



Appeal Decision

Site visit made on 20 August 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Appeal Ref: APP/D3830/W/25/3363187

Land adjacent to Hilgay Cottage, Birchwood Grove Road, Burgess Hill RH15 0DL

- 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 Remmus against the decision of Mid Sussex District Council.
 - The application Ref is DC/24/0846.
 - The development proposed is Erection of 2no. residential dwellings with associated landscaping parking and the retention of existing access.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 2no. residential dwellings with associated landscaping parking and the retention of existing access at Land adjacent to Hilgay Cottage, Birchwood Grove Road, Burgess Hill RH15 0DL in accordance with the terms of the application, Ref: DC/24/0846 dated 28 March 2024, subject to the conditions within the attached schedule.

Preliminary Matters

2. The appeal submission includes computer-generated imagery (CGIs) of the proposal which were not before the Council at the time of its decision. It is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
3. In this case, the CGIs provide additional illustrative images rather than any amendments to the proposal. For this reason, I consider that there would be no prejudice to any party by considering the CGIs. I have therefore determined the appeal on this basis.
4. The Council is reviewing and updating its District Plan and I have been provided with copies of emerging policies from it. The Council advise that, as a result of unresolved objections to policies within the draft District Plan, only limited weight can be given to the policies. Accordingly, the policies are afforded limited weight in the decision-making process.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the Silverdale/Birchwood Grove Road Conservation Area (CA) with particular regard to its layout, scale, form, detailed design and effect on trees; and

- the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to noise, disturbance and outlook.

Reasons

Character and appearance of CA

6. The appeal site contains a detached dwelling set within generously sized and verdant grounds. The appeal site has a 'dog-leg' shape and Hilgay Cottage itself is set back a significant distance from the public highway, to the rear of neighbouring dwellings. As a result, it does not have a strong visual presence in public views from Birchwood Grove Road.
7. The CA is mainly characterised by substantial Victorian and Edwardian style villas, which are mostly set back from the streets within spacious grounds. However, this part of the CA includes later infill buildings of varying designs and massing, which creates a notable variation in plot sizes. Notwithstanding this, the narrow width of Birchwood Grove Road combined with the mature planting along the boundaries of many properties creates a semi-rural character which contrasts with the more ordered grain of development to the west and north of the CA.
8. The character of this part of the CA and its significance stems from, amongst other aspects, the arrangement of a mixture of historic dwellings, often in good condition, set within grounds with mature trees and hedges. The Council's 'Conservation Areas in Mid Sussex' document, also identifies the predominant use of traditional building materials such as brick, hanging tiles and render. Whilst Hilgay Cottage is modest in scale it is an attractive historic dwelling set in generous grounds. Consequently, the appeal site positively contributes to the character of the area.
9. As the proposal is in a conservation area, I have paid special attention to the desirability of preserving or enhancing the character or appearance of that area, as set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
10. Hilgay Cottage and Acorns are part of a group of period buildings historically linked to Hilgay House, a substantial building to the west on Keymer Road. However, their original connection has been severed physically and visually by the construction of Mulberries, and resulting separate ownerships and boundaries. While Hilgay House exemplifies the larger plots in parts of the CA, the surrounding area is more varied, with smaller dwellings like Acorns and Larch Cottage on modest plots contributing to a more intimate and diverse street scene.
11. I acknowledge that Plot 1 would infill an area to the front of the appeal site. However, its layout and position towards the front of the plot would not be at odds with the grain of development on this stretch of Birchwood Grove Road. Whilst there is limited local uniformity in building lines, its frontage location would logically follow the position of the neighbouring Acorns and Larch Cottage.
12. Plot 2, positioned to the rear of the site, would be largely screened from public viewpoints. Its single-storey design would ensure that it would not be a prominent feature in views from neighbouring properties. Its proposed siting aligns with the rear building line of several nearby dwellings to the east, ensuring its placement

would not be uncharacteristic within the CA. Given its low roof height it would be subservient to the surrounding two storey dwellings.

