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## Appeal Decision

Site visit made on 15 July 2019

**by Graham Chamberlain BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 July 2019**

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**Appeal Ref: APP/U1430/W/19/3223824**

**Land to the south west of Strand Meadow, Burwash, East Sussex TN19 7BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Park Lane Homes (SE) Ltd against the decision of Rother District Council.
  - The application Ref RR/2018/1787/P, dated 28 June 2018, was refused by notice dated 22 January 2019.
  - The development proposed is described as the 'erection of 30 dwellings together with access, parking and open space'.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for an award of costs was made by Park Lane Homes (SE) Ltd against Rother District Council. This application will be the subject of a separate Decision.

### Main Issues

3. The appellant's final comments were accompanied by a planning obligation in the form of legal agreement entered into by the landowners, appellant and Council. This has addressed the Council's second reason for refusal. Accordingly, the remaining main issues in this appeal are:
  - The effect on the character and appearance of the area including whether it would conserve or enhance the High Weald Area of Outstanding Natural Beauty (AONB); and
  - Whether the proposal would provide adequate living conditions for future occupants with particular reference to access and light.

### Reasons

*The effect on character, appearance and the AONB*

4. The appeal site encompasses a verdant parcel of steeply sloping land comprising one side of a small valley or ghyll. It is located on the edge of Burwash between Strand Meadow and Ham Lane. The appeal site has a visual connection to the wider rural landscape, particularly in views from Ham Lane and the public footpath that crosses the field to the north-west.

5. Strand Meadow is a residential estate road characterised by repeated house types arranged in a discernible building line behind front gardens and driveways. The semi-detached properties on the south-eastern side of Strand Meadow have a balanced and symmetrical appearance and are arranged over three storeys with integral garages on the ground floor.
6. The appeal scheme is intended to be experienced as an extension of Strand Meadow and the 20<sup>th</sup> Century housing estate it is part of. However, the development at Strand Meadow predates the AONB designation. The three storey buildings present a rather abrupt edge to the village and an architectural style, form and scale unsympathetic to the rural landscape character. I therefore share the view of the Council that new development should not follow the lead of the three-storey housing in Strand Meadow, as this would compound the existing impact upon the landscape and settlement edge.
7. The Council suggest that an appropriate design response at the appeal site would be one sympathetic to the traditional cottage style prevalent within the wider landscape of the AONB and evident in the historic core of Burwash. There is some force to this argument as a scheme that reflects and responds positively to the rural vernacular would sit comfortably in the landscape and respond to the aims of the High Weald AONB Management Plan, which explains that settlements are characterised by a high concentration of historic buildings with a limited pallet of materials. The management plan goes on to identify generic layouts and suburbanisation as some of the top five issues facing the landscape. Objective S3 of the Management Plan is *'To enhance the architectural quality of the High Weald and ensure development reflects the character of the High Weald in its scale, layout and design'*.
8. The proposed dwellings would include large areas of glazing and details unrelated to the locality or the building traditions of the wider landscape, such as Juliet balconies, double height flat roof dormers, shallow roof pitches and stone cills. The dormer windows serving Fats 1-4 would be entirely out of proportion with the roof. The ground floors would be dominated by the blank frontages created by areas of 'under build' and the front gardens would be given over to hardstanding for vehicles as opposed to soft landscaping. This would result in a hard, semi-urban appearance. As such, the scheme would not build sympathetically upon the distinctive features and architecture in Burwash or the wider landscape. Accordingly, the proposal would not enhance the architectural quality of the village or the High Weald. In this respect the proposal would be unlike the development of the Old Rectory, which clearly takes its cue from the local vernacular of the village, as demonstrated by the appellant's Burwash High Street Building Survey.
9. The dwellings would also be tall with ridge heights of around eleven to thirteen metres. This would result in the development having a vertical emphasis and the appearance of urban town houses, a form and appearance broadly uncharacteristic of the village, the edge of settlement context and the wider AONB landscape. Considering the foregoing, the dwellings would appear overly large and the development a harmful and locally prominent suburban intrusion into the landscape of the AONB.
10. In reaching this conclusion, the evidence before me does not suggest the design was tested through any form of design review, that the proposed scheme is the only viable design or that there has been a concerted effort to

work up a design with the local community. The Council's Planning Officers recommended the scheme for approval, but it is unclear whether they took specialist landscape advice in forming this view. In this respect I am mindful that the High Weald Planning Unit objected to the proposal.

