



Appeal Decision

Site visit made on 31 July 2026

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 September 2026

Appeal Ref: 6005903

Land North of Bishops Lane, West of Willow Bank, Robertsbridge TN32 5BX

- 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 Devine Homes PLC against the decision of Rother District Council.
 - The application Ref. RR/2022/1379/P.
 - The development proposed is the creation of 41 new dwellings including 39% affordable housing, with associated landscaping, amenity space, parking and provision of public open space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The main parties have commented on the relevance of the revised National Planning Policy Framework ("the Framework"), published on 17 August 2026, to their respective cases in this appeal. I have considered those comments in reaching my decision. All references to the Framework are to the revised version.
3. The council is satisfied that the planning obligations secured by the completed and executed Section 106 Agreement would address refusal reason 2. Having considered the Agreement in the context of the evidence before me, I see no reason reach a different conclusion.
4. The appeal site lies within the High Weald National Landscape ("the HWNL"), which was formerly known as The High Weald Area of Outstanding Natural Beauty. In determining this appeal, I shall have regard to my duty¹ to seek to further the purpose of conserving and enhancing the natural beauty of national landscapes.

Main Issue

5. The main issue in this appeal is the effect of the proposed development on the landscape and scenic beauty of the HWNL.

Reasons

6. The High Weald Area of Outstanding Natural Beauty Management Plan ("the HWMP") describes the HWNL as one of the best-preserved medieval landscapes in north-west Europe, with a natural beauty derived from its essentially rural and small-scale landscape character. The HWMP sets out the special qualities and key characteristics of the HWNL. So far as relevant to the appeal scheme, those

¹ Section 85 of the Countryside and Rights of Way Act 2000 as amended by the Levelling Up and Regeneration Act 2023

characteristics include the irregular shaped and productive fields of its rural landscape, the network of historic routeways that cross it, and dispersed historic settlement.

7. The appeal site is an irregular shaped arable field in the countryside on the edge of the settlement that was recently used for growing crops. It is bordered on two sides by the rows of relatively modern dwellings that front Bishops Lane and Willow Bank, within the built-up area of the settlement. The land slopes down towards the Darwell Stream which extends along its northwest boundary. The southern boundary of the appeal site is largely defined by the row of hedgerow lining the north side of the section of Bishops Lane which extends out from the built-up area of the settlement and into the countryside.
8. The appeal site, together with land that extends away from the settlement to west and that on the opposite side of Darwell Stream, comprises part of a swathe of land consisting mostly of spacious fields interspersed with trees and hedgerows that pervades up to built-up area of the settlement. The spacious and verdantly rural character and appearance of the appeal site is reflective of the rural and small-scale landscape of fields that are identified by the HWMP as a characteristic of the HWNL.
9. Furthermore, the appeal site comprises a sizeable section of the densely vegetated raised roadside embankment that extends along the northern side of Bishops Lane. This section of Bishops Lane, which extends away from the settlement and slopes down towards the Darwell Stream crossing, is characterised by steeply sloping embankments on both sides of the narrow carriageway. Together they contribute to the well-defined sunken lane morphology of this section of Bishops Lane, which exhibits the key characteristics of a historic sunken lane that is described in the HWMP.
10. Sunken lanes are identified by the HWMP as important components of the historic routeway network in the HWNL, reflecting a close relationship between settlement patterns, their hinterlands, and local identity, and representing a rare survival of an essentially medieval landscape. The appeal site forms an integral part of the character and morphology of this part of Bishops Lane, which is clearly distinct from the section to the east which passes through the built-up area of the settlement, and is fronted by rows of dwellings served by driveways.
11. The baseline condition of the appeal site therefore contributes positively to the small-scale rural landscape of irregular fields, including the verdant character of the settlement, and the sunken lane morphology of Bishops Lane as part of the historic routeways network. It displays several core components and key characteristics of the landscape and scenic beauty of the HWNL that are described in the HWMP's chapters on fieldscape, settlement and historic routeways.
12. The HWMP identifies those characteristics as being threatened by the cumulative effects of development, including urbanisation and the loss of fields, and insensitive highway engineering. The objectives of the HWMP include seeking to minimise the erosion of landscape character through urbanisation and to maintain the historic pattern, morphology and features of routeways.
13. The appeal site's positive contribution to the landscape and scenic beauty of the HWNL is clearly appreciable from a range of public viewpoints, including Bishops Lane. Due to the network of public rights of way that cross the area, the appeal

site and its wider surroundings are highly visible to walkers enjoying the countryside for its landscape and scenic beauty. They would be amongst those receptors most sensitive to the landscape and visual effects of the proposed development.

