

**Report to:** PLANNING COMMITTEE

**Date:** 27 July 2016

**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** Land adjoining Lidham Farmhouse, Rye Road, Hastings, TN35 4LL

**Proposal:** Erection of two storey dwelling

**Application No:** HS/OA/15/00719

**Recommendation:** Grant Outline Planning Permission

**Ward:** ORE

**File No:** RY30291T

**Applicant:** Mr & Mrs Allison per Tubwell Design Tubwell Nurseries Tubwell Lane Maynards Green, Heathfield. TN21 0BY

**Interest:** Freeholder/Leaseholder

**Existing Use:** Curtilage of existing residential dwelling

**Policies**

Conservation Area: No

Listed Building: No

**Public Consultation**

Adj. Properties: Yes

Advertisement: Yes - General Interest

Letters of Objection: 3

Petitions Received: 0

Application Status: Not delegated - More than 2 letters of objection received

## Summary

### Site and Surrounding Area

The site comprises a large open area of land to the east of Lidham Farmhouse, set approximately 2.4m below Rye Road, and screened by 2m high fencing from the road. It is bordered by Valkyries to the east, another large detached property with a 2 storey garage to the rear, and Lidham Farmhouse to the west. A variety of trees and hedgerows, including leylandii and other vegetation ranging between 3m to 8m in height, form the boundary treatment from both the property to the east, the High Weald Area of Outstanding Natural Beauty (AONB) to the rear, and the existing residential dwelling (Lidham Farmhouse) to the west. An existing driveway running northwards from Rye Road separates Lidham

Farmhouse from the application site, although the open piece of land to which this application relates still forms part of the curtilage of the existing dwelling.

An identified watercourse runs to the rear of the application site, although a significant distance away from its boundary.

The site is constrained by:

- Area affected by groundwater flooding
- Site of Special Scientific Interest (SSSI) Impact Risk Zone (IRZ)
- AONB to the rear (although not within application site boundary)
- River Network (although not within the application site boundary)

## **Proposed development**

This is an outline planning application with all matters reserved for the erection of a detached two storey dwelling. As all matters are reserved, the applicant is seeking approval for the principle of the development only and would submit full details of the scheme if and when they receive outline planning permission. In order to establish whether this application can be approved, the applicant has submitted an indicative layout of the site in order to demonstrate that the proposed development can be accommodated on site. Existing access is available from the current driveway serving Lidham Farmhouse.

Specific issues in relation to location of the dwelling and its proximity to the sewer were raised at an early stage, and the proposed location of the dwelling was amended as a result of Southern Water comments. The application has been assessed on this amendment.

The application is supported by the following documents:

- Sustainable Drainage Systems (SUDs) toolkit
- Design Statement
- Affordable Housing Statement
- Phase 1 Ecological Statement
- Tree Schedule and Arboricultural Impact Assessment

## **Relevant Planning History**

HS/OA/99/00086 Erection of 2 x 3 bed chalet bungalows with integral garages  
REFUSED 9 April 1999. APPEAL DISMISSED

## **Development Plan Policies and Proposals**

Hastings Local Plan – Planning Strategy (2014)

Policy FA5 - Strategic Policy for Eastern Area

Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way

Policy SC7 - Flood Risk

Policy EN3 - Nature Conservation and Improvement of Biodiversity

Policy EN7 - Conservation and Enhancement of Landscape

Policy H3 - Provision of Affordable Housing

## Hastings Local Plan – Development Management Plan (2015)

Policy LP1 - Considering Planning Applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy DM4 - General Access

Policy DM6 - Pollution and Hazards

Policy HN8 - Biodiversity and Green Space

Policy HN9 - Areas of Landscape Value

### Other Policies/Guidance

Sussex Air Quality and Emissions Mitigation Guidance 2013

### National Planning Policy Framework (NPPF)

The NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Para 14 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay.

Three dimensions of sustainability given in paragraph 7 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 10 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

## **Consultation comments**

### **East Sussex County Council (SUDs) - no objection**

The site is not located within a problem area in respect of the watercourse to the rear of the application site, and as such, they have no objection to the proposal

### **Environment Agency - no objection**

The Environment Agency note that the watercourse to the rear of the application site is not a main river and the site is not within a flood zone, so they have no comments to make.