11. The proposal is not supported by a formal Landscape and Visual Impact Assessment but from what I observed it is apparent that the development would be particularly prominent in views from the public footpaths to the south, west and north of the appeal site, which are elevated above the ghyll. The boundary landscaping would provide some screening and softening, but it is largely deciduous and thin in places and therefore the development would be readily apparent, particularly when the trees were not in leaf. Utilising dark and vernacular style materials, such as tile hanging, would reduce the prominence of the buildings to an extent (although white boarding would stand out in the landscape) but not to a point where it would offset the limitations I have identified.
12. The proposal would not be without merit as the linear form would stitch the development into the grain of Strand Meadow and provide a legible route through the development to the recreation ground. Moreover, the south western extent of the appeal site would be left as public open space to create a visual and physical buffer with Ham Lane, which has a more rural character and connects the historic core of Burwash with the open countryside beyond.
13. The layout would also focus development on the lowest part of the site, although the mitigating effect of this would be undone by the overall height of the buildings. Nevertheless, it would create space for an area of enhanced landscaping that would provide a softening backdrop to the houses. The development would also preserve several important landscape features, such as the historic field boundaries, some of the trees within the site and the streams. The density would also be acceptable. The use of compact groupings also minimises the extent of built form and breaking it up with fingers of landscaping would soften the visual impact. However, the positive aspects of the layout would not outweigh the significant harm that would occur from the unsympathetic scale and appearance of the proposed buildings.
14. The Council has suggested that the shared surface concept would be out of character with the appearance and layout of existing development. However, the provision of a shared surface with a sensitive surface treatment could lessen the suburban character found in the wider 20<sup>th</sup> Century estate and could therefore be more appropriate in an edge of village location.
15. Nevertheless, my overall conclusion is that the appeal scheme would significantly harm the character and appearance of the area and the landscape of the AONB, which it would fail to conserve or enhance. It would therefore be at odds with Policies RA1, EN3, OSS4 and EN1 of the Rother Local Plan Core Strategy 2014 (CS). These policies seek to secure development that respects, and does not detract from, the character of the area and conserves landscape character. There is nothing to suggest these policies are inconsistent with the National Planning Policy Framework (the 'Framework').
16. The Council has also referred to Policy CO6, but as this relates to community safety the relevance is unclear and therefore this is not a determinative point.

*The effect on the living conditions of future occupants*

17. The appellant has confirmed that all of the dwellings would need a stepped access, although the number of steps would vary as a consequence of the level changes across the site. Some of the properties, such as Plots 19-22, would have a front door around two metres above the ground level, with access required via twelve steps. There would be additional flights of steps to access the rear garden. This would present an accessibility challenge for those with mobility difficulties but also for small children, those needing to use a pram or residents wishing to simply move household items into the house and garden.
18. However, the topography of the site is steep and the evidence before me would suggest that stepped access is probably unavoidable and is, in fact, quite common locally. The appellant has referred to the requirements of Part M4(1) of the Building Regulations as a material consideration. This indicates that a stepped approach can be used on steeply sloping sites subject to several detailed design matters, including the design and spacing of the steps and landings. There is nothing of substance before me to suggest the requirements of Part M4(1) could not be met. On balance, and given the inherent constraints of the site, a stepped access would be an acceptable solution in this instance.
19. The appellant has provided a Daylight and Sunlight Assessment with the appeal submissions. The Council has not objected to the methodology used or suggested it does not meet recognised guidance prepared by the Building Research Establishment or set out within the relevant British Standard. I am therefore content to rely on its findings.
20. The report concludes that even when accounting for the depth of the buildings and the size of the dormers, the dwellings would provide *excellent* levels of day and sunlight with minimum daylight threshold and sunlight target values expected to be exceeded. Substantive evidence has not been provided to challenge the findings of the report. The Council's concerns appear to be focussed on the enclosed nature of the stairwells, but these are not habitable rooms where residents would spend long periods of time.
21. I therefore conclude that the proposal would provide adequate living conditions for future occupants and therefore a conflict with Policies OSS4 and TR3 of the CS would not occur, in so far as they relate to this matter. Policy DHG4 of the emerging Development and Site Allocations Local Plan is not at a stage of preparation where it can be afforded determinative weight in my assessment.

