansard roof form, a rounded pediment, and a central date plaque—features that collectively evoke a Georgian aesthetic. Although the fenestration is modest for this style and less generous than that of neighbouring buildings, I find this appears as a contemporary interpretation, balancing traditional references with a simplified, modern approach and it is not necessary to closely replicate Georgian, or any other, architecture style. The proposal results in a building that would contribute positively to the architectural diversity of the High Street.

19. Tilsmore Court, a distinctive and visually striking building, adds architectural interest to the High Street. However, it occupies a significantly larger and more prominent site at the junction of two major roads whereas the appeal site is more modest in scale and prominence and is not directly comparable. Nonetheless, the proposal demonstrates that well-designed buildings—regardless of size—can enhance the streetscape. Unlike landmark buildings such as Tilsmore Court, the proposed development does not seek to dominate its context but instead respects the established building line and height of adjacent properties.
20. While the proposed mansard roof would differ from the immediate roofscape—dominated by steep dual-pitched roofs with gable features—mansard roofs are not alien to the High Street. Notably, a significant stretch of shops between Streatfield Road and Cherwell Road features mansard roofs. Therefore, the inclusion of a mansard roof on a modestly scaled, detached building with a limited frontage would not appear out of character within the broader architectural context. Reference has been made to the Framework’s definition of mansard roofs and the support for upward extensions at paragraph 125. That definition applies to extensions atop terraces of at least three buildings and a minimum of two storeys in height. The appeal site, being a detached, single-storey structure, does not meet these criteria. More importantly, the proposal is not for an upward extension but for a complete redevelopment. Accordingly, the cited definition is of limited relevance in this case.
21. For the above reasons, I conclude that the proposed development would be acceptable in terms of its effect on the character and appearance of the area. The proposal would therefore accord with the requirements of Policy EN27 of the LP, Spatial Planning Objective SPO13 and Policy WCS14 of the adopted Wealden Core Strategy Local Plan 2013. These policies, taken together and insofar as relevant, require that the scale, form and design of proposals respect the character of adjoining development and of a high-quality design which promotes local distinctiveness. Furthermore, the proposal would accord with the requirements of the Framework which seek to achieve well-designed and beautiful places.

Standard of accommodation

22. The Council has raised concerns that the future growth of trees in the neighbouring yard to the west could restrict natural light levels and outlook for future occupiers of flats 2 and 4, located on the first and second floors, respectively. The windows that would potentially be affected would be on the western elevation of the flats and would serve bedrooms.
23. During my site visit, I observed that the neighbouring trees are already of considerable height. However, they are generally well spaced and set back from the boundary. Whilst I do not have any specific evidence relating to the health or future growth potential of these trees, their current canopy spread is modest in relation to the size of the yard.
24. The spacing and separation between the trees and the proposed building mean that, even with further growth and full foliage, the trees are unlikely to be close enough to significantly block natural light or views. Reasonable outlook would remain available between and around the trees.
25. In addition, both bedrooms would benefit from secondary, high-level windows facing south. Although these windows offer a more limited outlook, they would

provide an alternative source of natural light. Taking all factors into account, the presence and potential growth of these trees are unlikely to have a harmful impact on the quality of accommodation for future occupiers.

26. Taking all of these factors into account, I consider that the presence and potential growth of the off-site trees would not result in a materially harmful impact on the standard of accommodation for future occupiers, particularly in relation to outlook and natural light. In this regard, there would be no conflict with Policy EN27 criterion (3) of the LP, in so far as it requires the proposed development to provide a satisfactory environment for future occupants. The proposal would also conflict with the requirements of the Framework which include providing a high standard of amenity for future users.

