



Appeal Decision

Site visit made on 23 March 2026

by S F Murphy BSc (Hons) MSc MRTPI MISEP CEnv.

an Inspector appointed by the Secretary of State

Decision date: 9th April 2026

Appeal Ref: APP/C1435/W/25/3376527

Alexandra Cottage, Batts Bridge Road, Piltdown, Uckfield, East Sussex, TN22 3XP

- 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 Joshua Smith against the decision of Wealden District Council.
 - The application Ref WD/2025/0103/F.
 - The development proposed is a three bedroom chalet bungalow to replace garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal has been considered by the Secretary of State in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017). A screening direction has been issued which states that the proposal is not Environmental Impact Assessment development.
3. As part of the appeal, the appellant has submitted a Biodiversity Metric and associated correspondence intended to address the second reason for refusal regarding Biodiversity Net Gain (BNG) through the provision of on-site biodiversity gains.
4. The appellant subsequently, through final comments, has suggested off-site biodiversity units of local provenance could be purchased to achieve the required BNG and thereby address the second reason for refusal. In considering these submissions, I have been mindful that the appeals process should not be used to evolve a scheme. In considering whether to accept the additional information, I have had regard to *Holborn Studios Ltd*¹ in relation to substantive and procedural tests.
5. I consider the Biodiversity Metric and associated correspondence provide clarification on this matter and do not materially alter the proposal. As these documents were submitted with the appeal, the Council has been given the opportunity to comment on them, and I am satisfied that no interested party has been prejudiced by my approach. I have therefore considered these particular documents in determining the appeal.
6. However, with regard to the submission by the appellant that off-site biodiversity units could be purchased to achieve BNG, I consider this would result in a

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

fundamental alteration to the application over what was considered at the planning application stage. Whilst I note the Council have reviewed this submission, it is unclear whether interested parties are aware of this and would, therefore, be prejudiced. Consequently, I have not accepted the appellant's proposed suggestion within their final comments. In the interests of natural justice, I have determined the appeal based on the Biodiversity Metric and associated correspondence.

Main Issues

7. The main issues are:

- whether the appeal site would be a suitable location for the proposal having regard to its accessibility to services and facilities, development plan policy and the National Planning Policy Framework (the Framework);
- whether the proposal would make adequate provision for BNG; and
- the effect of the proposal on the integrity of the Ashdown Forest Special Protection Area (SPA).

Reasons

Location

8. The appeal site comprises the garage and a portion of the front and rear garden of Alexandra Cottage, located at the north eastern end of the hamlet of Piltdown, a linear settlement along the A272 Goldbridge Road and Batts Bridge Road. The appeal site would be accessed via an existing entrance from Batts Bridge Road that would be shared with Alexandra Cottage.
9. Saved Policies GD2 and DC17 of the Wealden Local Plan adopted 1998 (the Local Plan) resists housing development outside of development boundaries unless it conforms with other policies within the Local Plan. Identification of rural areas where growth and housing development can be accommodated is set out in Policy WCS6 of the Wealden Core Strategy adopted 2013 (the Core Strategy). The policy categorises rural settlements as service centres, local service centres, neighbourhood centres or unclassified settlements and indicates the scale of additional housing development that can be accommodated within these. Piltdown is an unclassified settlement with no new housing allocations identified.
10. Piltdown has limited facilities or amenities comprising a petrol station, a pub and a small trading estate at Ashgrove Farm. Whilst I note that the petrol station has a convenience store element that could address some impromptu shopping needs for residents, it would not sustain day-to-day shopping needs. I noted on my site visit that Old Spot Farm shop was no longer in operation. As such, residents would have to travel to Newick, Maresfield or further afield to access a wider range of services and amenities.
11. Whilst Newick village is not of great distance, the A272 towards Newick has no continuous footway nor is the road lit. It is subject to the national speed limit for much of the road dropping to 50 miles per hour (mph) outside of Piltdown and then to 40mph through the hamlet. This would not be a particularly attractive route for pedestrians and less confident cyclists particularly in the winter months with shorter hours of daylight or in poor weather. This is similarly the case for residents

that would wish to travel to Ashdown Business Park and Maresfield to the north east and Uckfield to the east.

