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## Appeal Decision

Site visit made on 19 November 2025

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

an Inspector appointed by the Secretary of State

**Decision date: 7<sup>th</sup> January 2026**

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**Appeal Ref: APP/G2245/W/25/3367917**

**Land to the south of Green View Avenue, Leigh, Tonbridge, TN11 8QT**

- 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 Whitehall Homes LLP against the decision of Sevenoaks District Council.
  - The application Ref is 22/02495/OUT.
  - The development proposed is the erection of up to 39 dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline form with access and layout to be considered at this stage and matters of scale, appearance and landscaping reserved for later consideration. I have determined the appeal on this basis and so any details on the drawings relating to those reserved matters have been taken as illustrative only.
3. Amended plans were submitted with the appeal. These primarily reflect an increase in the number of affordable units, with consequential minor alterations to the layout of the development, including the provision of a larger area of open space in the south east of the site. Additional planting is also shown on the north boundary, although this would ultimately be a detail to be considered at the reserved matters stage. The appellant has demonstrated that they have provided interested parties with copies of these amended plans, which the Council does not dispute. However they raise concerns regarding the effectiveness of this exercise as they have received no third party representations in response. As, at this stage, all representations should be directed to The Planning Inspectorate, this is not unexpected. In any case I note the Council's letter of 20 August 2025, which postdates the appellant's own consultation letter, and which states that additional documents have been submitted with the appeal and can be viewed on the Council's website.
4. Overall, I consider interested parties have been given sufficient opportunity to comment on the appeal and the amended plans. As such I have accepted these plans.
5. Furthermore although they state that it is not known if third parties have been made aware of amendments prior to the appeal, it would have been for the Council to undertake relevant consultation during the determination of the application.

## Main Issues

6. The main issues are:

- (i) whether the development is inappropriate in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and local policies;
- (ii) the effect of the proposal on highway safety;
- (iii) the effect of the development on protected trees; and
- (iv) whether the development would be required to provide financial contributions towards affordable housing, education and local infrastructure, and if so, whether a suitable mechanism to secure that has been provided.

## Reasons

### *Green Belt*

- 7. It is agreed by the parties that the site is within the Green Belt and that the proposal would not constitute any of the forms of development, set out in paragraph 154 of the Framework, that could be considered not inappropriate. There is disagreement, however, as to whether the site constitutes grey belt as defined in Annexe 2 to the Framework.
- 8. To constitute grey belt, the site must not contribute strongly to purposes a), b) or d) of the Green Belt set out in paragraph 143 of the Framework. Purpose a) is to check the unrestricted sprawl of large built-up areas, and purpose d) is to preserve the setting and special character of historic towns. The parties agree the site would not contribute strongly to these two purposes, and I have no reason to disagree.
- 9. Purpose b) is to prevent neighbouring towns from merging into one another. A Green Belt Assessment was conducted by the Council in 2017. The appeal site was included within parcel RA-5 and the Assessment confirms that no part of RA-5 forms part of the gap between Leigh and Tonbridge, albeit a larger parcel, within which the site sits and which extends from Leigh towards Tonbridge, does serve purpose b) strongly. Nonetheless, given the site itself projects no closer to Tonbridge than the established eastern extent of Leigh, I consider the site itself does not contribute strongly to purpose b).
- 10. Also, to be grey belt, the site must not constitute land which could be affected by policies relating to the designated areas or assets of particular importance listed in footnote 7 to paragraph 11 of the Framework. I have not been made aware that the development would affect any such area or asset of particular importance. Consequently, I conclude the site is grey belt.
- 11. Paragraph 155 of the Framework sets out that the development of grey belt land may not be inappropriate if four criteria apply.
- 12. The first criterion is that the development would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan. The Green Belt Assessment concludes that parcel RA-5 may score weakly when considered against the Green Belt purposes. It also sets out that the eastern part of RA-5, which broadly relates to the appeal site, is disconnected from the wider countryside by the development along Lealands Avenue and Green View Avenue, the railway line to the south and dense woodland to the east. From my site visit, I would concur

with this assessment. As such, even if the development would result in some degree of encroachment into the countryside, I could not conclude that the development would fundamentally undermine this purpose of the Green Belt across the whole of Sevenoaks Borough, due to the visual and spatial containment of the site. The Council do not suggest the proposal would fundamentally undermine any of the other purposes across the plan area. The proposal would therefore meet this criterion.

