



---

## Appeal Decision

Site visit made on 30 July 2025

**by Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27<sup>th</sup> of August 2025

---

**Appeal Ref: APP/C1435/W/25/3363180**

**Nursery Cottage, North Street, Lower Horsebridge, Hellingly BN27 4DR**

- 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 Havenscroft Ltd against the decision of Wealden District Council.
  - The application Ref is WD/2024/2066/F.
  - The development proposed is proposed erection of 2 No. detached dwellings with new access formed off North Street.
- 

### Decision

1. The appeal is allowed and planning permission is granted for proposed erection of 2 No. detached dwellings with new access formed off North Street at Nursery Cottage, North Street, Lower Horsebridge, Hellingly BN27 4DR in accordance with the terms of the application, Ref WD/2024/2066/F, subject to the conditions in the attached schedule.

### Preliminary Matter

2. As part of their appeal submission the appellant provided revised site layout drawings. These show a slightly amended landscaping scheme and a widened access. The Council has commented upon the revised drawings and as the changes do not fundamentally alter the proposal, I am satisfied that no party would be prejudiced by my taking them into account.

### Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area with particular regard to protected trees.

### Reasons

4. The appeal site comprises part of the side garden to Nursery Cottage, a two-storey detached dwellinghouse. It is located at the northern edge of Lower Horsebridge and is within the settlement boundary. There is no objection to the redevelopment of the site in principle for housing. I have no reason to disagree with the main parties that the form and style of the proposed houses would be largely in keeping with the character of the area.
5. However, in order to redevelop the site, Scots Pine trees located centrally within the site would need to be removed. They are protected by a Tree Preservation Order (TPO). The trees have been assessed as largely being Category B trees and so would have an estimated remaining life expectancy of at least 20 years. Some of the other trees to be removed would have lower life expectancy.

6. There are other trees on the site, away from the central area, which are protected by other TPOs. These would be retained with some crown lifting proposed to the retained oak tree next to the proposed new entrance.
7. By virtue of their height and position, the trees within the centre of the site are visible from North Street and Field Close. However, other trees both in the appeal site and in neighbouring gardens obscure some wider views of them, particularly from North Street. Similarly, the trees are not highly visible in longer views of the site from the north. They will be most readily visible from the east but are seen against a backdrop of the trees on the site frontage. Clearly, when these deciduous trees are not in leaf the pine trees would have a greater positive effect. Nevertheless, their overall contribution to the visual amenity of the area is more limited than the other protected trees on site.
8. Removing the trees from within the central area would open up views into the site. As a consequence, the new hard surfaces/driveway would be evident and from North Street glimpses of the new houses would be possible. However, I have already found that the appearance of the proposed dwellings would be in keeping with the area and these views would be framed by the existing trees and some new/replacement planting.
9. The replacement tree planting would be unlikely to result in the same visual impact as the existing trees. However, the proposed landscaping scheme would be appropriate to the increasingly suburban residential setting. The replacement trees would serve to soften and screen the new built environment, and they would make a contextually appropriate contribution to visual amenity. I am satisfied that the replacement trees would be sufficiently far from the houses and occupy a limited amount of garden space such that they would not be unduly susceptible to removal by future occupiers.
10. There would be some ground works within the Root Protection Areas (RPA) of some of the retained trees. The details provided indicate that these works would be below the 20% threshold recommended in the British Standard relating to trees and construction. Although it is suggested that the proposed access would need to be widened to 5m, the Highway Authority indicate a width of 4.8m to be acceptable, which is what is shown on the submitted plans. Provided the stated construction approach is adopted within the RPAs, and this can be controlled by condition, these trees and in particular the oak tree (T6) would be retained.
11. While there would be a loss of trees protected by a TPO, the existing tree-lined boundary along North Street would be little diminished as a result of the proposal. Their loss would have a very limited effect on the site's overall contribution to the wider area both in terms of its amenity value but also in its role in linking to the wider rural landscape. There would be replacement tree and hedgerow planting to mitigate the loss. Therefore, I conclude that the proposal would not adversely affect the character and appearance of the area.
12. Consequently, while there would be tension with the more restrictive parts of Policies EN12, EN14 and EN27 of the Wealden Local Plan 1998; Spatial Planning Objective 13 and Policies WCS12 and WCS14 Wealden Core Strategy Local Plan 2013; and Policy LHB1 of the adopted Hellingly Neighbourhood Development Plan 2021, which seek to protect and retain trees, there would be no conflict with the

overall aims of these policies which are to ensure development respects the character of an area and creates a satisfactory environment for residents.

13. The proposal would not conflict with the aims of the National Planning Policy Framework (the Framework) in relation to the important contribution that trees make to the character and quality of urban environments.