12. There is a bus route through Piltdown that provides a regular service to Ashdown Business Park, Maresfield, Newick and Uckfield, and bus stops are located close to the appeal site. This could provide an alternative option for transport to these centres for residents. Whilst I note the hourly service and short travel times by bus from Piltdown to these centres, there are no buses on Sundays and into the evening. Notwithstanding there being some public transport provision within Piltdown, I consider there would remain a heavy reliance on the private motor car to access goods, services and employment.
13. I have been directed to several appeal decisions² where the conclusion has been drawn that Piltdown is an unsustainable location. The appellant asserts the sustainability considerations afforded to the appeal site are materially different to these appeal decisions given their location within Piltdown. While I acknowledge the appeal site is closer to the bus stops than the other appeal decisions, the very limited size of Piltdown means the site is not materially better located in sustainability terms, given the lack of facilities and amenities offered within the hamlet.
14. Furthermore, the appellant contends given the construction of two new houses on land adjacent to Piltdown Lodge, to the north east of the appeal site, alongside a number of other decisions³ relating to planning permission for single dwellings within Piltdown, the appeal site is a sustainable location. The Council's view on Piltdown's suitability as a sustainable location has changed over time. I have no evidence before me to explain the rationale behind the Council's approach to the planning permissions cited by the appellant. Nevertheless, the weight to be attributed to the material planning considerations is for the decision maker based upon the merits of each particular case and I have determined this appeal on its own merits.
15. For the reasons above, I conclude the site is not suitable for residential development, given its unsustainable location, having regard to development plan policy and the Framework. The proposal would be contrary to Saved Policies GD2 and DC17 of the Local Plan and Policy WCS6 of the Core Strategy which collectively resists development outside development boundaries and seeks to direct housing development in accordance with the rural areas strategy. The proposal would also be contrary to paragraph 83 of the Framework which promotes sustainable development in rural areas. The proposal would also be contrary to Policy EN1 of the Local Plan, Policy WCS14 of the Core Strategy and paragraph 7 of the Framework which together pursue sustainable development having regard to the location of development proposals.
16. Whilst the proposal would be in proximity to public transport opportunities, given the frequency of the bus service, the proposal would be contrary to Policy SPO7 of the Core Strategy and paragraphs 109, 115 and 117 of the Framework which encourages the reduction in the need to travel by car, the delivery of sustainable places and prioritising of sustainable transport modes.

² APP/C1435/W/22/3297438, APP/C1435/W/22/3297916, APP/C1435/W/24/3340301, APP/C1435/W/25/3365307

³ WD/2020/1546/F, WD/2022/2643/PIP, WD/2020/1130/F

17. I note the decision notice refers to Policy SPO14 of the Core Strategy however this policy refers to maximisation of the use of previously developed land (PDL) for new development wherever possible. As the appeal site is currently occupied by a permanent structure and as I am satisfied the appeal site does not fall within a built-up area with reference to a residential garden, I consider in this case the appeal site falls within the definition of PDL within the Framework. Therefore, the proposal would make use of PDL and would comply with Policy SPO14.

BNG

18. Schedule 7A of the Town and Country Planning Act 1990 introduced the requirement for BNG such that every planning permission, with some exceptions, is deemed to have been granted subject to a deemed biodiversity gain condition. This requires the delivery of at least a 10% increase in biodiversity value is met. This delivery can be through the provision of on-site biodiversity gains, registered off-site biodiversity gains or statutory biodiversity credits. Development cannot commence until a biodiversity gain plan (BGP) has been submitted to and approved by the local planning authority.
19. The appellant has submitted a Biodiversity Metric and a plan identifying existing and proposed habitats for the appeal site. The BNG metric calculates a 21.53% uplift in habitat units at the appeal site to be delivered by 0.03 area habitat units of vegetated garden and 0.05 habitat units within the urban tree habitat type. The amenity grassland and trees that comprise these habitat units would be located within the private garden of the appeal site. I note the Council does not contest the baseline information.
20. However, the Defra Statutory Biodiversity Metric User Guide (July 2025) (the Defra guide) outlines that a post development private garden has no public access and consequently, BNG cannot be legally secured. Furthermore, the Defra guide states that whilst trees within gardens can be recorded as part of the baseline, post development tree planting within gardens should not be included within the post development sheets of the metric and the habitat type “urban – vegetated garden” should be used. In this particular case, as shown in the evidence before me, on-site gains would not be able to be secured for the aforementioned reasons.
21. Planning Practice Guidance (PPG⁴) makes clear that it would generally be inappropriate for decision makers, when determining a planning application for development subject to BNG, to refuse an application on the grounds that the biodiversity gain objective will not be met and that decision makers may need to consider more broadly whether the biodiversity gain condition is capable of successfully being discharged.
22. However, there is nothing before me to indicate that an agreement with a registered provider has been agreed to suggest that sufficient capacity exists for off-site provision or whether purchasing such credits is a viable option. Furthermore, there is no mechanism, in the form of a legal agreement, by which to secure the off-site gains or units and I am mindful of the advice within the PPG which sets out that ensuring that any planning obligation is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed.

⁴ Reference ID: 74-019-20240214

23. Consequently, I cannot be confident that the proposal would make adequate provision for BNG. The proposal therefore conflicts with Policy WC12 of the Core Strategy which seeks to prevent the loss of biodiversity and ensuring habitats, biodiversity features and ecological networks are maintained, restored, enhanced and where possible created to achieve a net gain in biodiversity. The proposal would also be contrary to the Framework and Schedule 7A of the Town and Country Planning Act 1990 which seek to minimise impacts on and provide net gains for biodiversity.