14. I have had regard to the methodology in the appellant's landscape and visual impact assessment (LVIA). I consider that reaching a view on the effects of the proposed development requires a series of site-specific and context-sensitive judgements. Even taking account of the appeal site's position on the edge of the settlement and the presence of housing on neighbouring land, for the reasons given above, the overall sensitivity of the site, including the frontage to Bishops Lane, is more than moderate.
15. Compared to the baseline situation the proposal would result in buildings, roads and associated infrastructure covering a large part of the existing arable field. The access road and junction would cut through the raised embankment that extends across the Bishops Lane frontage. Even taking account of the proposed new planting and the retention of existing hedgerows, the proposed development would have an urbanising effect on the appeal site that would harmfully erode its positive contribution to the spaciouly verdant and intrinsically rural character of the landscape.
16. In views from the public right of way crossing the appeal site, and to a lesser extent in longer-distance views from across the Darwell Stream valley, the proposed development would appear as a significant intrusion of built form into the swathe of spacious and verdantly rural land between Bishops Lane and the edge of the built-up area on Station Road.
17. I have read the responses of design and landscape consultees² as advising that the amendments to the scheme have resulted in a less intrusive linear layout that has a stronger response to the High Weald Housing Design Guide, albeit adverse effects of the access junction appear to remain of some concern. Those consultees consider that the proposal could create a high-quality built environment that improves the interface between the built-up area of the village and the rural landscape beyond. However, although visible on the edge of the settlement, the existing dwellings along Bishops Lane, which have relatively long gardens, do not create an unduly harsh edge to the settlement.
18. This is because those rows of dwellings are unified by their simple designs, consistent forms and rooflines. Due to their consistent dark coloured external materials, the contrast between those dwellings and the darker green tones of the trees and fields on the edge of the village is relatively modest when seen in longer distance views. In closer distance views they are softened to a degree by the planting along their rear boundaries, which includes the occasional tree.
19. Owing to the varied sizes, forms, proportions and colour finishes of the proposed dwellings, the village-vernacular aesthetic of the proposed development would have a comparatively more noticeable and strident appearance than the existing dwellings along Bishops Lane. Furthermore, the proposed route of the diverted public right of way would still more or less follow a route close to the backs of dwellings and their rear garden boundaries, resulting in a relatively inactive edge

² Planning & Design Advisor for High Weald National Landscape Unit and the County Council's Landscape Architect

to the open space. The softening effects of the trees behind those dwellings would significantly diminish during the months around winter.

20. While the appeal scheme would provide a sizeable area of landscaped public open space, I find that the extent to which it would enhance the interface between the settlement and the rural landscape beyond would be comparatively modest. Consequently, in taking account of the methodology in the appellant's LVIA, the proposal's urbanising effect on the arable field would be visually intrusive. Seen in the context of the spacious and verdantly rural character of the land between Bishops Lane and Station Road, the visual effects of the proposed development would cause greater than moderate harm to the appearance of the area.
21. Even if I were to agree that historic routeways are not uncommon within the HWNL, it would not alter my conclusion that the sunken lane morphology of the section of Bishops Lane along the appeal site frontage is an important characteristic of the HWNL. While views of the proposed access road and junction would be more localised than those of the proposed buildings, its effects would nevertheless be significant.
22. This is because the proposed access road and junction would require an opening to be cut through the raised embankment creating a relatively wide gap that would disrupt its continuity and diminish the sunken lane's sense of enclosure. Even accounting for the growth of the proposed mitigation planting, the access road and junction, together with the associated alterations to Bishops Lane, including road widening and the provision of new footways, would have a distinctly engineered appearance. It would result in an urbanising effect that would harmfully erode the morphology of the historic sunken lane and its verdantly rural character and appearance.
23. Consequently, the proposed development would cause significant harm to the character and appearance of this section of Bishops Lane, in conflict with HWMP objective R1 of conserving the morphology and features of historic routeways and avoiding urbanising interventions that detract from their character.
24. I see no reason to disagree with the main parties' assessment that the appeal scheme is not 'major' within the context of the Framework's policy on protected landscapes. Nonetheless, for the reasons given above, I conclude on this main issue that the proposed development would harm the spacious and verdantly rural character and appearance of the area, including the morphology and historic routeway character of the sunken Bishops Lane. It would be visually intrusive and result in adverse visual effects from a range of viewpoints, particularly to users of the public rights of way and Bishops Lane.
25. I have taken account of the proposed development's linear layout, its proximity to the existing built-up edge of the settlement, the vernacular designs of the proposed dwellings, the provision of public open space, and the softening effects of new planting. Whilst those aspects of the scheme accord with several objectives of the High Weald Housing Design Guide, particularly house design, they do not outweigh the totality of the harm to the HWNL that I have identified.
26. Listed in the evidence before me are several planning permissions for housing in the HWNL, which covers a sizeable proportion of the council's district. Those permissions are an indicator that housing developments are being approved in the HWNL, including some recent permissions for more than 20 dwellings, including in

