



Appeal Decision

Site visit made on 14 April 2026

by **A Owen MA BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 June 2026

Appeal Ref: APP/P1425/W/25/3373639

Land at 55 Allington Road, Newick, East Sussex BN8 4NB

- 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 Stephen Wanhill and Greenplan Designer Homes (Newick) Limited against the decision of Lewes District Council.
 - The application Ref is LW/25/0138.
 - The development proposed is erection of 4 No. dwellings with access to be provided via the previously approved access drive off Allington Road.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 4 No. dwellings with access to be provided via the previously approved access drive off Allington Road at Land at 55 Allington Road, Newick, East Sussex, BN8 4NB in accordance with the terms of the application, Ref LW/25/0138, subject to the conditions in the attached schedule.

Preliminary matters

2. A Section 106 agreement was submitted with the appeal which purports to secure contributions to mitigate the effect of the proposal on the Ashdown Forest Special Protection Area (SPA) and to secure a Biodiversity Net Gain (BNG) management plan. I return to this agreement later in my decision.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) whether the development would be required to make a contribution to the provision of affordable housing;
 - iii) the effect on biodiversity; and
 - iv) whether there are other material considerations that indicate a decision other than in accordance with the development plan.

Reasons

Character and appearance

4. The appeal site mostly comprises land behind a row of six houses on the south side of Allington Road with the vehicular access passing between two of the six frontage houses. These six units¹ have been relatively recently constructed. A

¹ Granted by planning permission Refs LW/22/0812 and LW/24/0495

further four dwellings, have been built to land east of the site. Although these four do not front Allington Road and are sited behind Nos 33-45, they have a presence in the Allington Road street scene resulting from the wide vehicular access to them and the open vegetated verges. They also continue the building line established by the houses in front of the appeal site. Indeed, there is a generally linear pattern of development on this side of Allington Road.

5. In contrast the four proposed bungalows would be accessed only by a narrow access way close to the flanking elevations of the houses either side of it. They would be aligned completely behind the rear building line of all the other dwellings nearby so would be visually and spatially separate.
6. However, their single storey nature and the limited quantum of development would restrain their visibility in the wider area. In particular there would be very little view of them from the public footpaths to the south of the site. This is partly because of the intervening hedgerows, and partly because of the topography of the land further south, where the footpath runs through the vineyard which falls away from the site. There may be a view of the development from the sports pitches to the east, but it would most likely be limited, by the boundary hedges, to views of the roofs of the bungalows. The views would also be at some distance. Views from Allington Road would be limited by the roadside vegetation here. The bungalows may be visible from the footpath that passes directly in front of the frontage houses, but even from here, the view would be inhibited by trees. It is likely therefore that the positions from which the development would be most readily seen is from its own access and from the rear of the nearby dwellings on Allington Road.
7. Although not numerous, the development would be visible from a few positions. As such, the presence of dwellings in a backland position would be perceptible and this would contrast with the pattern of development in the area. The proposal would therefore be contrary to Core Policies 10 and 11 of the Core Strategy (2016) which seek to ensure that development conserves and enhances the character of the district's villages and rural environment. It would also be contrary to policy DM25 of the Part 2 Lewes Local Plan Site Allocations and Development Management Policies document (the 'Part 2 Plan'), which, among other things, requires development to respond sympathetically to its relationship with its immediate surroundings. The development would also fail to accord with policies H01 and EN1 of the Newick Parish Council Neighbourhood Plan which together aim to ensure that development reflects and blends well with the local character. However, given the limited visibility of the development in the area, I give only modest weight to these conflicts.

Affordable housing

8. Core Policy 1 of the Core Strategy identifies that one affordable dwelling would be required on schemes of 3-4 units, such as in this case. However the explanatory text advises that in the event of any change in government policy regarding affordable housing thresholds, national policy will supersede Core Policy 1. The National Planning Policy Framework (the 'Framework') advises in paragraph 65 that affordable housing should not be sought for developments that are not major developments. Major development is defined in the glossary to the Framework as developments of 10 homes or more. The appellant refers to a Supplementary Planning Document (2018) which suggests that affordable housing would only be sought on schemes of 11 units or more. But as current government policy is clear

as to where the threshold is, and as the development plan specifically caters for changes in government policy, I consider the threshold set out in the Framework is the appropriate one to use.