**Other Matters**

22. Policy VL1 of the Rother District Local Plan 2006 allocates the appeal site for no more than seventeen dwellings. This is a clear indication that some form of development within the appeal site would be acceptable. Given that much of the district is designated as AONB it seems unavoidable that some development would have to take place within the protected landscape. Nevertheless, in doing so development should seek to conserve and enhance the landscape and scenic beauty of the area and should therefore be of a high quality of design.
23. The Local Plan Inspector indicated that a housing scheme at the appeal site could appear as an inconspicuous extension of the village. I share this view, subject to a sensitive design. However, there is a marked difference between a

scheme of seventeen homes and one proposing thirty. The latter would have a greater level of built form with different impacts. Accordingly, the allocation does not justify the form and appearance of the proposal before me, which are my principal concerns.

24. Notwithstanding the allocation, outline planning permission was previously granted for thirty homes, but all matters of detail were reserved save for the access. Therefore, the design and scale of the buildings now proposed, which would harm the landscape, has not previously been approved. In any event, the appellant has suggested that the approved scheme is unviable so it would only seem to be a hypothetical fallback position.
25. The Council cannot currently demonstrate a 5-year housing land supply as required to by the Framework. The housing supply is around 3.9 years. In such a situation, Paragraph 11 of the Framework states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed.
26. With the foregoing in mind, Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs and that the scale and extent of development in these areas should be limited. The appeal scheme would fail to conserve or enhance the AONB landscape for the reasons already given, this impact is not outweighed by other material considerations, including the proposal's benefits. Therefore, the policies in the Framework provide a clear reason for refusing the appeal scheme. Consequently, it is unnecessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
27. Various concerns have been raised by interested parties including reservations regarding the impact on wildlife and infrastructure and the absence of affordable housing, which I have noted. However, given my findings above and below it has not been necessary for me to address these matters further as the appeal has failed.

### **Planning Balance**

28. The delivery of new homes would help boost the supply of housing at a point in time when there is a shortfall in the five-year housing land supply and the draft Burwash Neighbourhood Plan has stated an intention not to allocate sites to meet the housing requirement allocated for the village in the development plan. This is a notable benefit.
29. The Planning Obligation would secure an affordable housing review but if the viability evidence is accurate it is unlikely the scheme would be able to provide affordable housing in the future. The landscaping area would be required to mitigate the effects of the appeal scheme and therefore this, like any Community Infrastructure Levy funding, ecological mitigation and highway works, is a neutral matter in the balance.
30. The proposal would secure 'Parish Land' (which could be used for allotments), recreation land and a public footpath. The latter two are policy requirements. They are benefits of moderate weight.

31. The appeal scheme could support the retention of services and facilities in the local area and the future occupants of the appeal scheme could spend locally. However, evidence has not been submitted that outlines the practical local effect of this, for example there is nothing to suggest nearby services are failing for lack of patronage. The proposal would also provide moderate support to the construction industry.
32. The cumulative benefits of the proposal are notable matters in favour of the scheme, but most of them could also be achieved by a more sensitively designed proposal. Conversely, the proposal would harm the character and appearance of the area. In so doing it would harm, and thus fail to conserve, the AONB landscape. Such an impact would be at odds with local and national policy. When giving great weight to the conservation of the landscape, I find that the harm of the proposal would not be outweighed by its benefits.

### **Conclusion**

33. The proposed development would provide adequate living conditions for future occupants, but it would harm the character and appearance of the area, including the AONB landscape. Therefore, the proposal would not accord with the development plan taken as a whole. There are no other considerations, including the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

*Graham Chamberlain*  
INSPECTOR