



Appeal Decision

Site visit made on 26 February 2026

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st April 2026

Appeal Ref: APP/C1435/W/25/3377010

Land north of A272, Pound Green, Buxted TN22 4PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Wil and Erica Wilson against the decision of Wealden District Council.
 - The application Ref is WD/2024/0480/O.
 - The development proposed is residential development comprising up to three detached one/two storey dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Wealden Draft Local Plan Regulation 18 February 2026 (WDLP) was consulted on by the Council in the early part of 2026. Given the early stage of plan preparation, it attracts very limited weight.
3. The appeal was accompanied by a Summary of Ecological Works – Updated Site Walkover and a NatureSpace Great Crested Newt District Licensing Scheme Certificate. It was also accompanied by an updated Tree Survey Schedule, Tree Constraints Plan, Tree Retention Plan and Arboricultural Impact Assessment. The Procedural Guide: Planning Appeals – England advises that appellant's submissions should not normally include new evidence or additional technical data not previously seen by the Local Planning Authority and interested parties at the application stage. In this case, the new information principally comprised updated versions of reports previously provided as part of the planning application, and as such I do not consider that interested parties have been prejudiced. I have determined the appeal on the basis of the updated reports.
4. The appeal was accompanied by a deed of unilateral undertaking under s106 of the Town and Country Planning Act 1990 to secure contributions to mitigate the impact of the proposal on the Ashdown Forest Special Protection Area (SPA). The Council confirmed that it was satisfied with the agreement and no longer wished to defend the reason for refusal relating to the potential impact of the proposal on the SPA.

Main Issues

5. In light of the above, the main issues in this appeal are:

- the effect of the proposal on protected species with particular reference to great crested newts and badgers; and
- the effect of the proposal on the character and appearance of the area.

Reasons

Protected species

6. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) provide for the protection of European protected species and habitats. The appeal site contains suitable habitat to support great crested newts, reptiles, breeding birds, badgers, hedgehogs and stag beetles. The appellant's updated reports assessed the likely impact of the proposal on these habitats, with particular regard to great crested newt and badger habitats.
7. The appeal was accompanied by a Certificate issued by NatureSpace under the Great Crested Newt District Licensing Scheme, which confirmed that the proposal had been evaluated by NatureSpace and could be covered by a District Licence. As such, no further compensation actions are required. The Certificate stipulated that any planning permission must include a planning condition requiring the development to be undertaken in accordance with the terms and conditions of an Organisational Licence, which would be issued by the Council once planning permission was granted.
8. Surveys have been undertaken in accordance with Natural England's standing advice Badgers: Advice for Making Planning Decisions, which confirm that badgers are actively using the on-site habitats for foraging, commuting and sett building. The location of main, annexe and outlying setts has been identified. The appellant has suggested that a 30 metre buffer could be provided around the setts but, given the disposition of the setts, such a buffer would sterilise almost the whole site. Even allowing for the fact that the proposal is in outline for up to three dwellings, which allows for a considerable degree of flexibility in the quantum and layout of the houses, the proposal would be likely to result in disturbance to badger setts.
9. In such circumstances, a detailed mitigation strategy and a licence are required. In the absence of such a mitigation strategy or any indication that a licence would be granted, the proposal does not accord with Natural England's standing advice on Badgers. Furthermore, Natural England's standing advice Protected Species and Development: Advice for Local Planning Authorities guides that it would not be appropriate to condition such matters.
10. In conclusion, the proposal would not harm great crested newts by virtue of the compensation measures in the District Level Licence. However, there is insufficient information about the potential effect of the proposal on badgers, with the result that their habitat could be damaged. The proposal would not therefore satisfy Policy WCS12 of the Wealden District Core Strategy Local Plan Adopted February 2013 (CSLP), which requires habitats to be maintained in order to sustain wildlife in rural and urban areas, and it would conflict with the Regulations.

