



Appeal Decision

Site visit made on 19 March 2025

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 May 2025

Appeal Ref: APP/C1435/W/24/3346513

Land to the north of Marling House, Station Road, Wadhurst TN5 6RT

- 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 Nova Development Ltd against the decision of Wealden District Council.
 - The application Ref is WD/2022/0535/MAO.
 - The development proposed is outline permission for residential development of 29 dwellings (including a 40% affordable housing contribution).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form with all matters save for access reserved for future consideration. Notwithstanding this, the description of the development on both the application form and decision notices infers that 29 units should be taken as a fixed, rather than an 'up to' number. In this context, whilst the indicative sections and elevation details of the dwellings have been treated as illustrative in nature, the submitted Indicative Site Plan (Ref (08) 05 P4) and related layout plans have been more closely considered to understand how the site could accommodate such a quantum of development.
3. Since the appeal was submitted, changes in the planning policy context have occurred. The Wadhurst Neighbourhood Plan (WNP) was adopted on 15 May 2024 and a new National Planning Policy Framework (the Framework) was published in December 2024. The parties have had an opportunity to comment on the relevance of these changes so as to avoid any prejudice.
4. A completed S106 planning agreement, dated 10 October 2024, was received on 11 October 2024. The S106 provides for a bus services contribution of £30,000, a provision of plots for self/custom build housing equal to 5% of the total number of dwellings and 40% of the total number of dwellings as affordable housing, of which 75% would be social rent and 25% intermediate discount or First Homes. On the basis that an acceptable S106 agreement has been received, the third reason for refusal is no longer a matter in dispute.

Main Issues

5. The main issues in the appeal are:
 - whether the location of development accords with the development plan;

- the effects of the proposal on the character and appearance of the area, including on the High Weald National Landscape (HWNL); and
- the effects of the proposal on the setting of Marling House as a Non-Designated Heritage Asset (NDHA).

Reasons

Location of development

6. The appeal site falls outside of the development boundary for Wadhurst. Policy GD2 of the Wealden Local Plan (1998) (Local Plan) states that outside of the development boundaries, development will be resisted unless in accordance with specific policies of the Plan. Local Plan Policy DC17 essentially says the same thing specific to housing developments.
7. Policy WCS6 of the Wealden Core Strategy Local Plan (adopted 2013) (Core Strategy) indicates that the development boundaries will be retained at various rural locations, including at Wadhurst. Policy WCS9 of the Core Strategy and WNP Policy WAD1 provide for small scale rural exceptions schemes outside development boundaries in certain circumstances. However, whilst the scheme would provide 40% affordable housing in the context of a 35% policy requirement¹, the appeal proposal is not advanced as a rural exceptions scheme.
8. The development boundary for Wadhurst is replicated in the WNP. Policy WAD1 of the WNP indicates that development in the countryside, beyond the adopted development boundaries, will be strictly controlled in the interests of conserving the nationally important landscape, tranquillity and distinctive character of the HWNL and will be resisted except in a number of instances. In terms of the principle of development, the appeal scheme does not fit under any of the listed exceptions of the Policy and I do not consider it positively worded such that it expresses support for the principle of a mixed housing scheme outside of the development boundary.
9. Therefore, and notwithstanding any conclusions in relation to the scheme's ability to conserve and enhance the HWNL, the principle of developing the appeal site for a residential scheme fails to accord with the development plan policies, notably Policies GD2 and DC17 of the Local Plan and WCS9 of the Core Strategy and the most recently adopted Policy WAD1 of the WNP. Part 2) ii) of Policy WAD1 requires the development to conserve and enhance the landscape and scenic beauty of the HWNL and its setting and have regard to the objectives of the High Weald National Landscape Management Plan (AONB Management Plan) (2024). My conclusions on this particular part of the Policy are addressed further below.

Character and appearance and HWNL

10. In terms of the HWNL, neither of the main parties advance that the proposal is 'major' development in the context of the National Landscape. As I do not find reason to reach an alternative conclusion given the scale of the proposal relative to the scale of the nearby host settlement, the tests under paragraph 190 of the Framework are not engaged. However, the policies of the development plan, requirements of paragraph 189 of the Framework and my statutory duties to further the purposes of conserving and enhancing the natural beauty of the

¹ Under Policy AFH1 of the Housing Delivery Local Plan 2016 and emphasised in Policy WAD2 of the WNP

National Landscape in accordance with Section 85 of the Countryside and Rights of Way Act 2000² are still applicable.