### **Rother District Council - no objection**

Suggest a condition is added that requires an appropriate landscaping scheme to be submitted, to ensure there is no adverse effect on the landscape of the High Weald AONB

### **Borough Arboriculturalist - no objection**

Notes that the proposal does not appear to have an impact on trees of a significant value, but requests a condition relating to the provision of planting

### **Environment and Natural Resources Manager - no objection**

Notes that no protected species have been identified and requests the addition of a condition requiring a construction environmental management plan (biodiversity).

### **Southern Water - no objection in principle**

Southern Water originally objected due to the location of the proposed dwelling over a sewer. Following the submission of amended plans, they no longer object but note that exact position of the public sewer must be determined on site before the layout of the proposed development is finalised. Also suggest conditions and informative's relating to connection to the public sewer and means of foul sewerage disposal.

### **High Weald AONB Unit - no comment**

Note that the site is outside of the AONB and within the curtilage of an existing residential dwelling, and therefore have no comments to make.

## **Representations**

3 letters of objection have been received raising the following concerns:

- The siting of the property in line with the adjacent dwelling, Valkyries
- impact on natural light to adjacent property
- Intrusion into privacy of adjacent occupiers
- Concern about additional driveways
- Location of site in terms of greenbelt and AONB - the property will not be in keeping
- Suggest single storey dwelling will be more appropriate

## **Determining Issues**

### Principle

The site is in a sustainable location and the application is therefore in accordance with policy LP1 Hastings Local Plan - Development Management (2015) in this respect and acceptable in principle subject to other local plan policies.

### Site layout

The proposed two storey dwelling is indicated on the submitted site plan as being located to the east of the existing driveway serving Lidham Farmhouse, set back approximately 13m from the road. A distance of approximately 5m will separate the dwelling with the boundary of the neighbouring property, Valkyries, to the east. A substantial rear garden of over 50m in length, backs on to the AONB to the rear.

The existing boundary treatment on both side boundaries and to the front, will remain, and the required 3m clearance of the sewer has been accommodated in the amended site plan, following Southern Water's original concerns.

A SUDs report has been submitted, which provides detail on the volume of attenuation that could be provided via brown roofs and rainwater harvesting. These methods will not involve land take-up although given the size of the site, this would be unlikely to raise additional concerns. The details will be considered following approval of outline permission at the detailed application stage, although it should be noted that the brown roof and water butt should be linked in accordance with the SUDs report recommendation.

This is large plot of land and a single dwelling can be comfortably accommodated within its grounds, with adequate amenity space around it. Its siting as indicated on the amended site plan will bring the front elevation of the dwelling generally in line with the adjacent dwellings on either side, continuing the existing building line along this frontage. Whilst concern has been raised from neighbouring properties about the siting of the dwelling in this location, and suggestions made that the dwelling is moved further back, it is considered that the existing building line should be continued as far as possible. A significant deviation from is likely to have a harmful impact on the streetscene, as well as neighbouring residential amenities in terms of overlooking and loss of privacy. These points are discussed in more detail below.

The existing driveway will be retained and will serve the new dwelling. Therefore there will be no additional access points created, which was the subject of some objector concerns.

The site layout as indicated therefore, is considered acceptable for this development, and in accordance with Policy DM1 of the Development Management Plan 2015.

#### Impact on character and appearance of area

Some of the objections received raise concerns about the impact of the proposed dwelling on the character and appearance of the area, referring back to the previous refusal of permission in 1999 for 2 dwellings, which was dismissed at appeal. In 1999, the land was being used for agricultural purposes and was protected by Local Plan policy as being outside of the built up area boundary. Both the local authority and the inspector at the time raised concern about the impact of such development on the rural nature of the site and its surroundings.

The built up boundary no longer exists and has been removed from the proposals map attached to the Local Plan, and although the land in question has been enclosed to form part of the residential curtilage of Lidham Farmhouse, its authorised use remains agricultural. Just one dwelling is proposed in this application, as opposed to the two under the refused permission, therefore lessening the impact in terms of the density of development and the impact on its rural nature and appearance.

Given the topography of the site, the proposed dwelling will be located at a significantly lower level than the road. The existing front boundary fencing is to be retained, and taken together with the site levels, it is not considered that the proposal will have a significant impact or prominence in the streetscene.