13. The second criterion is that there is a demonstrable unmet need for the development. The Council accept they do not have a sufficient supply of housing land and hence this criterion is met.
14. To meet the third criterion, the site would need to be in a sustainable location. Leigh benefits from a train station with an hourly service to Tonbridge, and there are some bus services that run along High Street, which also provide access to Tonbridge. These are all within reasonable walking distance of the appeal site and the pedestrian routes to them are, for the most part, along pavements and through the existing built-up part of the village. In addition there are some services within the village itself including a primary school, shop, village hall and pub.
15. It is understood that Leigh is classified as a Tier 5 settlement (out of 6 tiers) and that the site scores 35/100 using a Department of Transport connectivity tool. Nonetheless, I am mindful of paragraph 110 of the Framework which advises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. So whilst many trips generated by the development would undoubtedly be made by car, I consider there are good opportunities for sustainable modes of travel commensurate with its rural location. As such, due to the services and facilities within the village including its public transport links, the development would be sustainably located.
16. The final criterion is that the development meets the Golden Rules listed in paragraph 156 of the Framework. The completed unilateral undertaking (UU) purports to secure 50% of the units as affordable as required by part a) of paragraph 156. The UU would also secure contributions towards local infrastructure and would provide green space including a play area. It would therefore meet the other criteria in this paragraph.
17. In conclusion, the site would constitute grey belt and the proposal would meet all the criteria in paragraph 155 of the Framework. It therefore is not inappropriate development. As a consequence it is not necessary to consider whether there is any harm to the openness of the Green Belt.
18. The reason for refusal refers to policies L01, L08 and SP1 of the Core Strategy (2011) and policy EN1 of the Allocations and Development Management Plan (2015). However these refer to landscape character and the design and, distribution of development, which have little relevance to the assessment of inappropriateness.

#### *Highway safety*

19. The Council's main concern on highway grounds relates to the construction phase when large vehicles would be going to and from the site. The appellant has provided a Construction Traffic Management Plan (CTMP), which proposes that

large HGVs would use The Green Lane to access the site, and that smaller vehicles (up to 7m in length) would use Green View Avenue.

20. The CTMP also states that to enable access into The Green Lane, parking would have to be suspended temporarily on the section of The Green between The Green Lane and Crandalls. There are three dwellings here that use The Green as their only parking area. It is not clear if there is suitable alternative parking available, nor whether the highways authority would agree to this suspension. The suspension would be between 9am and 3pm only, but throughout the construction period of two years. In addition, from the tracking drawings provided, even smaller delivery vehicles, such as a 7.5t panel van, would not be able to access the site from the east on The Green if there were cars parked on The Green close to the veteran oak tree, as there were at the time of my site visit. As such, it may be necessary to suspend parking here too with no obvious alternative provision.
21. The CTMP also sets out that banksmen will be stationed near the primary school and at the junction of The Green Lane and The Green in order to assist large vehicles. The CTMP estimates there would be four two-way HGV trips an hour over an initial eight month period, reducing to two a day for the remainder of the construction period. Due to the distance of that road junction and the primary school from the site, and the frequency of vehicles initially, it is likely banksman would need to be permanently stationed at those locations. This is likely to be different to the situation in more urban areas where banksmen are more commonly used but are on, or closer to, the development site. As such, in my view it would be unreasonable to rely on this to make the access to the development acceptable during construction.
22. The Green Lane is narrower than Green View Avenue and has two bends in it which reduce visibility. The appellant has provided drawings to indicate visibility round the two bends is 27m which would be sufficient visibility for vehicles travelling at 21mph. Although 21mph is a reasonable estimate for traffic speeds based on the nature of the road, it was clear from my site visit that visibility around the southern bend is much less than 27m as there is dense vegetation on the inside of that bend which has not been accounted for in the drawings. Furthermore it is understood that the road is privately maintainable, instead of being maintained by the highways authority, and therefore I have no confidence that the vegetation on this bend would be cut back to provide the required visibility. In addition, if two vehicles did confront each other it would most likely require vehicles to reverse, possibly around bends. Furthermore due to the narrow width of this road it would be necessary to prevent on-street parking along this road too, though it was noted that most houses along here have off-street parking.
23. I understand that these local roads will have undoubtedly been used recently by HGVs during construction works at some properties, for the construction of a BAM compound, or even on a regular basis by the Council's own waste collection vehicles. Nonetheless, the frequency of HGVs likely to visit the site during the construction period, and the disruption that could cause, would most likely be greater than these other occurrences.
24. Turning to the long-term access to the site by its future residents, vehicular access would be via Green View Avenue. This currently serves the houses along it as well as those on Lealands Avenue. It is wide enough for two way traffic and has pavements along both sides. The Highways Authority advise that a road serving