9. On that basis, and when the proposed development is considered singularly, the provision of four units would not be required to provide affordable housing. The Council contends however that the site should be agglomerated with the land to the north, on which the six units have been built, which would amount to 10 units in total and hence triggering the need for affordable housing. In assessing whether sites should be agglomerated, both parties cite the Brandlord² case which referred to a tripartite test.
10. The first part of this test relates to ownership. It is common ground between the parties that one of the appellants in this appeal, Mr Stephen Wanhill, is currently the owner of the appeal site and was previously the owner of the land to the north too until ownership passed to the other appellant, Greenplan Designer Homes (Newick) Limited in June 2024 (the northwest part) and February 2025 (the northeast part). I also understand that as some of the frontage houses have been sold, they now have new owners. In the New Dawn Homes³ case it was found that there was no reason why agglomeration could not be considered on a retrospective basis i.e. when planning permissions have already been granted. That would seem to be applicable here where originally the site was in one ownership and it was only at the point when construction started on each parcel did the ownership transfer away from Stephen Wanhill. It is also material that Greenplan Designer Homes have been involved in all three applications. This approach is also consistent with that adopted by the Inspector in the Carnforth Brow appeal⁴.
11. The second part of the tripartite test is whether the wider site is a single planning unit. In this regard both parties refer to Burdle⁵ which identifies some principles about identifying the extent of a planning unit. In this case it seems that the dwelling at No 55 was originally erected in the 1960s as an agricultural worker's dwelling in association with a smallholding and together these comprised the whole site. The agricultural workers tie was subsequently removed in 1979, but I consider this does not necessarily separate the two parts of the site, rather it merely removes the obligation for the occupiers to be employed in agriculture. However, in more recent times, it would appear that the dwelling was distinct from the rest of the land as evidenced by some of the aerial photos, site photos from 2007 (which show the dwelling separated from the rest of the land, albeit only by a low wire fence), and extracts from the 2003 and 2016 Local Plans which also distinguish between the dwelling being within the development boundary of Newick and the wider landholding being beyond it.
12. The third part of the tripartite test is whether the proposals could be considered as a single development. As set out above, Greenplan Designer Homes have been involved in all three schemes. The first planning application was submitted in December 2022 and on each occasion there were only two months between the approval of one permission before the submission of the next. This could suggest an overall strategy for the development of the whole site developed at a steady

² R (Westminster City Council) v First Secretary of State & Brandlord Limited [2003] JPL 1066

³ New Dawn Homes Limited v Secretary of State for Communities and Local Government & Tewksbury Borough Council [2016] EWHC 3314 (Admin)

⁴ Ref: APP/A2335/W/22/3295920

⁵ Burdle v Secretary of State for the Environment [1972] 3 All E.R. 240

pace, rather than three separate proposals. However previous proposals⁶ for development on the wider land incorporating the appeal site had been refused and dismissed on appeal. Indeed in the appeal case⁷ the Inspector commented that the development for nine dwellings would involve some of them being a significant way back from the ribbon pattern of development and intruding into the open undeveloped land. It is reasonable to consider therefore that the frontage development was prepared in response to that and that it would only be reasonable to attempt to achieve planning permission again for the land within the current appeal site, if there was a change in circumstances. The Council's failure to demonstrate a five year supply of housing land is a material change in circumstances.