Other Matters

27. The statutory Biodiversity Net Gain (BNG) requirement, introduced under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021), is now mandatory. However, the application indicates the development qualifies for the *de minimis* exemption: it does not affect any priority habitat, impacts less than 25 sqm of onsite habitat, and involves under 5 metres of linear features such as hedgerows.
28. Based on the submitted plans and my site visit, the site is predominantly covered by hardstanding or built structures. I am therefore satisfied that the proposal is exempt from the biodiversity gain condition and note that the Council has reached the same conclusion.
29. In addition to the main issues and preliminary matters identified above, I have had regard to the other concerns raised by interested parties which include highway safety, construction and the need/viability.
30. In relation to highway safety, I note that the proposal does not introduce any new vehicular access points, nor would it alter the width or character of the surrounding pavement. Concerns have been raised regarding pedestrian visibility at the junction, particularly as the proposed development would introduce built form up to the site boundary, whereas the existing building is set slightly back, with a chain-link fence that currently allows limited views through.
31. While some visibility is currently possible, it is often obstructed by items displayed in the external sales area, and I am not aware of any mechanism that secures or protects such views. Accordingly, although the proposal would result in a change to visibility, this would be modest. Importantly, the existing pedestrian crossing, pavement layout, and protective bollards would remain in place and continue to provide safeguards for pedestrian movement.
32. The anticipated increase in pedestrian activity resulting from the additional residential flats would be limited and is unlikely to materially affect pedestrian safety.
33. Refuse storage arrangements have also been considered. The proposed storage would not encroach onto the highway and would remain easily accessible. I am mindful that this matter has been assessed by East Sussex Highways, who have raised no objection to the proposal. In the absence of any compelling technical

evidence to the contrary, I have no reason to question their professional judgement.

34. I acknowledge that the site's High Street location means construction activity could temporarily affect the flow of pedestrians and vehicles as well as the living conditions of nearby occupiers. However, such impacts would be short-term and could be appropriately managed through a condition requiring a Code of Construction Practice, including controls over delivery times, working hours, and contractor parking.
35. Although concerns have been raised regarding unsold homes and vacant retail units in Heathfield, these may arise from a range of factors. There is no substantive evidence before me to outweigh the Council's housing land supply position, which demonstrates a clear need for additional residential accommodation. Although the extent of built form would change, the site is already in retail use, and the presence of vacant units elsewhere does not lead me to conclude that retaining a retail use here would be inappropriate.

Planning Balance

36. The proposal would result in harm to the living conditions of neighbouring occupiers. I have judged the magnitude of this harm to be considerable. This amounts to a conflict with Policy EN27 of the LP. As set out above in my above reasoning, Policy EN27 aligns with the requirements of the Framework, relating to providing a high standard of amenity for existing and future users and I attribute significant weight to the conflict with policy. Given this, the proposal would be contrary to the development plan as a whole.
37. The proposal would provide an additional 4 dwellings, which would make a small but nonetheless important contribution towards the supply of housing in the Borough, within a highly sustainable location wherein the principle of development is acceptable. It would also contribute to the government's target to significantly boost the supply of homes. The new homes would be delivered on a brownfield site within a highly sustainable location, in close proximity to shops, services and public transport. I am mindful of the emphasis in the Framework on giving substantial weight to the value of using suitable brownfield land within settlements for homes.
38. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites, as its supply stands at 3.68 years. The shortfall is considered to be significant. The provision of four additional units, would make an important contribution towards improving this position, although, this is balanced against the small number of units.
39. As a result of the housing land supply position, paragraph 11dii of the Framework applies. In these circumstances, footnote 8 of the Framework establishes that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not in a protected area.
40. The proposal would provide an enlarged retail unit on the ground floor and would maintain an active shopfront within a primary shopping area. This, together with

the provision of 4 additional homes on the high street, would provide a valuable boost to the viability and vitality of Heathfield, including through an increased footfall to local business. Temporary economic benefits would arise from the construction process. Given the above, there are appreciable social and economic benefits that weigh in favour of the proposal.

41. The benefits arising from the delivery of four additional homes, together with an enlarged retail unit, given the Council's housing land supply position would be considerable. As such whilst there is a conflict with a relevant policy in the development plan, considering the material considerations outlined above, the adverse impact of granting permission does not significantly and demonstrably outweigh the benefits. Accordingly, the scheme represents sustainable development within the meaning of paragraph 11d which weights in favour of the scheme and indicates that planning permission should be granted.