Robertsbridge. However, as full details of those permissions are not before me, it has not been shown that their effects on the HWNL would be comparable to those of the appeal scheme. Accordingly, they have limited relevance to my assessment of the proposed development and the judgements I have formed on its landscape and visual effects.

27. Consequently, the totality of the proposed development would have a significant adverse effect on the landscape and scenic beauty of the HWNL and would fail to conserve its statutory purposes and special qualities. It would therefore conflict with Policy EN1 of the Rother Local Plan Core Strategy Adopted September 2014 ("the CS"), Policies DEN1 and DEN2 of the Rother District Council Development and Site Allocations Local Plan, Adopted December 2019 ("the DaSA"), and Policy EN3 of the Salehurst and Robertsbridge Neighbourhood Development Plan 2016-2018, 'made' in July 2018 ("the SRNDP").
28. Together those policies seek to ensure that development conserves and seeks to enhance the landscape and scenic beauty of the HWNL having particular regard to the impacts on its character components, as set out in the HWMP, including relating well to historic routeways and not damaging their rural character by loss of important features such as banks and hedgerows.

Other Matters

29. I have taken account of the comments made about the appeal site by the examiner of the SRNDP. The evidence indicates that planning permission for the development of the allocated Hodson's Mill site lapsed in 2024. However, I am not party to the evidence that was put before the examiner when they considered the appeal site, and I am not aware of any obligation for the SRNDP to be reviewed. Accordingly, the examiner's comments about the appeal site hold little relevance to my consideration of the appeal scheme.
30. The appeal proposal does not comply with the limited circumstances in Policy RA3 of the CS which provide for housing outside development boundaries. Accordingly, it conflicts with the development plan's locational strategy for housing growth in Policies RA3 and OSS2 of the CS, Policy DIM2 of the DaSA, and Policy HO1 of the SRNDP.
31. The evidence before me indicates that the Council can only demonstrate a housing land supply of some 3.04 years and that its housing register contains some 1400 applicants seeking affordable housing. The Council has scored only 35% in the most recent Housing Delivery Test. Accordingly, the shortfall in the supply of deliverable housing land appears to be very significant and the shortage of affordable housing acute.
32. The development plan's locational strategy for housing growth appears to be contributing to the current shortfall in the supply of housing by restricting housing growth. It is described by the appellant as based on out-of-date housing targets and I see no reason on the evidence before me to reach a different view. Furthermore, as the appellant's evidence indicates that preparation of the emerging Local Plan is at an early stage with adoption not anticipated until 2027/2028, the shortfall in the supply of housing is likely to persist for a number of years with nothing before me to indicate a marked improvement in the foreseeable future.

33. The appeal site occupies an accessible location in relation to the local services and facilities that future residents are likely to use on a regular basis. Even if I were to give very little weight conflict to the conflict with the development plan's locational strategy, I find that the harm to the landscape and scenic beauty of the HWNL, and the conflict with Policy EN1 of the CS, Policies DEN1 and DEN2 of the DaSA, and Policy EN3 of the SRNDP, is sufficient to bring the proposal into conflict with the development plan as a whole.