11. I have taken account of the relevance of the characteristics of the landscape character areas within which the site falls, including the Wooded Ridges LCA³ and Kentish High Weald LCA⁴, and the various levels of assessment that such have undergone. I have also taken account of the adopted *AONB Management Plan* which outlines the character components of the HWNL and the Council's *Landscape and Visual Appraisal of Potential Development Sites in the High Weald AONB* (Jan 2024) (the Potential Sites Appraisal). From reading across these various assessments, owing to the topography, ridgetop dispersed settlement pattern, strong field pattern, dense tree cover and sense of tranquillity, the area is more highly sensitive to change.
12. In terms of the context, the site comprises two parts. The southern portion is a more manicured, extended garden area with tennis courts associated with Marling House which the Heritage Statement refers to as the 'parkland garden'. The separate northern field, divided from the parkland garden by hedgerows and trees, is an open area of pasture, also enclosed by trees on its eastern and western boundaries. This separate field was allegedly formerly used as a cricket pitch, and a small, dilapidated shed exists in the south-eastern corner of this part, remnant of this past use. Despite its existence, the discreetly located, small shed, does not give the northern field the qualities of having been previously developed. It remains more a part of the wider rural and tranquil landscape which has greater integrity and less urban intrusion given its elevated position. Therefore, my view is that the parkland garden area is more influenced by domestic uses and adjoining residential development and thus, transitional in character, but the separate northern field has an evidently rural nature and any past uses or boundary changes do not reduce its contribution to the special qualities of the HWNL.
13. Both parts of the appeal site are situated away from the nucleated core of the village, with development extending along Station Road in a broadly linear fashion, with some street-fronting development and some development which navigates the variable topography but yet maintains some relationship with the street. The appeal proposal would represent a step change to the context of development in its immediate surroundings. Whilst there would be an access from Station Road, the detachment of the site from the main nucleus of the village, its elevated situation and relatively fragile attachment to a looser, lower density form of existing development, would result in the harsh and intensely urban form of the development being intrusive and incongruous, particularly so as it would edge up close to the established treed boundaries and start to extend down the north-facing slope without an established robust northern boundary feature. Notwithstanding the modest density calculations offered by the appellant, the introduction of the proposal would also be at odds with its sense of ruralness, tranquillity and remoteness.
14. The submitted *Landscape Appeal Statement*⁵ provides an assessment of the effects of the proposal from a range of viewpoints which detail that it would not be widely publicly visible. I do not entirely disagree, but that is the nature of a

² As amended by the Levelling-up and Regeneration Act 2023

³ Wealden Landscape Character Assessment (2022)

⁴ High Weald AONB Landscape Character Assessment

⁵ Pegasus Group, June 2024

relatively enclosed landscape which has a complex topography and much tree cover. However, that something cannot be widely publicly seen does not mean that it would not detract from the specialness or integrity of the area. Furthermore, whilst comparisons are made to the Jonas Drive site in the Potential Sites Appraisal, that development of the appeal site could be less harmful does not alter my finding that the proposal would itself cause harm.

Character, appearance and HWNL

15. In view of the above, I find that the proposal would harm the character and appearance of the area and would not conserve the natural beauty of the HWNL. It would thus conflict with Policy WAD1 of the WNP, Policies EN6 and EN27 of the Local Plan and Policy WCS13 of the Core Strategy. These policies collectively seek to conserve the natural beauty and character of the landscape. For similar reasons, the proposal would fail to accord with objectives of the High Weald AONB Management Plan, including Objectives PQ2 and FH2.
16. In addition to a number of appeal decisions for other cases, the appellant brought the Monkhill case⁶ and other recent caselaw⁷ which concern my duties in respect of the National Landscape to my attention. The application of the principles established in those cases and decisions do not lead me to alternative conclusions in this case. Similarly, whilst the Council's evidence does not amount to the level of landscape and visual analysis presented by the appellant, I do not consider that it is vague or generalised such that I have been hindered in reaching a conclusion on this aspect.

NDHA

17. From the evidence before me, including the Heritage Statement⁸ submitted with the appeal and from my site visit, the NDHA derives significance, in part, from its status as a villa built for the middle classes in around 1870 during the expansion of the area with the arrival of the railway. It has a scale, siting and prominence and a generously proportioned wider estate which are befitting of its role as a dwelling of status, though its design is relatively functional and unfussy; stuccoed, with quoins and a hipped slated roof. It has moderate evidential, aesthetic and historical values as a fairly typical mid to late Victorian villa.
18. The NDHA has been extended over the years, and more recently has been subdivided to form around 3 separate dwellings. A modest number of other dwellings have also infilled some spaces to form a loose cluster of buildings within its immediate setting. The parkland garden, tennis courts and additional field beyond collectively form the appeal site and are a part of the wider land associated with the dwelling. Whilst it is possible to appreciate that the appeal site was once a logical part of the estate, its contribution to significance is lessened through the way in which the prominence of Marling House has been reduced through subdivision and development within its setting. Nonetheless, my view is that, as part of its setting, the appeal site makes a modest positive contribution to the significance of the NDHA.
19. The part of the appeal site which Marling House looks towards is relatively manicured with specimen trees which would be retained. Peripheral to the views

⁶ Monkhill Ltd v SSHLG & Anor (Rev 1) [2021] EWCA Civ 74 (28 January 2021)

⁷ New Forest National Park Authority v SSHCLG & Anor [2025] EWHC 726 (Admin)

⁸ Charles Wagner Heritage & Planning, June 2024

would be the new access road and related boundary features. Despite the retention of much of the vegetation and treed enclosure of the appeal site, parts of dwellings and associated domestic paraphernalia would be visible from Marling House and its retained areas of garden. The broader experience of the asset within its tranquil and green setting would be further eroded.