13. The proposal's resulting plots, which would include car ports and a garden room, whilst fairly modest, would not appear out of place given the varied grain of development along this stretch of the CA. The appellant has also provided a statistical comparison of the density of the proposed development, derived from analysis of the two proposed houses and site areas. This further demonstrates that the proposal would not be at odds to the prevailing density and plot coverage of a number of neighbouring sites.
14. Steeply pitched gables are a defining architectural feature along this stretch of Birchwood Grove Road, as seen at the adjoining Acorns. Plot 1, with its asymmetrical roof pitch, prominent front gable, chimney, and extensive use of hung tiles would represent a confident contemporary interpretation that draws from these local design cues. Careful control of the detailing, including materials and fenestration, could be achieved by conditions. When viewed from Birchwood Grove Road, its narrow front elevation would sensitively mediate between the wider built form of Mulberries to its left, and the more diminutive scale of Acorns to its right. Whilst its footprint would be relatively deep, this would sit comfortably adjacent to Mulberries which also has significant depth.
15. I have noted interested parties' concerns regarding the contemporary design of Plot 2. The appellant's Design and Access Statement explains that the building has been conceived to resemble red brick garden walls extending through the site. Its lightweight pitched roofs help ensure the dwelling remains a subservient addition within its garden setting, while also contributing positively to the architectural variety of the area.
16. The existing timber boarded fence at the front of the appeal site is an unusual feature given that the majority of front boundaries on Birchwood Grove Road are marked by hedging which positively contribute to the semi-rural character. The proposal would introduce new native hedgerow to the appeal site's front boundary. This would be a positive addition to the CA, and would filter views of the car parking to the front of Plot 1, ensuring that it would not be a prominent feature.
17. A number of mature trees lie within and along the site boundaries. Of particular note are three individual English Oak trees (labelled T5, T6 and T10). The trees together contribute to the character and appearance of the area, emphasising its verdant quality.
18. The revised site layout confirms that parking spaces would not be constructed within the Root Protection Area (RPA) of tree T5. While there would be minor encroachment into the RPAs of trees T5 and T10, the appellant's Arboricultural Impact Assessment, Method Statement, and Tree Protection Plan demonstrate that this falls within acceptable limits. The use of screw piles and a ground beam within the RPA would be designed to minimise root disturbance. Given the limited extent of encroachment, the proposal would not harm the health or longevity of the trees.
19. The Council refer to the potential for significant pressure from future occupiers for the removal or works to the trees on and around the site as result of their impact on roofs, amenity spaces and car parking. Prospective occupiers would be aware of the presence of nearby trees when choosing to live in the proposed dwellings,

and it is reasonable to expect that they would anticipate a need for routine maintenance of roofs and parking areas to manage seasonal leaf fall.

20. During my site visit in the summer when the trees were in full leaf I observed that Plot 2 receives good natural light. It seems to me that during periods when the trees are not in leaf, the plot would also receive satisfactory levels of natural light. Additionally, the primary kitchen/living/dining area of the dwelling features substantial floor-to-ceiling glazing, ensuring adequate daylight. Therefore, I do not consider there to be a significant risk of future pressure to heavily prune or remove trees on the site. For the above reasons, I conclude that it has been demonstrated that the proposed development would not have a detrimental impact on the health of the trees within the CA.
21. The statutory duty in Section 72(1) of the Act is of considerable importance and weight. However, for the reasons outlined above, I am satisfied that the proposal would preserve the character and appearance of the CA and not harm its significance.
22. I therefore conclude that the proposal would not have a harmful effect on the character and appearance of the CA. The proposal would comply with the design, landscape and heritage aims of policies DP26, DP35 and DP37 of the Mid Sussex District Plan 2014 – 2031 (2018) (DP) and policies H1 and H2 of the Burgess Hill Neighbourhood Plan (2015) (BHNP) and the Framework. Together these policies seek to protect heritage assets and trees and require development proposals to be of a high architectural and urban design quality that contributes to and enhances the local environment.