13. Overall, taking account of the three parts of the test, I consider that the proposal is a separate development to those that have gone before it and so should not be agglomerated with the previous two developments. There has been consistency in the ownership of the wider site, but the development plan identifies a distinction between the appeal site and the land to the north, and stemming from that, the planning history has been consistent in suggesting that the development of the appeal site would be contrary to the policies of the development plan without any material considerations to outweigh that conflict. In other words, solely based on the planning history and the policies of the development plan, it would not have been a surprise if the developer had not sought to achieve planning permission on the appeal site.
14. The Council suggest the use of the same access point, drainage scheme and the similar design of the houses points to a single development. However to my mind they are simply representative of the site circumstances and good planning.
15. As such I find no conflict with Core Policy 1, as outlined above, and there is no evidence to suggest there would be a conflict with Core Policy 2 which requires development to provide housing to meet an identified need.

Biodiversity

16. The appeal site is currently devoid of any trees, but it is understood that it previously contained a number of fruit trees which constituted a Traditional Orchard Priority Habitat. The Preliminary Ecological Appraisal refers to a site visit in May 2024 when it was found that there were a number of trees on site, including fruit trees, but less than five fruit trees were alive, which is the minimum number required to qualify as a priority habitat. The Council contends dead trees can be counted. In any event, the appellant states that as these trees were not protected their removal has been lawful and carried out as part of land management practices. In this respect therefore it seems the development itself has not resulted in the loss of priority habitat.
17. In terms of biodiversity however it is appropriate to consider the pre-development biodiversity value, and this is confirmed in the Biodiversity Net Gain assessment which recognises and appropriately accounts for the loss of orchard habitat.

⁶ Ref LW/07/0023 and LW/19/0385

⁷ Ref W/4000788

18. As such the proposal would accord with Part 2 Plan policy DM24 which generally seeks to protect biodiversity and Core Strategy policy CP10 which seeks to protect the rural environment.

Other material considerations

19. The Council accept that they do not have a five years supply of housing land. The Annual Monitoring Review states that there is a 3.02 years supply, though the Council accept it may actually be lower than this. The appellant suggests it is possibly as little as 1.23 years. Even if I were to agree with the Council, the shortfall is significant, and this carries substantial weight in favour of the development.
20. The lack of a sufficient supply of housing means that paragraph 11d) of the Framework is engaged. This sets out that planning permission should be granted unless the application of policies that protect areas of particular importance provide a strong reason for refusal. The Ashdown Forest Special Protection Area (SPA) is such an area.
21. It is understood that the site is within 7km of the Ashdown Forest SPA. The qualifying features for the SPA are the Dartford Warbler and the European nightjar, and the conservation objectives are to ensure that the integrity of the habitat is maintained so that it continues to support the populations of the qualifying species. The Council advise that recreational disturbance can threaten the habitat by trampling and erosion, as well as by dogs. As the site is within a short distance of the SPA, additional residents from the development could result in additional recreational disturbance. Therefore the development would be likely to have a significant effect on the integrity of the SPA.
22. To mitigate that effect, the Council advise a financial contribution of £5,000 per dwelling towards Suitable Alternative Natural Greenspace (SANG) in Newick, and a figure of £1,170 per dwelling for Strategic Access Management and Monitoring (SAMM), would be necessary to encourage a displacement of recreational use away from the SPA. These are supported by Natural England, and the s106 includes an obligation to secure these contributions. The obligation meets the tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and I have therefore taken it into account in my decision.
23. The site is also within proximity of the Ashdown Forest Special Area of Conservation (SAC), the qualifying features of which are European dry heath, North Atlantic wet heath, and great crested newts. The conservation objectives therefore are to maintain or restore those qualifying habitats. Threats to this would arise from atmospheric pollution including from car emissions. The Council consider the proposal, even in combination with other planned developments as set out in the development plan, would not be likely to lead to a significant adverse effect on the SAC. I have no reason to consider otherwise and Natural England also does not disagree.
24. The provision of mitigation for the harm to the SPA means there is no policy relating to the areas of particular importance that provides a strong reason to refuse planning permission, and the development therefore meets paragraph 11d) i) of the Framework.
25. Alternatively, paragraph 11d) ii. states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably

outweigh the benefits when assessed against the policies in the Framework taken as a whole. Particular regard should be had to policies relating to development in sustainable locations, making effective use of land, design and the provision of affordable homes.