Character and appearance

11. The appeal site comprises a roughly rectangular parcel of land bounded on all sides by trees. On each side are domestic gardens, with open countryside to the rear. The appellant contends that the site has been used for the keeping of horses, but the planning history of the site does not confirm this. The Council considers that the site has an agricultural use, though there was no indication of cultivation or livestock on my site visit.
12. The Wealden Design Guide Supplementary Planning Document November 2008 (WDG), which is a material consideration, identifies the site as being within the High Weald Character Area, albeit outside the High Weald National Landscape itself. The High Weald is characterised by larger wooded hillsides, small copses and roadside tree belts, and a patchwork of small open fields. The appeal site has a roadside tree belt and may once have been a small open field, but its rectangular shape and position between two residential plots whose rear boundaries align with that of the appeal site, could alternatively suggest that the site has been carved out of the rural landscape and that its present character reflects a degree of domestication.
13. The Council's Strategic Housing and Employment Land Availability Assessment (SHELAA) assessed the suitability of the site for housing. Its assessment relied on the findings of the Landscape Sensitivity Assessment: Residential and Employment Development (LSA), itself also a material consideration, which identified the site as having a moderate sensitivity to small-scale residential development. It advised that any development should retain the existing vegetation, integrate into the landscape, and be located so as to relate to the existing low density settlement pattern along the A272. The SHELAA concluded that the site was not suitable for housing.
14. The Council has referred me to a dismissed appeal for two dwellings at Spindles¹, located outside the built-up area on a stretch of the A272 with a largely undeveloped rural character. The removal of a boundary hedgerow and various trees would have opened up and urbanised a substantial length of road, significantly eroding the landscaped road corridor. The Inspector found that the proposed houses would have resulted in an unwarranted, sporadic form of residential development in the countryside.
15. By contrast, the appeal site is located on the fringes of Buxted/Pound Green, on a section of the A272 which exhibits both rural and urbanising features. Whilst the side of the road on which the appeal site is located retains a verdant, rural quality, the opposite side of the road comprises a repair garage, a dwelling which was formerly a village shop, and a recently-completed housing development known as Holmes Place which replaced a horticultural nursery². Whilst the former nursery contained a number of large glasshouses, they appear to have been set from the road and not to have been accessed directly from this section of the A272. Moreover, nurseries are horticultural business which can exhibit countryside characteristics in a way that the new houses, despite their design quality, do not. The evidence before me indicates that the new houses have altered and urbanised the character of the immediate area.

¹ PINS reference APP/C1435/W/21/3279614

² LPA reference WD/2021/2766/F

16. CSLP Inset Map No 6 shows the development boundary of Buxted extending as far as Limes Lane/Redbrook Lane, which are located to the west of the appeal site. The Policies Map in the emerging WDLP proposes to extend the development boundary to incorporate Holmes Place and a row of dwellings located between Redbrook Lane and the appeal site. Whilst the emerging WDLP carries very limited weight, it reinforces my findings about the changing character of this part of Buxted/Pound Green.
17. The proposal is for up to three dwellings, which would be broadly reflective of the density of development on nearby sites. The site slopes down noticeably at the rear, but a thoughtful detailed design would be capable of dealing satisfactorily with the topography of the site. There is nothing to suggest that at detailed stage the scheme design could not satisfy the detailed guidance in the WDG and thereby successfully integrate into the landscape. An open area and undeveloped site would be lost, but owing to the site's natural screening, its openness currently does not make a significant contribution to the character and appearance of the area.
18. The site is bounded by trees which are a prominent feature beside the A272. Trees also screen the site from the open countryside at the rear. Much of the site frontage accommodates a hard surfaced layby which, to judge from my observations and the submissions of parties, is regularly occupied by parked cars, and therefore urbanises the site frontage to a degree. The indicative plans show the field entrance being widened to a bellmouth with raised kerbs installed, although the proposed entrance would not be as wide as that of Holmes Place. Whilst there are currently limited views into the site, the widened access would allow views of a large area of hardstanding, which would be the case even were the detailed design to differ from the indicative plans. Taking these factors together, the proposed access would have a moderately urbanising effect on the site.
19. The widening of the access would necessitate the removal of four sycamores and three beech trees either side of the existing entrance, which are Category B trees. There would also be some canopy removal at the rear of the site for arboricultural reasons. Because the frontage trees are closely spaced – potentially the result of being a lapsed hedgerow – the loss of the trees would not open up a significant additional portion of the site frontage, and in this respect the proposal can be distinguished from the Spindles appeal. Any future tree management resulting in removal could be mitigated for by a programme of landscaping, so as to retain the site's landscaped frontage. Nonetheless, there would be some loss of the site's current sylvan appearance from the A272.
20. Overall, the proposal would result in a degree of harm to the character and appearance of the area, contrary to the relevant parts of policies EN1, EN12, EN18 and EN27 of the Wealden Local Plan (WLP) and policies SPO1, SPO13 and WCS14 of the CSLP. Together, these policies require proposals to enhance the distinct landscapes of the District, by respecting the character of adjoining development and promoting local distinctiveness, and resist the loss of open areas and trees which make a valuable contribution to the character of the landscape. I have not had regard to Policy EN8 of the WLP which relates to the Low Weald, since it is common ground that the appeal site is in the High Weald.