Living conditions of neighbouring occupiers

23. I acknowledge that the proposal would introduce a shared access serving two additional dwellings, positioned close to the boundary with Acorns. This change would lead to a modest increase in vehicular activity from residents, visitors, and delivery vehicles. However, in my view, the level of noise and disturbance associated with these movements would be minimal and dispersed throughout the day.
24. Car parking spaces for the future occupiers of Hilgay Cottage and Plot 1 would be situated close to the site boundaries with Acorns and Mulberries. However, due to the presence of established boundary screening and the generally infrequent use of domestic parking, I do not consider this arrangement would result in an unacceptable impact on the living conditions of neighbouring occupiers.
25. The addition of two dwellings would lead to an increase in the number of residents using the garden areas within the appeal site. Nevertheless, the standard recreational use of private gardens by two additional households within a residential setting is unlikely to generate a harmful level of noise or disturbance.
26. The Council has raised concerns regarding the potential impact of Plot 2 on the outlook of neighbouring occupiers at Birchways and Millstone. However, based on the submitted evidence indicating a separation distance of approximately 40 metres to the rear windows of these properties, I do not consider that the proposal would adversely affect the neighbouring occupiers' living conditions in this respect. While the additional built form would be visible from the rear gardens of neighbouring dwellings, Plot 2 is proposed as a single-storey structure. As such,

its presence would not dominate the outlook from these properties. In coming to this view I acknowledge that the dwelling at Plot 2 would have a tall chimney element. However, this feature would not be especially wide or prominent in views from neighbouring properties.

27. For the reasons outlined above, I conclude that the proposal would not have an unacceptable impact on the living conditions of neighbouring occupiers. Accordingly, I find no conflict with Policy DP26 of the DP, Policy H2 of the BHP and the relevant principles of the Design Guide (2020). Taken together, these seek development which would not significantly harm the amenities of the occupiers of neighbouring properties.

Other Matters

28. Concerns have been raised in relation to construction noise, damage to local roads and the safety implications in the area during construction. I have sympathy for existing occupiers as development of this nature would inevitably give rise to some disruption. However, the works would be time limited and it would not be reasonable to withhold consent on this basis alone. Furthermore, I have imposed a planning condition which would limit the hours of construction works.
29. Interested parties have suggested that the dwellings are not needed. This is not a reason to reject what I have found to be acceptable proposals for the site. One of the Government's objectives is to significantly boost the supply of housing and the proposal would provide two dwellings reasonably located for local services and facilities. The proposal would also accord with the broad support for windfall sites and would represent an efficient use of the appeal site.
30. Interested parties state that the proposal would have insufficient car parking, harm highway safety and increase local traffic. The submitted drawings indicate that Hilgay Cottage would retain two parking spaces, whilst each of the proposed dwellings would have three parking spaces. In my view, this is sufficient to prevent off-street car parking associated with the proposal. Overall, the proposal provides a net increase of two dwellings which would result in a very limited increase in local traffic.
31. As I have found that the proposed development would cause no harm to the character and appearance of the CA it would not create a precedent for other developments that would cause harmful effects in this regard.
32. Concerns have been raised in relation to the impact on the natural habitat for wildlife, birds, and insects. In order to mitigate harm to local wildlife a planning condition is imposed requiring that the development is carried out in accordance with the conclusions and recommendations in the submitted Preliminary Ecological Appraisal. A further condition is imposed to restrict additional external lighting to prevent harm to protected species.
33. I have noted the interested parties concerns in relation to the effect of the proposal on neighbouring occupiers. Whilst a Daylight Sunlight Assessment was not submitted with the application the overall impact on natural light at Mulberries would not be unacceptably harmful. Given the height of the proposal, the first floor windows at Mulberries would be largely unaffected. The submitted evidence indicates that Mulberries side elevation contains ground floor secondary windows to the kitchen and primary windows to a cloakroom and study. The appeal site

boundary with Mulberries is lined by a dense 2.5 metre hedge, which would be retained and which would screen views of the proposal and has a shading effect on Mulberries' ground floor windows. As the roof design of the proposal pitches sharply away from Mulberries, this reduces the scope for overshadowing on the neighbouring property. Overall, I have been provided with no substantive evidence which would prompt me to disagree with the Council's conclusions on these matters which was that there would be no unacceptable harm in these respects.

