



Appeal Decision

Site visit made on 8 July 2025

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 September 2025

Appeal Ref: APP/C1435/W/25/3361593

Broadwater Lodge, 10A Stone Cross Road, Wadhurst, East Sussex TN5 6LR

- 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 A McLaughlin, Progressive Developers Ltd against the decision of Wealden District Council.
 - The application Ref is WD/2024/2518/F.
 - The development proposed is the demolition of detached double garage to existing property and construction of new double garage and 2 detached houses.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of detached double garage to existing property and construction of new double garage and 2 detached houses at Land at Broadwater Lodge, 10A Stone Cross Road, Wadhurst, East Sussex TN5 6LR in accordance with the terms of the application, Ref WD/2024/2518/F, subject to the conditions in the attached schedule.

Preliminary Matters

2. The parties refer to the draft Local Plan which has been the subject of a regulation 18 consultation. Since the emerging plan is at an early stage of preparation and has not been submitted for examination, there is a high degree of uncertainty that any draft policies would be submitted or adopted in the same form. I have therefore determined the appeal against the policies of the adopted development plan.
3. In 2023, designated Areas of Outstanding Natural Beauty in England and Wales became “National Landscapes”. The appeal site falls within the High Weald Area of Outstanding Natural Beauty (the AONB) which has become the High Weald National Landscape (HWNL).
4. Section 245 of the Levelling Up and Regeneration Act 2023 (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of National Landscapes, as set out in Section 85 of the Countryside and Rights of Way Act 2000 (as amended) (CRWA). In so far as it relates to this appeal, the amendment requires relevant authorities “in exercising or performing any function in relation to or so as to affect land in an AONB... to seek to further the purpose of conserving and enhancing the natural beauty of the AONB”. As such, it is incumbent on me to evidence consideration of ways to further the purpose of conserving and enhancing the natural beauty of the HWNL.

Main Issues

5. The main issues are:

- whether the site is a suitable location for the appeal proposal having regard to the Council's strategy for the location of development; and,
- the effect of the proposal on the character and appearance of the area with particular regard to whether the proposal would conserve and enhance the landscape, scenic and natural beauty of the High Weald National Landscape (HWNL).

Reasons

Location

6. The defined development boundary for Wadhurst runs along the curved hedgerow boundary of the garden area immediately adjacent to 10A Stone Cross Road. The area of the appeal site containing the 2 proposed houses would be outside of the development boundary and therefore the site forms part of the countryside for planning policy purposes.
7. The Wealden District Core Strategy Local Plan 2013 (Core Strategy) identifies Wadhurst as a 'service centre'. It has a range of employment, services and facilities. The commercial centre of Wadhurst would be easily accessible via the footway from the appeal site. As such, the future occupiers of the proposal would have access to a range of services and facilities by means other than the private car.
8. Wealden Local Plan 1998 (Local Plan) Policies GD2 and DC17 seek to resist new development outside the development boundaries. This is with the aim of the protection and enhancement of the countryside. The supporting text to Policy DC17 sets out criteria where new dwellings outside development boundaries will be acceptable, none of which would be applicable to the appeal scheme.
9. The location of the appeal scheme would therefore conflict with the Council's strategy for the location of development as the site is located outside of the Wadhurst development boundary. This would draw the appeal scheme into conflict with Local Plan Policies GD2 and DC17, insofar as they resist new development outside development boundaries.

HWNL

10. The HWNL is characterised by mosaics of small fields interspersed with farmsteads and villages, surrounded by hedges and areas of woodland. Its outstanding beauty derives from its essentially rural and human scale character, high proportion of natural surfaces, tranquillity and dark skies. The appeal site falls within a Landscape Character Area Type 5, as identified by the Wealden Landscape Character Assessment 2022. It characterises this area as a rolling landscape of elevated ridges incised by gill streams and watercourses, identifying a pattern of ridge-top settlements and irregularly shaped fields, typical of the medieval era.
11. Planning Practice Guidance (PPG) refers to the relevance of management plans for National Landscapes for assessing planning applications. Whilst these do not form part of the development plan, they help to set out the strategic context for development and provide evidence of the value and special qualities of these areas.

The High Weald AONB Management Plan 2024-2029 (AONB Management Plan) is therefore a material consideration.