Taking account of the governments aims for delivering new homes in suitable locations, and the presumption in favour of sustainable development, it is not considered that the same concerns as raised in the 1999 refusal of permission can be justified in this instance, particularly taking account of the NPPF and policies in the current Hastings Local Plan. The site is not identified as being in a rural location protected by environmental designations, and it is considered that environmental impacts can be mitigated by condition. Landscape issues and potential impacts on the AONB are discussed in more detail later in this report.

### Impact on neighbouring residential amenities

The objections submitted raise concerns about the impact of the dwelling on neighbouring residential amenities, particularly in terms of loss of light, privacy and outlook to the adjacent property, Valkyries.

Existing boundary treatment between the application site and Valkyries comprises thick, high vegetation, which reduces in height as the garden extends to the rear. At the point of the dwelling's proposed location, this boundary treatment varies in height from 3m up to 8m closest to the proposed location of the dwelling. The indicative drawings show the footprint of the proposed dwelling 5m from the side boundary of Valkyries at its closest point. The only visible window in the side elevation of this neighbouring property is a velux roof window, and as such, it is not considered that the level of overlooking would be significant. The provision of windows in the east side elevation, or any other means of overlooking that could arise would be further considered at the detailed application stage, although given the level of boundary screening in place, and the distance between the proposed dwelling and its neighbour, it is unlikely that a significant level of harm will be caused.

It has been suggested by neighbours that the siting of the new dwelling is altered to be in line with the two-storey garage structure located to the rear of Valkyries. Whilst this suggestion is noted, I consider that the impact on the amenities of the neighbours would in fact be more significant in this location - there would be more potential for overlooking from the new dwelling towards the rear windows of Valkyries from its front elevation, and the boundary screening is lower in height at this point along the boundary.

Over 20m (including the existing driveway) will separate the dwelling from Lidham Farmhouse to the west, minimising any impact on occupiers from this property.

Taking the above considerations into account, it is not considered that the siting of a two storey dwelling in the proposed location would have an undue detrimental impact on the amenities of neighbouring residential occupiers, and is therefore in accordance with the requirements of Policy DM3 of the Development Management Plan 2015.

### Impact on landscape and biodiversity

As discussed above, the site is no longer constrained by the built up area boundary. The boundary of the High Weald AONB is immediately adjacent to the rear boundary of Lidham Farmhouse but is located approximately 38m north of the proposed rear boundary of the application site. As such no development is proposed to take place within this designation.

The High Weald AONB Unit have not raised any concern about the proposed development, and as such, it is not considered that the development of a single dwelling in this location will have an adverse impact on the AONB.

Three category C1 trees would need to be removed to make way for new dwelling. Category C trees are defined as trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150 mm. As such, whilst this loss is regrettable, they are not of a standard that should constrain the development and their loss is considered acceptable. Furthermore, the trees are not protected by a Tree Preservation Order and it is the applicant's intention to replant in lieu of those lost. A replanting scheme will be required by condition, which will help mitigate against the negative impact the loss of these trees will have. The Borough Arboriculturalist has not raised an objection to the scheme, and as such, it is considered that should sufficient mitigation be provided, the proposal is acceptable in this regard.

The ecology survey submitted with this outline application has taken account of the potential presence of protected species and habitats of conservation importance. The habitats on site were all considered to widespread and common, and no plant species were listed as being of principle conservation importance. No further surveys in respect of badgers, roosting bats or great crested newts are considered necessary. However, precautionary measures in terms of common toad and hedgehogs, breeding birds and hedgehogs will be required by condition.

#### Affordable housing

Whilst an affordable housing statement has been submitted, the Government's recent change in national planning policy means that affordable housing contributions are no longer sought for residential development of 10 units or less. Policy H3 of the Planning Strategy 2014 therefore no longer applies.

#### Other site constraints

The proposed development does not constitute the scale of development that warrants further consultation with Natural England with regard to the sites location within a SSSI IRZ. Neither the Environment Agency or East Sussex County Council as the Lead Local Flood Authority have raised any concerns in light of the site's proximity to a watercourse at the rear.

No infiltration measures are proposed as part of the application, and groundwater flooding has not been raised as an issue in the SUDs report. Taking these considerations into account it is not considered that the proposed development raises significant concern in terms of exacerbating the current groundwater levels.