Conditions

42. The Council has suggested a number of conditions in the event of my allowing the appeal, I have considered these in accordance with the Planning Practice Guidance and the Framework. I have edited some of the suggested conditions for clarity and enforceability.
43. Conditions relating to the time limit for commencement (no 1) and the approved plan numbers conditions (no 2) are necessary in the interests of certainty.
44. The Council has suggested a shortened commencement period of 18 months, intended to incentivise the timely delivery of housing in light of the current undersupply. While Section 91(1)(b) of the Town and Country Planning Act 1990 permits a reduced commencement period, both the Framework and PPG advise that this should only be applied where there is clear evidence that non-commencement has previously resulted in adverse impacts, or where a shorter period would accelerate delivery without compromising viability or deliverability.
45. Although the under supply of housing is acknowledged, there is no specific evidence in this case to suggest that the circumstances warrant a departure from the standard approach. I have therefore imposed the more typical three-year commencement period.
46. A code of construction practice (no 3) is necessary both in the interests of highway safety as well as the living conditions of neighbouring occupiers. This is required prior to the commencement of development, because it relates to the construction process. Details of external materials (no 4) are required in the interest of the character and appearance of the area.
47. Noise insulation for the proposed flats (no 5), together with noise mitigation to protect against noise generated by any fixed plant (no 6), are each necessary in the interest of the standard of accommodation for future occupiers, as well as the living conditions of neighbouring occupiers.
48. Obscure glazing to the upper floor windows in the rear elevation of the proposed flats (no 7) is necessary to safeguard the privacy of neighbouring properties to the south. However, the Council's recommended reference to "level 3 obscure glazing" lacks sufficient precision to meet the tests for planning conditions. Instead, I have required that details of the obscure glazing be submitted to and approved by the

Local Planning Authority. This approach provides adequate control over the specification and implementation of the glazing, thereby ensuring the privacy of neighbouring occupiers is appropriately protected.

49. Cycle parking and storage (no 8) is necessary to support sustainable modes of transport and to ensure that adequate facilities are provided for future occupants. Control over the use of the ground floor retail unit (no 9) is required to safeguard the living conditions of neighbouring occupiers, particularly in relation to noise and disturbance. In addition, a condition restricting the insertion of new openings or windows in the southern elevation (no 10) is justified, given the proximity and relationship of the proposed development to No. 77, in order to protect residential amenity.

Conclusion

50. 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.
51. For the reasons given above, the appeal is allowed.

R. Lawrence

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 no EA0020/PL2 Revision A – Proposed Plans & Elevations.
- 3) No development shall take place, including any works of demolition, until a Code of Construction Practice has been submitted to, and approved in writing by the Local Planning Authority. The Code of Construction Practice shall provide good practice measures to include:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding,
 - v) delivery, demolition and construction working hours.

The approved Code of Construction Practice shall be adhered to throughout the construction period for the development.

- 4) No development above ground level shall take place until a schedule of external materials to be used in the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter retained in accordance with the approved details.
- 5) The dwellings hereby permitted shall be constructed so as to provide sound insulation against internally generated noise, of not less than 5dB better than Approved Document E Resistance to the passage of sound-Building Regulations 2010, performance standard for airborne sound insulation for floors of purpose-built dwelling-houses and flats, with windows shut and other means of ventilation provided. The sound insulation works shall be completed before the dwellings are occupied and be retained thereafter.
- 6) Before any fixed plant (such as air source heat pumps or air conditioning units) is used on the premises, it shall be enclosed with sound-insulating material and mounted in a way which will minimise transmission of structure-borne sound in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority.

The rating level for all proposed plant shall be selected, and if necessary be mitigated to meet the recommended noise thresholds for indoor ambient noise levels in table 4. British Standard: BS 8233:2014.

All measurements shall be made in accordance with the methodology of British Standard: BS4142 (2014) Methods for rating and assessing industrial and commercial sound and/or its subsequent amendments. Where access to the nearest sound sensitive property/properties is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property/properties.

The measures implemented as approved shall be retained thereafter.

- 7) The residential flats hereby permitted shall not be occupied until the rear (south) facing windows at first and second floor level, have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 8) The development hereby permitted shall not be first occupied until bicycle parking and storage areas have been provided in accordance with plan no EA0020/PL02 Rev A – Proposed Plans & Elevations. The cycle facilities shall be retained thereafter.
- 9) The ground floor retail unit shall only be used for purposes of Class E(a), (b), (c) and (e) of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987) (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification.
- 10) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order with or without modification) no windows or openings (other than those expressly authorised by this permission) shall be inserted into the rear (south) elevations.

****End of schedule****