more than 50 homes, which Green View Avenue would do if the development came forward, should be at least 4.8m wide. They advise it is currently between 4.6 and 4.7m wide and so would be insufficient for larger vehicles to pass. The proposal includes the provision of two passing bays, around 16m and 17m long. This would result in the loss of on-street parking capacity for five or six cars. However the Council accept that the loss of on-street parking capacity would not cause harm. Based on my mid morning site visit when there were very few cars parked on the road and I saw most houses had off street parking, I have no reason to consider otherwise. As a result, the vehicular access to the site via Green View Avenue would be satisfactory to serve the development when occupied.

25. The Green, is also narrower than 4.8m in places. However it is understood that the land to either side of it is owned by the Parish Council so it is not necessarily possible to widen this road or provide passing bays. However the narrower sections of The Green are not long and there is good visibility along it. There are parts of this road which have no pavements to either side and so pedestrians currently have to walk on grass verges or the village green itself. Indeed, I would expect that many pedestrians walking towards the school or the other services in the village from Green View Avenue would take a more direct route cutting across the corner of the village green. Pedestrians from the proposal would most likely adopt similar practices, or would use the pedestrian access via The Green Lane which would involve walking on grass for a shorter distance.
26. Overall, although access to the site by cars and pedestrians would be acceptable, I am not satisfied that the measures set out in the CTMP to manage construction traffic would be practicable. As such I cannot be confident that the development would not harm highway safety. It would therefore be contrary to policy T1 of the Allocations and Development Management Plan which aims to ensure that development mitigates any adverse travel impacts including safety. It would also be contrary to paragraph 116 of the Framework by having an unacceptable impact on highway safety.

#### *Trees*

27. There is a large oak tree positioned on the village green which I understand to be a veteran tree. It is close to the highway and overhangs The Green east of the junction with Green View Avenue. It is enclosed by protective fencing, though part of that fencing closest to the road is missing. The canopy of the tree is high enough such that most vehicles would be able to drive underneath it without touching it. Indeed, as noted above, at the time of my visit there were cars parked along this part of The Green such that it would be the remaining effective width of the road that would be the greatest constraint to large vehicles rather than the canopy of the tree.
28. Accordingly, I do not consider it would be likely that the development would necessarily result in any damage to the veteran oak. There would therefore be no conflict with paragraph 193 c) of the Framework which seeks to ensure the protection of veteran trees.