34. In relation to overlooking towards Mulberries, there would be no upper floor side facing windows providing direct views towards the neighbouring property. Windows on the first floor rear elevation of Plot 1 would allow distant views towards the gardens of Mulberries, Birchways and Millstone. However, these limited views would not be uncommon within a residential area such as this where many properties currently experience a level of mutual overlooking. Given the single storey nature of Plot 2, and boundary screening with Birchways and Millstone, I do not find that there would be unacceptable overlooking towards these properties.
35. Concerns have been raised in relation to the impact of the garden room for Plot 2 on neighbouring occupiers. However, given its small scale, I do not consider that this would have an unacceptable effect on neighbouring occupiers.
36. It has been suggested that the proposal offers no economic or public benefits. The development would have temporary economic benefits through the creation of construction jobs during the construction phase. The proposal's future occupiers would provide economic and public benefits through expenditure in local shops and services.
37. In relation to concerns regarding refuse collection, I have imposed a planning condition which requires the submission of details of refuse storage for the proposed dwellings. The appellant's Transport Technical Note indicates that fire appliance vehicles would be able to service the appeal site from the roadside. Based on the information provided, I am not persuaded that the siting of the proposal would give rise to an unacceptable risk of fire.
38. It has been put to me that tree T6 which is located on the boundary with Millstone is not fully within the appeal site and therefore, consent and agreement for any work to be undertaken to it should be sought from the owners of the neighbouring property. Issues related to land ownership are not planning matters, and this does not affect the acceptability of the appeal proposal in terms of its planning merits.
39. A number of other matters have been raised by interested parties and I have taken them all into account. Those related to planning include drainage and surface water and pressure on utilities. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects. As such, these matters do not alter my overall conclusion that the appeal should be allowed.

Conditions

40. I have had regard to the various planning conditions that have been suggested. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.

41. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty.
42. Conditions requiring details of the external materials of the buildings and proposed surfacing of the driveway and parking spaces are necessary in the interests of the character and appearance of the area. However, I have modified the conditions as the submission of the details are not necessary prior to commencement. Likewise, conditions related to the provision of hard and soft landscaping and retention of trees on and surrounding the site boundaries are necessary in the interests of the character and appearance of the area.
43. I have imposed the Council's suggested conditions related to surface water drainage design and requiring a surface water drainage system verification report in order to ensure that the proposal is satisfactorily drained. A condition requiring ecological enhancement measures is imposed to deliver local ecological enhancements. I have included the Council's suggested condition to require an external lighting plan and to restrict additional external lighting to prevent harm to protected species. A condition requiring a Habitat Management and Monitoring Plan is necessary to enable the development to demonstrate mandatory biodiversity net gain.
44. Conditions requiring details of bin, recycling and bicycle storage are required in the interests of character and appearance and to promote active travel.
45. As the site benefits from a large area suitable for storage of materials and parking of vehicles, and as the proposal involves a relatively small scale development of two dwellings, I do not consider that a condition requiring a Construction Management Plan (CMP) is necessary. Consequently, I have not imposed the suggested condition requiring a CMP. However, a condition restricting the hours of construction works is necessary in the interests of neighbouring occupiers' living conditions.
46. I have not imposed the suggested condition requiring the provision of electric vehicle charging points as the PPG sets out that conditions requiring compliance with other regulatory requirements, such as the Building Regulations, will not meet the test of necessity and may not be relevant to planning.