12. The appeal site lies at the far end of a cul-de-sac off the principal road through Wadhurst. Stone Cross Road is characterised by 20th Century low density detached dwellings, set back from the street and set within substantial gardens. The house at 10A is set within a large plot, with a formal garden area adjacent to the house and garage, which links to a larger, less managed rough-grassland area to the north which also contains a small solar installation. The site is gently sloping to the east, there are scattered trees and substantial hedgerows to the north and west boundaries. The site is at the edge of the built-up area and borders open countryside; it is not in an area of unspoilt or remote character.
13. The introduction of 2 detached houses with garages would in terms of their scale and detailed design, be similar to the existing houses located along Stone Cross Road and from street views would read as an extension to the cul-de-sac and not as an isolated nib of built form. The use of brick, tiling and hipped and gabled roof forms would align with the character and appearance of the area. I note the comments of the Parish Council regarding the use of roof lights in plot 1, but this would be confined to a limited section of the rear part of the roof slope and as such would be acceptable.
14. The proposal would result in the introduction of built form onto an otherwise undeveloped area of grassland, and its character would change from an open area to forming part of the urbanised area of Wadhurst. Nevertheless, the proposed dwellings would not appear incongruous due to their location adjacent to the existing dwellings lining Stone Cross Road. Given the reasonably limited scale and footprint of the site, the proposal would not encroach into the surrounding countryside to a degree which would harm the characteristic linear nature of the settlement.
15. Due to the undulating landscape, the appeal site is visible from various public and private vantage points. The appellant's landscape appraisal identifies 6 key publicly accessible views from the surrounding area. Viewpoints 1 and 2 are taken from the Public Right of Way (PRoW) to the south of the appeal site. There is dense intervening vegetation between the PRoW and appeal site, and in winter views from viewpoint 2, it is likely the appeal site would only appear in glimpse views. However, set against the housing at Waters Reach in the foreground, I agree the assessment of 'negligible neutral' for viewpoints 1 and 2 is accurate.
16. View 3 is taken from the play area by Waters Reach. The appeal site is clearly visible in this view which has far-reaching rural views to the north and east. From this view, the appeal scheme would read as an extension of the existing style of housing found along Stone Cross Road, although there would be some encroachment into the rural landscape to the east of the host property. I consider the assessment of low/slight adverse in relation to the effect of this view is accurate.
17. The scheme would be visible from identified view 4 from Stone Cross Road where the proposed houses would be visible in glimpsed views, and I consider the assessment of low/slight adverse impact identified in the landscape appraisal is accurate. View 5 from Lower High Street looking north-west, and Viewpoint 6 from a footpath to the north-east of the appeal site each identify that although there may be some partial visibility, the overall effect would be negligible neutral. I consider this to be accurate.

18. The mitigation planting referred to is indicatively shown on the drawings as some additional trees and native hedgerows within the appeal site. There has also been extensive tree planting to the south of the appeal site. The landscaping and planting would, in time, assist in mitigating the effect on the localised views from Waters Reach identified in view 3.
19. The effect on the HWNL would be highly localised and the key characteristics of this area of the HWNL in terms of a rolling landscape of irregularly shaped fields and ridge-top settlements, would be conserved. The proposals would not harm the visual qualities of the HWNL. Given the proposal's proximity to other dwellings, there would not be a noticeable effect upon the dark skies or tranquillity of the HWNL. As such, the landscape, scenic and natural beauty of the HWNL would be conserved and the proposal would accord with Section 85 of the CRWA, as amended by LURA.
20. The proposed development would be in accordance with the statutory and policy objective of conserving the natural beauty of the protected landscape. It would be consistent with the objectives of the AONB Management Plan. It would be in line with the aims regarding the built and natural environment of the district, particularly to the HWNL, as expressed in Local Plan Policy EN6; and Framework paragraph 189.
21. The proposal would not conflict with Local Plan Policies EN1 and EN27 and Policies WCS13, WCS14 of the Core Strategy. Taken together and amongst other things, these policies reflect the presumption in favour of sustainable development, require proposals to respect existing character and promote local distinctiveness, along with aiming to protect landscape character.
22. The Council refer to Local Plan Policy EN19 in their reason for refusal. I do not find this directly determinative since it refers to proposals within Conservation Areas. Core Strategy Policy SPO2 is also referred to. It aims to protect the intrinsic quality of the historic environment, amongst other things, and again is not directly determinative in this case.