20. Taken into account with the modest positive contribution of the appeal site to the significance of the NDHA, the effects of the proposal would be of a moderate adverse nature. Paragraph 216 of the Framework sets out that when weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. My view, having regard to the significance of the NDHA, is that the indirect moderate adverse harm would be outweighed by the public benefits of the delivery of 29 dwellings including 40% affordable housing.

Other Matters

21. Whilst the Council indicate that a new Local Plan was in the process of being prepared, it has not been suggested that it has reached an advanced stage such that any policies capable of attracting material weight have been brought to my attention.
22. Notwithstanding its location outside of the Wadhurst development boundary, the main parties are broadly in agreement that Wadhurst is a sustainable settlement and that whilst the accessibility on foot or cycle to many everyday facilities, including railway services, is not prohibitive, access to bus stops exceed recommended distances. As such, the main parties have agreed on measures that would see improvements to footways on the northern side of Station Road and bus stops with Real Time Passenger signage provided to enhance the overall sustainability.
23. The main parties agreed that the Council can currently demonstrate a 3.68 year supply of housing land against the minimum 5 year supply requirement with appropriate buffer as required by the Framework. On this basis, the shortfall equates to in excess of around 2,270 dwellings. The appellant also asserts that this is the Council's ninth consecutive year without an adequate supply of housing land and that the affordable housing need is high, with only 8 affordable dwellings having been delivered in Wadhurst in the previous 5 years.
24. My attention has also been drawn to the high proportion of smaller housing units proposed by the scheme in the context of a need expressed for such in Policy WAD2 of the WNP. Additionally, the appeal scheme would also provide a number of units of Self- and Custom Build housing (S/CB housing) equal to 5% of the total number of units. The appellant indicates that the Council has under delivered S/CB housing and that support for such is expressed in Policy WAD2 of the WNP. I return to these aspects below.

Planning Balance

25. The appeal scheme fails to accord with the development plan in respect of its location beyond the development boundaries for the settlement of Wadhurst. Further conflicts with the development plan would arise from the scheme's harm to

the character and appearance of the area, and inability to conserve the landscape and scenic beauty of the HWNL.

26. In the context of the acknowledged serious housing shortfall and engagement of the 'tilted balance' under paragraph 11 d) of the Framework, the policy conflicts with the basket of policies concerning the location of the scheme attracts only limited weight.
27. Though much is made of the likely release of areas of the National Landscape to meet the housing needs in Wadhurst given that it is entirely washed over by the designation, the evidence before me does not support that the development of the site is an inevitability, or that the scheme as presented achieves the right balance of housing delivery in light of the need to further the purposes of conserving the National Landscape. As such, taking into consideration the manner in which the proposal would fail to conserve the landscape and scenic beauty of the HWNL, an aspect that attracts great weight, a strong reason for refusing the development exists as per footnote 7 of the Framework. This strong reason for refusal disengages the tilted balance.
28. In balancing the various considerations that weigh against and in favour of the scheme, I return to the harm to the significance of the NDHA. Whilst the harm would be outweighed by the public benefits, the residual harm is still a factor that weighs to a limited degree against the grant of permission. The absence of other harms, such as drainage issues, does not weigh either for or against the proposal.
29. The delivery of 29 dwellings would be a significant benefit of the scheme. The delivery of 40% affordable housing, above the policy requirement of 35% is a clear benefit that attracts further positive weight in light of an unmet need for affordable housing. The inclusion of a small amount of S/CB housing is also a modestly positive factor in favour of the scheme.
30. The sustainable location of the site is a factor weighing in favour of the scheme, and to the extent that the site would make use of PDL, this is also a beneficial aspect. I note that there would be a net beneficial effect on habitats, green infrastructure and an overall positive Biodiversity Net Gain score which weigh positively in favour of the scheme.
31. The economic benefits of the scheme attract modest positive weight, as do the provision of new bus stops which would enhance the area's accessibility for use by the public at large. Limited additional weight is also attached to the degree to which the delivery of the scheme could be required to exceed the construction and efficiency standards of the Building Regulations by condition.
32. However, the collective sum of the benefits and other points advanced in support of the proposal outlined above do not form a consideration of such weight that it indicates that the decision should be taken other than in accordance with the development plan, when taken as a whole.

Conclusion

33. For the reasons given above, the appeal should be dismissed.

H Nicholls
INSPECTOR