Conclusion

47. For the above reasons, and having had regard to all other matters raised, the proposed development would accord with the development plan. The appeal is therefore allowed.

B Pattison

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 7441-PL 01_P2; Existing Site Plan 7441-PL02_P1; Block Plan 7441-PL03_P2; Proposed Site Plan – Ground Floor 7441-PL04_P4; Proposed Site Plan – Roof Level 7441-PL 05_P3; Plot 1 - Proposed Floor Plans 7441-PL06_P1; Plot 1 - Proposed Elevations 7441-PL07_P1; Plot 2 - Proposed Floor Plans 7441-PL 08_P1; Plot 2 - Proposed Elevations 7441-PL 09_P1; Plot 2 - Proposed Elevations 7441-PL10_P1; Car Ports and Garden Room Plans and Elevations 7441-PL11_P3; and Street Elevation and Site Sections 7441-PL12_P2.
- 3) No development shall take place until a Habitat Management and Monitoring Plan, in line with the approved Biodiversity Gain Plan, has been submitted to the Local Planning Authority and approved in writing. The content of the Habitat Management and Monitoring Plan should include the following:
A management and monitoring plan for onsite biodiversity net gain including 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed. A management and monitoring plan for all offsite biodiversity net gain including 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed. The development shall be implemented in full accordance with the requirements of the approved Habitat Management and Monitoring Plan, with monitoring reports submitted to the council at the specified intervals.
- 4) The development shall not progress above the damp proof course of the new houses until a schedule of materials and finishes to be used for external walls, roofs, fenestration and external surfaces of the proposed dwellings and associated outbuildings has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority in writing.
- 5) The development shall not progress above the damp proof course of the new houses until details of the proposed surfacing materials for the driveway and parking spaces have been submitted to and approved in writing by the Local Planning Authority. The driveway and parking spaces shall not be brought into use until they are constructed in accordance with the approved details.
- 6) Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any

part of the development or in accordance with a programme agreed with the Local Planning Authority. 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 unless the Local Planning Authority gives written consent to any variation.

- 7) The development shall not progress above the damp proof course of the new houses until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority. The details shall include a timetable for implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. Maintenance and management during the lifetime of the development should be in accordance with the approved details.
- 8) No building is to be occupied, or brought into use, until a Verification Report pertaining to the surface water drainage system, carried out by a competent Engineer, has been submitted to and approved in writing by the Local Planning Authority. The Verification Report shall demonstrate the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets, and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features. The Verification Report should also include an indication of the adopting or maintaining authority or organisation.
- 9) The trees growing on and around the site boundaries shall be retained and protected in accordance with the details in the submitted Arboricultural Impact Assessment, Method Statement and Tree Protection Plan by PJC, dated 28.03.2024, before and during the course of the development, unless otherwise agreed in writing by the Local Planning Authority.
- 10) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the submitted Updated Preliminary Ecological Appraisal (PJC, July 2024 submitted 23rd September 2024). This includes the Precautionary Method Statement for reptiles in Appendix V of the Updated Preliminary Ecological Appraisal (PJC, July 2024 submitted 23rd September 2024), which avoids harm to protected species. This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
- 11) Prior to the occupation of the dwellings a wildlife sensitive lighting design scheme for biodiversity based on Guidance Note: 08/23 (Institute of Lighting

Professionals) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

- 12) The development shall not be occupied until details of bin and recycling storage have been submitted to and approved by the Local Planning Authority. The approved bin and recycling storage shall be installed prior to the occupation of the development and shall be maintained in an operable condition thereafter.
- 13) The development shall not be occupied until details of bicycle storage have been submitted to and approved by the Local Planning Authority. The approved bicycle storage shall be installed prior to the occupation of the development and shall be maintained in an operable condition thereafter.
- 14) No demolition/construction activities shall be undertaken on the site on Bank or Public Holidays or at any time other than between the hours 8 am and 6 pm on Mondays to Fridays and between 9 am and 1 pm Saturdays.