Other Matters

23. Although not referenced in the Council's reason for refusal, my attention has been drawn to Policy WAD1 of the Wadhurst Neighbourhood Plan (2024), to which I have had regard. It refers to development in the countryside, beyond the development boundaries, being strictly controlled in the interests of conserving the nationally important landscape, tranquillity and distinctive character of the High Weald National Landscape. Since I have found that the proposal would be acceptable with regard to the effect upon the landscape, scenic and natural beauty of the HWNL, the proposal would not conflict with this policy.
24. The Council is satisfied with matters including the dwellings' floorspace and layout, and I see no reason to disagree.
25. I have had regard to the concerns of the Parish Council in relation to the privacy of the host property. However, given the separation distances and orientation between the existing and proposed dwellings, I am satisfied that the scheme would maintain sufficient privacy for existing and future occupiers. The effect of the development on daylight, sunlight and outlook of surrounding residents would be acceptable.
26. The existing access would be retained and extended to provide access to the new dwellings. The appellant has confirmed that there would be access for emergency

vehicles, providing swept path diagrams to this effect. The arrangements for access, parking and turning would be acceptable in terms of highway safety. The Council is also satisfied with the arrangements for refuse and cycle storage and effect on flood risk. I do not have substantive evidence to contradict the conclusions of the Council in these matters, so I see no reason to disagree.

27. The site would be subject to the provisions of Biodiversity Net Gain (BNG) pursuant to Schedule 7A of the Town and Country Planning Act 1990 (the Act), which was inserted by the Environment Act 2021. The appeal proposal is required to demonstrate 10% BNG in mitigation. The provision of 2 dwellings and access would entail the loss of some of the vegetated garden and some hedgerow. Although there would be replacement habitats within the private curtilages of the dwellings, these cannot contribute to the final biodiversity score. The development cannot achieve an on-site 10% gain. I accept that offsite units would have to be purchased from a recognised provider.
28. The Council identifies that the appeal site is within the zone of influence of the Ashdown Forest Special Area of Conservation (SAC). The SAC is designated for the presence of European dry heath and North Atlantic wet heath. The main threat is through air pollution arising from increased traffic movements across the forest as the heathland habitat is sensitive to changes in air quality. The conservation objectives for the SAC can be summarised as ensuring the favourable conservation status of its qualifying features by, amongst other things, maintaining or restoring qualifying habitats.
29. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects.
30. The evidence before me is that the Council had proposed a new Local Plan in 2019 which sought to deliver 14,228 homes and 22,500 square metres of business floorspace. This Local Plan has since been withdrawn. Considering the effects of that quantum of growth proposed in the new Local Plan, Natural England was satisfied that this would not adversely affect the integrity of the SAC in terms of air quality impacts. Natural England's advice regarding air quality is that this conclusion can be reached without mitigation measures being needed under the specific requirements of the Habitats Regulations.
31. Given the proposal would be small in scale, and considerably less than the quantum of growth promoted by the withdrawn local plan which was not considered to have a likely significant effect by Natural England, I agree with the Council that there would not be likely significant effects arising from the proposal and as such an AA is not necessary in this case.

Planning Balance

32. The harm I have identified arises from the conflict between the appeal proposal and the Council's strategy for the location of development set out in Local Plan Policies GD2 and DC17. These policies focus new development within defined development boundaries, allowing new housing in the countryside in very limited circumstances. I attribute the conflict with these policies moderate weight.

33. I note the Council cannot demonstrate a 5-year supply of deliverable housing sites, with supply standing at the equivalent of 3.68 years. Consequently, paragraph 11 d) of the Framework is applicable which indicates that where the policies which are most important for determining the application are out-of-date, granting permission unless, as set out in 11 d) i) there are circumstances where the application of policies in the Framework to protect areas or assets of particular importance provides a strong reason for refusing the proposal. As I have found that the proposal would be acceptable in terms of its effect on the character and appearance of the area, including the HWNL, the provisions of Footnote 7 do not apply and the appeal proposal benefits from the presumption in favour of sustainable development set out in paragraph 11 d) ii) of the Framework.
34. Footnote 8 of the Framework is clear 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, having particular regard for key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.
35. The Framework aims to achieve sustainable travel and to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The Framework seeks to avoid the development of isolated homes in the countryside. The proposed dwellings, although just outside the development boundary, would not be isolated and would be located within walking distance of services and facilities.
36. The need for housing is well established. As a small site, this proposal could be built out quickly. It would make a small but important contribution to the Council's supply of housing, supporting the Government's aim of significantly boosting the supply of homes. There would be temporary and ongoing socio-economic benefits from the development through construction and the future residents' use of local shops and services, but given the scale of development, those benefits would be reasonably limited.
37. When assessed against the policies in the Framework as a whole, the moderate weight I have attributed to the conflict with the development plan would not significantly and demonstrably outweigh the benefits of the 2 additional homes in a suitable location which would preserve the character and appearance of the area with particular regard to the HWNL. The presumption in favour of sustainable development applies and this indicates that permission should be granted.