### **Other Matters**

14. The Council confirmed in its appeal statement that it has a 3.68 years supply of deliverable housing land. This is a reduction from the 4.45 years at the time the application was determined. The Council's policies are therefore not meeting expectations for the delivery of new houses. Two new homes in a sustainable location would offer some economic benefits both during construction and upon occupation. There may also be some social benefits associated with two new dwellings in the area. All of this weighs positively in favour of the proposal.
15. Flood risk was not a reason for refusal but subsequent to the Council's decision the Environment Agency updated their flood risk mapping. The Council indicated that this now showed the site being located within an area of medium risk thereby triggering the need for a sequential test.
16. Both main parties were given the opportunity to comment upon the issue. Ultimately, the appellant takes the position that the risk of surface water flooding is low, highlighting the broad sweep of the EA's mapping and contrasting it with their more detailed survey and analysis of the site.
17. There are undoubtedly methodological limitations in applying these competing approaches to this specific site. However, given the evidence before me, I find that although part of the site may be liable to some flooding, the general characteristics of the site, including the flood risk, resemble those of a low risk. Accordingly, given the site-specific circumstances, I consider that a sequential test is not necessary in this instance. Therefore, the proposal would be an appropriate form of development having regard to flood risk.
18. The proposal would be subject to the statutory pre-commencement biodiversity gain condition ('the condition') as set out in Schedule 7A to the Town and Country Planning Act 1990 (as amended) (the Act). It is unlikely that Biodiversity Net Gain (BNG) would be fully secured on site, and the appellant has demonstrated an intention of purchasing off-site habitat credits. Therefore, the scheme would be capable of meeting the mandatory requirements for a minimum of 10% BNG, in accordance with the statutory framework.
19. It would be for the Council to consider the Biodiversity Gain Plan and development may not begin until this is approved. As such, I am as satisfied as I can be, that 'the condition' is capable of being discharged. I therefore find that it would not conflict with the requirements of the Act.

### **Conditions**

20. In addition to the standard time limit, a condition specifying the approved plans is required in the interests of certainty. The Council suggest 18 months would be a sufficient period within which to commence development in order to expedite the provision of housing at a time when there is an undersupply. However, I do not

consider this in itself to be sufficient justification to warrant a departure from the timescales in the Town and Country Planning Act 1990.

21. To protect the character and appearance of the area it is necessary to impose conditions relating to materials/detailing, tree protection and landscaping.
22. To ensure the development functions as intended it is necessary to secure the implementation of the access, turning, visibility details, cycle parking and bin stores.
23. The site is towards the edge of a red impact risk zone for great crested newts. The Preliminary Ecological Appraisal did not identify their presence on site nor in the vicinity. The need or requirements of a working method statement must be proportionate to the available evidence. In the absence of any evidence, I am satisfied that a statement would not be necessary in this instance.
24. As the statutory BNG condition applies directly, there is no requirement to duplicate it in my decision.

### **Conclusion**

25. I did not find the proposal to conflict with the development plan when taken as a whole. Even if I were to have found the tension within the policies to have resulted in a conflict, given my findings on the main issue, the conflict would be of limited weight. Consequently, the harm would not significantly and demonstrably have outweighed the benefits, when assessed against the policies in the Framework taken as a whole.
26. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed, subject to the conditions below.

*Stewart Glassar*

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 the following:

|                                                 |                    |
|-------------------------------------------------|--------------------|
| Site Location Plan                              | - 1621/P201        |
| Block Plan as Proposed                          | - 1621/P202        |
| Site Layout as Proposed                         | - 1621/P204 Rev A  |
| Detailed Site Layout as Proposed                | - 1621/P205 Rev A  |
| Plot 1 Plans & Elevations                       | - 1621/P206        |
| Plot 2 Plans & Elevations                       | - 1621/P207        |
| Proposed Drainage Layout Surface Water Drainage | - 24179/01 Issue A |

Arboricultural Report prepared by D Wynn (Reference TS/24/02Av2), dated 16 June 2024, including the Arboricultural Impact Assessment & Method Statement by Own Allpress (Project Ref: 2614), dated 3 June 2024.
- 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 dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) All planting, seeding or turfing comprised in the details of landscaping as shown on the approved drawings shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Prior to the occupation of any dwelling hereby permitted, the hard landscaping works shall be fully implemented in accordance with the details as shown on the approved drawings.
- 6) Prior to the occupation of any dwelling hereby permitted, the car parking spaces, turning area, cycle and bin stores as shown on drawing no 1621/P205 Rev A shall be fully implemented and thereafter retained.
- 7) Prior to the occupation of any dwelling hereby permitted, details of the visibility splays to be provided each side of the site access shall be submitted to and approved in writing by the local planning authority. Thereafter they shall be fully implemented and retained free of any obstruction exceeding 0.6m in height.
- 8) The development hereby permitted shall be undertaken in full accordance with the Arboricultural Report prepared by D Wynn (Reference TS/24/02Av2), dated 16 June 2024, including the Arboricultural Impact Assessment & Method Statement by Own Allpress (Project Ref: 2614), dated 3 June 2024.

**\*\*\*\* End of Schedule\*\*\*\***