26. The Council state the site is in a reasonably sustainable location, and it has not been suggested that the development makes an inefficient use of land, nor that the design of the homes is unacceptable. Moreover, as set out above, I have found that the development is not required to contribute towards affordable housing. When assessed against these policies there would be no adverse effect from the development. I have found that the design of the development as a whole would contrast with the local character, but this carries only modest weight given the limited visibility of the development in its setting.
27. In respect of other policies of the Framework, the development would be supported by paragraphs 61, which seeks to boost housing supply, and 73, which identifies the contribution that small and medium sized sites can make to housing supply. At a time when the Council cannot demonstrate a sufficient supply of housing, these carry substantial weight.
28. The concerns by some local residents are noted. The additional traffic generated by four additional dwellings would not be significant and the lack of objection from the Highways Authority supports my view. Conditions can be imposed to ensure the site drains appropriately without causing flooding to neighbouring land.
29. The submitted s106 agreement includes an obligation to submit a BNG management plan to the Council before development commences. It also requires the BNG area, which is the land south of the proposed houses, to be maintained and to pay the Council a fee to allow them to monitor the area. It is considered that this obligation also meets the tests set out in Regulation 122 and I have therefore taken it into account.
30. Overall, it is considered the adverse effects resulting from the impact of the development on the character and appearance of the area and the associated policy conflict does not demonstrably or significantly outweigh the benefits of the development.

Conditions

31. I have considered the suggested conditions against the advice in the Planning Practise Guidance (PPG) and the Framework. Where necessary, I have slightly amended the wording of some conditions to better reflect that guidance.
32. I have imposed the standard commencement condition and a condition identifying the approved plans in the interests of certainty. In order to maintain the character and appearance of the area, conditions are attached relating to finishing materials, bin and cycle storage, and hard and soft landscaping. The condition relating to bin storage can also allow for them to meet the requirements of the Council's waste department.
33. In order to protect biodiversity, I have included the conditions requiring the provision of a Construction Environmental Management Plan, an Ecological Design Strategy, and external lighting details. I have, however, removed the reference to the need for the lighting details to be 'bat friendly' as this is imprecise. For the same

reason I have not imposed the condition relating to 'sustainability measures'. Some energy efficiency measures would be required by building regulations in any event.

34. To protect the living conditions of nearby residents a condition is imposed requiring the provision of a Construction Management Plan. Similarly, in order to provide acceptable living conditions for future occupiers of the development, conditions are imposed relating to foul drainage, possible contamination and the scheme meeting Secured by Design principles. Three conditions were suggested relating to surface water, which I have combined into one which would also encompass the conditions suggested by the Lead Local Flood Authority. In the interests of highway safety a condition is included relating to the provision of the roads, footways and parking areas.
35. Two conditions were suggested which would remove permitted development rights for some extensions and means of enclosure. However I do not consider these to be necessary given the context of the site amongst other dwellings. Indeed, the PPG advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.

Conclusion

36. There would be some conflict with the local plan, in respect of policies which seek to preserve the character of the rural environment. However the application of the Framework is a material consideration that outweighs the conflict with the development plan. As such, for the reasons given above, the appeal is allowed.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: 2151-101, 2151-102 Rev A, 2151-105 Rev B, 2151-110 Rev A, 2151-115 Rev A, 2151-116 Rev A, 2151-120 Rev A, 2151-125 Rev A, 2151-126 Rev A, 2151-130 Rev A, 2151-135 Rev A, 2151-136 Rev A, and 2151-140 Rev A.
- 3) No development shall take place until samples of all external facing materials including windows and door frames have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 4) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
 - i) risk assessment of potentially damaging construction activities;
 - ii) identification of “biodiversity protection zones”;
 - iii) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - iv) any translocation arrangements for reptiles and details of any required District or Natural England licences.
 - v) the location and timing of sensitive works to avoid harm to biodiversity features;
 - vi) the times during construction when specialist ecologists need to be present on site to oversee works;
 - vii) responsible persons and lines of communication;
 - viii) the role and responsibilities on site of an ecological clerk of works (ECOW) or similarly competent person;
 - ix) tree protection measures; and
 - x) use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be implemented throughout the construction period in accordance with the approved details.
- 5) No development shall take place until an Ecological Design Strategy (EDS) addressing compensation, mitigation and enhancement measures has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
 - i) purpose and conservation objectives for the proposed works;
 - ii) review of site potential and constraints;
 - iii) detailed design(s) and/or working method(s) to achieve stated objectives;