Conditions

38. The Council has provided some suggested conditions which I have considered against advice in the Framework and Planning Practice Guidance; as a consequence I have amended or omitted some of the suggested wording. The Framework encourages local planning authorities to consider imposing a shorter time period to ensure that proposals for housing are implemented in a timely manner. In this case, the appellant has agreed to a 2-year time period for commencement and I have adjusted condition 1 as a result. The plans condition (2) is attached in the interests of certainty. Condition 3, restricting construction working hours, is necessary in the interests of the living conditions of neighbouring residents.

39. Condition 4 is necessary in the interests of the character and appearance of the area. Condition 5 regarding surface water drainage, and condition 6 requiring details of water and energy efficiency measures, as well as renewable energy sources to be used, are each necessary in the interests of sustainability.
40. The lighting condition (7) is necessary in the interests of the living conditions of adjacent residents as well as the character and appearance of the area. Conditions 8 and 9 are necessary in the interests of maintaining the character and appearance of the area and protecting the retained trees and hedges on site. Given that some trees are to be removed, for clarity I have re-drafted condition 9 to refer to the tree protection plan set out in the arboricultural implications assessment.
41. Bearing in mind the advice in paragraph 55 of the Framework that there must be clear justification to use conditions restricting the future exercise of permitted development rights, I have not been provided with sufficient evidence to suggest it would be reasonable or necessary to remove rights under Schedule 2, part 1, Classes A to E of the Order.
42. The consultation response from Nature Space regarding great crested newts requests a condition to secure compliance with the precautionary measures set out in the ecology report with regards to great crested newts. This condition (10) would be necessary in the interests of protecting biodiversity.
43. The effect of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) is that planning permission granted for development of land in England is deemed to have been granted subject to the Biodiversity Gain Condition, which states that development may not begin unless: (a) a biodiversity gain plan (BGP) has been submitted to the planning authority, and (b) the planning authority has approved the plan. The planning authority, for the purposes of determining whether to approve a BGP if one is required in respect of this permission would be Wealden District Council.
44. Based on the information available, this permission is considered to be one which will require the approval of a BGP before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply. Because the BGC has a separate statutory basis as a planning condition, it is not necessary for me to include it within the schedule of conditions on this decision.

Conclusion

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

L Francis

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than two years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing numbers 24/PDL/104-1 rev A; 24/PDL/104-2 rev A; 24/PDL/104-3 rev A and site location plan dated 1 November 2024.
3. Demolition or construction works shall take place only between the hours of 8am to 6pm on weekdays, between 8am and 1pm on Saturdays and not at any time on Sundays, or on Bank or Public Holidays.
4. No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces have been prepared on site for inspection and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved samples.
5. No development shall take place until full details of the proposed means of surface water drainage, which shall follow the principles of sustainable drainage, has been submitted to and approved in writing by the local planning authority. The approved drainage works shall be completed prior to the completion or occupation of the related dwelling on site, whichever is the sooner.
6. No development shall take place until full details for the incorporation of water and energy efficiency measures, the use of renewable energy and sustainable construction within the development shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter maintained.
7. No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained thereafter.
8. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) Proposed boundary treatments,
 - ii) Finished levels and contours
 - iii) Hard surface finishes including samples
 - iv) Details of any retaining walls, steps, railings, walls, gates or other supporting structures
 - v) Car parking layout
 - vi) Vehicular and pedestrian access and circulation areas
 - vii) Minor artefacts and structures including furniture, play equipment, refuse or other storage units
 - viii) Details of all existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in

- full with BS5837:2012 Trees in relation to design, demolition and construction – Recommendations, in the course of the development.
- ix) A scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted as part of the approved landscaping scheme.
 - x) Soft landscaping details shall include planting plans, written specifications and a plant schedule noting species (which should be indigenous), planting sizes and densities.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

9. The works shall be carried out in accordance with the tree protection plan contained in the Arboricultural Implications Assessment by Broad Oak Tree consultants Ltd ref J66.17 dated 1 November 2024. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the local planning authority:-
- (i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.
 - (ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.
 - (iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.
 - (iv) No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.
 - (v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.
 - (vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.
10. The development hereby approved shall be implemented strictly in accordance with the recommendations/measures stated in section 4.4.3 of the Ecological Impact & Biodiversity Net Gain Assessment (Kent Sussex Ecology, October 2024; Ref No. 0255 v1.0).