Benefits of the development

34. There appears to be no dispute between the main parties that developing greenfield land will be necessary to meet housing needs in the district. The proposed development would make an important beneficial contribution to increasing the supply of market and affordable housing in the Council's area. It would deliver homes of a size, type and tenure that reflect policies on housing mix.
35. The proposed development could be delivered reasonably quickly given the greenfield condition of the appeal site and the detailed nature of the planning application. It would generate economic benefits, including jobs for local people during the construction phase. Future occupants would support business, services and facilities in the local area and beyond, contributing to the vitality of the wider rural area.
36. The location of the proposed development would be within a reasonable distance of local services and facilities. Improved pedestrian connections and local bus infrastructure would be secured through the grant of planning permission. The proposed development would offer future occupants a genuine choice of transport modes to reach services and facilities.
37. The proposal would deliver a sizeable area of accessible open space. The continuity of public rights of way would be protected by the provision of route diversions. It would provide walkers with a dedicated path through the site as an alternative to walking within Bishops Lane, albeit there is nothing of substance to indicate that the current situation is unsafe.
38. The development would deliver net gains in biodiversity that would enhance nature. The proposed homes would use energy and water efficiently and would be fitted with air source heat pumps and devices to charge zero and low emission vehicles. There is no reason to doubt that policies concerning environmental standards would not be met.
39. The main parties agree that no harms would be caused to highway safety, heritage assets, flood risk, ecology and protected species, or the living conditions of occupants of nearby properties. However, an absence of harm in those respects would not weigh positively in favour of the appeal scheme.
40. I acknowledge that planning officers considered the adverse effects on the HWNL would not be significant and would be outweighed by the proposal's economic, social and environmental benefits. I am aware of some local support for increasing the supply of housing in the local area. However, in my judgement, the benefits of the proposal, although attracting weight of a high order in favour of the proposal, are outweighed by the harm it would cause to the landscape and scenic beauty of the HWNL, and the resultant conflict with the development plan as a whole.

The Framework

41. The Framework is a material consideration. As the appeal development would be located outside of the settlement of Robertsbridge, Framework Policy S5 is relevant. The proposal would contribute to addressing an evidenced unmet need for housing and would be a form of development that meets the terms of Policy S5(1.j.i) of the Framework.
42. The appellant's evidence indicates that the proposed development would be within a reasonable walking distance of the railway station. However, the evidence does not demonstrate that the station would be a 'well-connected station' within the Framework's definition. Accordingly, it has not been shown to meet the criteria in Policy S5(1.h.).
43. Nonetheless, under Framework Policy S5, the proposed development should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework. Policy S5(2) of the Framework explains the circumstances in which the benefits are likely to be substantially outweighed by adverse effects.
44. In accordance with Policies H07 and H08 of the Framework, the proposed development would make an important contribution towards meeting the evidenced housing needs of the community, including the provision of homes for those in need of affordable housing. It would therefore contribute positively towards the objectives of creating mixed and balanced communities.
45. In transportation terms, there is no dispute between the main parties that the proposed development would be appropriately located relative to services and facilities. It would therefore accord with Policies TR3, TR4 and TR8 of the Framework.
46. Even if I were to agree that the appeal proposal is limited in scale and extent, its adverse effects on the statutory purposes and special qualities of the HWNL, results in conflict with Policy N4 of the Framework, which requires development to be sensitively located and designed to avoid those harms. The proposal would also conflict with Policy N2(1) of the Framework insofar as it would harm the landscape character and beauty of the countryside.
47. In accordance with the Framework, I have given substantial weight to the overall benefits of the proposed development. Nevertheless, given the importance and weight that I attach to conserving and enhancing the natural beauty of the HWNL, the harm to the HWNL carries greater than substantial weight against the proposal. I conclude that this harm substantially outweighs the development's benefits when assessed against the national decision-making policies of the Framework. The harm is determinative in this instance.
48. In accordance with paragraph 3 of Policy DP3 of the Framework, development proposals should be refused if, without clear justification, they conflict with paragraph 1 of Policy DP3. Due to those adverse effects on the statutory purposes and special qualities of the HWNL, the proposed development would also fail to respond appropriately to its context, or to successfully integrate with and enhance its surroundings.

49. Therefore, the proposal would conflict with paragraph 1 of Policy DP3 of the Framework. Given the importance and weight that I have attached to the harm to the HWNL, the conflict with paragraph 1 of Policy DP3 would not be justified by the benefits of the proposal. Consequently, the proposal would fail to comply with Policy DP3 and in the circumstances specified in paragraph 3 of the Policy, planning permission should be refused.

Conclusion

50. The proposal conflicts with Policies RA3, OSS2 and EN1 of the CS, Policies DEN1, DEN2 and DIM2 of the DaSA, and Policies EN3 and HO1 of the SRNDP, and the development plan as a whole. The material considerations including the benefits of the proposed development and the provisions of the Framework are insufficient to outweigh that conflict. Therefore, I conclude that the proposed development is unacceptable, and the appeal should be dismissed.

G Sylvester

INSPECTOR

Richborough