Planning Balance

21. Housing is proposed, and the Council cannot demonstrate a five year supply of housing land, having only a 3.44 year supply. Therefore, paragraph 11(d) of the Framework applies. The application of policies in the Framework that protect areas or asset of particular importance, as defined in Footnote 7, do not provide a strong reason for refusing the development proposed. Therefore, the presumption in favour of sustainable development applies as set out in paragraph 11(d)ii and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
22. The delivery of up to three sustainably located homes would be a social benefit, whilst economic benefits would accrue from the construction phase and from expenditure on goods and services by future occupiers. The proposal would offer some benefits in terms of biodiversity and landscaping. The proposed dropped kerb and tactile paving either side of the A272 would provide a modest benefit in terms of pedestrian safety and convenience. The desire to prevent fly tipping carries limited weight in the absence of evidence that it is an ongoing problem. Although the appellant has indicated that the proposal is for self-build dwellings, no mechanism to secure them as self-build is before me, and I am therefore unable to afford weight to the appellant's aspiration for a self-build development. The personal circumstances of the appellant are likewise of very limited weight. Nevertheless, positively contributing to the Council's housing land supply is a benefit given the Council's housing land supply shortfall. I therefore attach moderate positive weight to the benefits that the scheme delivers.
23. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) provide for the protection of European protected species and habitats, whilst the National Planning Policy Framework (the Framework) seeks to minimise impacts on biodiversity and to incorporate features which support threatened species. In the absence of mitigation or compensation measures, or certainty that a licence would be issued for the proposed activities, I am bound to accord significant negative weight to the potential damage which would be caused to badger habitats.
24. The WLP and CSLP set out policies for enhancing the landscapes of the District, promoting local distinctiveness and resisting the loss of trees and open areas. The Framework calls for design which is sympathetic to local character and landscape setting, and emphasises the important contribution which trees make to the environment. The harm I have identified as arising from the proposal relates principally to the loss of a small number of boundary trees and the urbanising effect of the proposed access. I attach moderate negative weight to these harms.
25. I conclude, therefore, that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

European Protected Sites

26. The appeal site lies within the 7km zone of influence of the SPA, whose qualifying features are its concentrations of Dartford Warbler and European Nightjar. Ashdown Forest is also designated as a Special Area of Conservation, for its European dry heath, North Atlantic wet heath and great crested newts. It is a

European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations).

27. Had I been minded to allow the appeal, it would have been incumbent upon me as competent authority to consider whether the development would be likely to have a significant effect on the integrity of the site. However, as I am dismissing the appeal, it has not been necessary for me to pursue this issue further.

Conclusion

28. The proposal would conflict with the development plan as a whole, and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

J Heppell

INSPECTOR