#### *Planning Obligation*

29. A unilateral undertaking has been submitted with the appeal. It purports to provide a number of contributions.



30. Firstly it seeks to secure 19 of the units to be affordable, with the tenures to be set out in an affordable housing scheme to be submitted later. A further two plots would be available for self-build housing. Secondly, it purports to secure a contribution of £20,000 to go towards improvements for public rights of way locally, as well as improvements to the right of way which passes through the appeal site. The Council have confirmed that these obligations would be necessary, would be related to the development, and are reasonable in scale and kind and therefore meet Regulation 122(2) of the Community Infrastructure Levy Regulations. I have no reason to consider otherwise.
31. It would also secure contributions totalling £35,000 for improvements at Leigh station, repairing potholes in Leigh, improvements to the village hall and Special Educational Needs provision at Leigh Primary School. However the Council consider these to be unnecessary and advise there is no policy justification for them. I have been provided with no evidence to suggest they would meet the tests set out in Regulation 122(2) and therefore I have not taken them into account.
32. The reason for refusal also referred to a need for contributions to education, but it is understood that there is now no need for this.
33. Overall the contributions to public rights of way and the provision of affordable and self-build housing would comply with policies SP3 and SP9 of the Core Strategy which both seek to ensure that contributions to infrastructure and affordable housing are secured as part of new developments.

### **Other Matters**

34. The Council accept they cannot demonstrate a five year supply of housing, with a figure of 3.4 years being referred to by both parties. This is a moderate shortfall. Nonetheless, paragraph 11 d) ii) of the Framework sets out that in such circumstances planning permission should be granted unless the harms resulting from the proposal significantly and demonstrably outweigh the benefits when considered against the policies of the Framework taken as a whole. It adds that particular regard should be had to policies relating to development in sustainable locations, effective use of land, design and affordable housing.
35. The proposal would provide a sufficient amount of affordable housing, and at a level in excess of that required by local policies; the design of the houses is a reserved matter; and the Council state the density is appropriate which suggests the development would make an effective use of land. Moreover, as set out above, I consider the site is in a sustainable location.
36. However paragraph 115 states that any significant impacts from the development on highway safety should be mitigated. As already stated, the development would have a significant impact on highway safety, albeit primarily only during the construction phase for which acceptable mitigation has not been demonstrated. I give significant weight to the conflict with paragraph 115.
37. Aside from this, the benefit of 39 units at a time when the Council cannot provide a sufficient supply is a significant benefit and is supported by paragraph 61 of the Framework. Similarly there would be a modest benefit from the provision of two of those units as self-build and custom housebuilding plots. A small play area would be created at the eastern end of the site, but this would be likely to only be of

benefit to the residents of the scheme given its position at the far end of the site away from the public rights of way.

38. There would be a modest benefit to the local economy during the construction phase, and thereafter. The improvements to the public rights of way through the site and in the wider area would also be a modest benefit to the wider community. The funds collected via CIL, and thereafter via Council tax, would be to mitigate the effects of the development so are of neutral weight.
39. The scheme would provide a biodiversity net gain of 13.5% which is excess of that statutorily required. This, and general landscaping enhancements, are positive benefits of moderate weight given the site is currently a not unattractive, albeit species poor, grassland field.
40. Overall, although the scheme would provide some benefits, I consider the harm to highway safety significantly and demonstrably outweighs those benefits. As such the presumption in favour of sustainable development does not apply.
41. There are a substantial number of objections from other interested parties which raise concerns on other issues, such as the loss of the protected oak tree at the entrance to the site and the effect on the character and appearance of the area. However as I am dismissing for a reason given in the decision notice I need not consider those matters further as they could not have any determinative effect on my decision.
42. The appellant refers to a number of other appeals in their evidence. But in respect of the critical issues, I consider they are materially different to the scheme before me and so have little bearing on my decision.

### **Conclusion**

43. Although the proposal would not be inappropriate in the Green Belt, would not be likely to harm the veteran oak tree, and would secure required contributions to affordable housing and the public rights of way network, it would compromise highway safety and I give considerable weight to the conflict with policy T1 in that regard. It would therefore conflict with the development plan taken as a whole. There are no other considerations, including the provision of the Framework and the other benefits set out above, that lead me to a conclusion other than in accordance with the development plan. As such the appeal is dismissed.

*Andrew Owen*

INSPECTOR