- iv) extent and location/area of proposed works on appropriate scale maps and plans;
- v) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- vi) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- vii) persons responsible for implementing the works;
- viii) details of initial aftercare and long-term maintenance;
- ix) details for monitoring and remedial measures; and
- x) details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 6) No development shall take place, including any ground works, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for:
- i) a pre-commencement condition survey of the surrounding highway network;
 - ii) the anticipated number, frequency and types of vehicles used during construction;
 - iii) the method of access, egress, turning and routing of vehicles;
 - iv) the parking of vehicles of site operatives and visitors;
 - v) arrangement of holding areas for construction vehicles;
 - vi) loading and unloading of plant, materials and waste;
 - vii) storage of plant and materials used in constructing the development;
 - viii) the erection and maintenance of security hoardings;
 - ix) the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction on the public highway (including the provision of temporary Traffic Regulation Orders);
 - x) measures to manage flood risk, both on and off the site, during the construction phase; and
 - xi) details of public engagement both prior to and during construction works.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 7) No development shall take place until full details of surface water drainage have been submitted to and approved in writing by the local planning authority. The details shall:
- i) follow the principles of sustainable drainage as far as practicable and be devised by a chartered civil engineer;

- ii) include a management and maintenance plan to show responsibilities for managing all aspects of the surface water drainage system, including piped drains;
- iii) include evidence that these responsibility arrangements will remain in place throughout the lifetime of the development;
- iv) include details of how the system will continue to function effectively for the lifetime of the development; and
- v) include evidence (including photographs) showing that the drainage system has been constructed as per the final agreed detailed drainage designs.

The development shall be undertaken in accordance with the approved details, and no dwelling shall be occupied until the approved works have been completed. The surface water drainage system shall be retained as approved thereafter.

- 8) No dwelling shall be occupied until the roads, footways and parking/turning areas serving the development have been constructed, surfaced, drained and lit in accordance with plans and details which have first been submitted to and approved in writing by the local planning authority. Those spaces shall thereafter be kept available at all times for those purposes.
- 9) No dwelling shall be occupied until cycle parking/storage spaces and bin storage facilities have been provided in accordance with details which have first been submitted to and approved in writing by the local planning authority and these facilities shall thereafter be retained for their approved use only.
- 10) No dwelling shall be occupied until information detailing how the development would adhere to the principles of Secured by Design has been submitted to and approved in writing by the local planning authority. The development shall be carried out and retained in accordance with the agreed details.
- 11) No dwelling shall be occupied until details of any external lighting have first been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 12) No dwelling shall be occupied until details of the foul drainage arrangements have been submitted to and approved in writing by the local planning authority. The details shall include confirmation of a connection agreement for access to the public sewer system issued by Southern Water, or of an appropriate alternative arrangement; full details of the foul pumping station confirming capacity to serve the development; monitoring and emergency storage measures; emissions information; and an appropriate maintenance and management programme to ensure it continues to function effectively for the lifetime of the development.
- 13) No dwelling shall be occupied until details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments (to include appropriate gaps beneath to allow for wildlife to move between sites);
 - ii) hard surfacing materials of vehicle and pedestrian access and circulation areas;

- iii) details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees;
- iv) details of any planting to be removed as well as protection measures for retained trees/hedging;
- v) details of biodiversity enhancements to meet a minimum 10% Biodiversity Net Gain and following the hierarchy set out in Section 37A of the Town and Country Planning (Development Management Procedure) (England) Order 2015, utilising land adjoining the site to the south.

All landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

- 14) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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.
- 15) Any contamination that is found during the course of construction of the development hereby permitted shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.