Ashdown Forest SPA

24. The appeal site is located within 7 kilometres (km) from Ashdown Forest SPA, which is designated for its concentration of Dartford Warbler and European Nightjar bird species. The SPA bird populations and nests are particularly sensitive to recreational disturbance through trampling, erosion and dog walking where dogs are let off their leads. Within this distance, additional residential dwellings have the potential to add to this pressure and are likely to have a significant effect on the SPA unless mitigation measures are put in place.
25. As the proposal would result in the addition of a dwelling, this would increase both the number of residents and likely visitor numbers to the SPA. As such, the proposal, both alone and in combination with other development in the area, is likely to have a significant effect on the integrity of the SPA due to increased disturbance through recreational activity.
26. Due to the relatively small scale of the proposed development, there is no scope to provide on-site mitigation for impacts to the SPA. The parties agree that the appropriate mitigation for the impact of an additional dwelling is to provide a financial contribution towards Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM).
27. There is no substantial evidence before me to demonstrate that any of the available SANG capacity has been secured for this proposal. I note the appellant has expressed their willingness to provide mitigation by way of a financial contribution, secured through an appropriately worded planning condition, to ensure the required payment is made prior to the commencement of development.
28. PPG makes clear that a positively worded planning condition cannot be used to secure the payment of money when granting planning permission⁵. PPG does state that, where the six tests are satisfied, it may be acceptable to use a negatively worded planning condition limiting the development that can take place until a planning obligation, or other agreement, has been entered into, however, this is unlikely to be appropriate in the majority of cases. It goes on to clarify that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties on what is being agreed.
29. PPG goes on to caution that the use of such negatively worded planning conditions should be used in exceptional circumstances⁶ where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply

⁵ Reference ID: 21a-005-20190723

⁶ Reference ID: 21a-010-20190723

in the case of particularly complex development schemes). In such cases the six tests should also be met.

30. The proposed development is for minor development. I am not satisfied that it is of such complexity to meet the circumstances set out in the PPG for a negatively worded planning condition.
31. Whilst I note the appellant's willingness to secure the necessary contributions through the use of a negatively worded condition, such an approach would not guarantee that mitigation is in place at the time of determination. Furthermore, there is no mechanism before me to secure the Council's obligations in delivering the required mitigation and there remains no certainty that the necessary mitigation would be implemented or maintained. As a result, the proposal fails to demonstrate compliance with the Conservation of Habitats and Species Regulations 2017 (as amended).
32. Therefore, in the absence of mitigation, the proposal would result in a significant adverse effect on the integrity of the SPA. Accordingly, it would conflict with Saved Policies EN1 and EN15 of the Local Plan and Policy WCS12 of the Core Strategy which collectively seek to safeguard designated conservation sites by resisting development that would adversely affect its nature conservation value and seeks to avoid adverse effects on the integrity of the Ashdown Forest SPA.

Planning Balance

33. I consider the policies which are most important for determining the appeal application are broadly consistent with the Framework. The proposed development would be contrary to policies that seek to direct development to the most sustainable and accessible locations and in respect of biodiversity. It would also not mitigate the harm to the SPA. I consider that the harm and policy conflict would be such that the proposal would conflict with the development plan as a whole. This is a matter to which I attach substantial weight.
34. The Council acknowledges that there is a supply of deliverable housing land equivalent to 3.44 years. This represents a considerable shortfall.
35. There would be a benefit of delivery of an additional dwelling, especially given the Council cannot demonstrate the requisite supply and the Government's objective of significantly boosting the supply of homes through the Framework, alongside economic benefits arising during the construction and occupation stages of the development. The Framework at paragraph 73 recognises that small and medium sized sites can make an important contribution and are often built out relatively quickly. However, given the proposed development would only provide one additional dwelling against the shortfall, such benefits only attract modest weight in favour of the proposal.
36. I consider the appeal site is PDL as defined by the Framework and recognise that paragraph 124 of the Framework looks to promote an effective use of the land in meeting the need for homes. I also afford this modest weight in favour of the proposal.
37. All other matters do not weigh either for or against the proposal.
38. The appellant has made reference to the Council's emerging Local Plan. The Wealden Draft Local Plan Regulation 18 dated February 2026 was consulted on

by the Council between February and March 2026. Given the early stage of the plan preparation, I consider this has limited bearing.

39. Paragraph 11 d) of the Framework sets out the presumption in favour of sustainable development. It details that where the policies which are most important for determining the application are out of date, planning permission should be granted unless i) the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed. The policies referred to in this part of the Framework are set out in footnote 7 and include habitat sites and those sites listed in paragraph 194 of the Framework. These include SPAs.
40. In the particular circumstances of this case, I have found that the harm to the SPA would not be mitigated due to the lack of a completed agreement under Section 106. This harm is significant and would not be outweighed by the public benefits. This provides a strong reason for refusing the proposal. As such, the presumption in favour of sustainable development does not apply in this case.
41. I have considered all matters that have been raised, but the benefits that arise do not outweigh the harm caused by the development. The proposal conflicts with the development plan when taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

Conclusion

42. For the reasons given above the appeal should be dismissed.

S F Murphy

INSPECTOR