#### Air Quality and Emissions

Having regard to guidance contained within 'Air Quality and Emission Mitigation' 2013 produced by Sussex Air Quality Partnership, the proposed development will not exceed statutory guidelines for airborne pollutants and Environmental Health Officers have no objection in this respect. No external lighting is proposed and residential amenities are not harmfully affected. The development will not give rise to ground or surface water pollutions

and conditions are attached which require details of surface and foul water drainage. The development is therefore in accordance with Policy DM6 of the Hastings Development Management Plan (2015).

## **Conclusion**

Taking account of the above considerations, it is not considered that the proposed development of a two storey dwelling in this location will have a significant detrimental effect on the amenity of neighbouring residential occupiers, the streetscene, or any environmental designations. The circumstances surrounding the rural nature of this site have changed over time, and the site is no longer located outside of a built up area boundary. Given the Government's drive to deliver new homes, and the presumption in favour of sustainable development, the principle of development in this location is considered acceptable. The proposal therefore complies with the development plan in accordance with Section 38 (6) of the Page 37 Planning and Compulsory Purchase Act 2004 which states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

The Human Rights considerations have been taken into account fully in balancing the planning issues.

## **Recommendation**

### **Grant Outline Planning Permission subject to the following conditions:**

1. Approval of the details of the layout, scale and external appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the siting, design and external appearance of any buildings to be erected, the means of access to the site, parking, cycle storage and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
5. The development hereby permitted shall be carried out in accordance with the following approved plans:

111/154/sk01, 02A.

6. No dwelling hereby approved shall be occupied until readily accessible external storage space for refuse bins awaiting collection has been provided to the satisfaction of the Local Planning Authority.
7.
  - (i) Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal/management have been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water.
  - (ii) Development shall be carried out in accordance with the details approved under (i) and no occupation of the dwelling hereby approved shall occur until those works have been completed.
  - (iii) No occupation of the dwelling hereby approved shall occur until the Local Planning Authority has confirmed in writing that it is satisfied, that the necessary drainage infrastructure capacity is now available to adequately service the development.
8. No development shall commence until the following details have been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water:

1. The exact position of sewers (to be determined on site) before the layout of the proposed development is finalised
2. The measures undertaken to protect public sewers

Development shall be carried out in accordance with the details approved prior to the commencement of development.

9. The reserved matters details submitted for conditions 1 and 2 above shall include details of appropriate climate change mitigation and adaptation measures as required by Policy SC3 of the Hastings Planning Strategy 2014. The details shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
10. Before the development hereby approved is occupied, provision shall be made for the ability to connect to fibre based broadband.
11. With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:-  
  
08.00 - 18.00 Monday to Friday  
08.00 - 13.00 on Saturdays  
No working on Sundays or Public Holidays.
12. During any form or earthworks and/or excavations that are carried out as part of the development, suitable vehicle wheel washing equipment should be provided within the site. Details of this equipment should be submitted to and approved in writing by the Local Planning authority prior to the

commencement of development.

13. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of soft landscaping, which shall include indications of all existing trees and hedgerows on the land including details of those to be retained, together with measures for their protection in the course of development. New soft landscaping details shall include planting plans (including replacement trees for those lost); written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate together with an implementation programme.
14. All planting seeding or turfing comprised in the approved soft landscaping scheme shall be carried out prior to the occupation of any part of the development, or with the written agreement of the Local Planning Authority, in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 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, unless the Local Planning Authority gives written consent to any variation.
15. No development above ground shall take place until full details of the hard landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; proposed and existing functional services above and below ground (eg drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc); retained historic landscape features and proposals for restoration, where relevant.
16. All hard landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
17. No development shall take place above ground until samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
18. No development shall take place until the measures outlined in the submitted Phase 1 Ecological Report (November 2015) prepared by Wildlife Splash Limited have been fully implemented, unless:
  - (i) the programme for such measures is otherwise specified within that document, in which case the works shall be carried out in accordance with the timescales contained therein or;

(ii) unless the scheme(s), or programme(s) of measures contained within the ecological statements and reports is otherwise first varied, by way of prior written approval from the Local Planning Authority.

19. 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:
- a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) 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).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

**Reasons:**

- 1. The application is in outline only.
- 2. The application is in outline only.
- 3. This condition is imposed in accordance with the provisions of Section 92 of the Town & Country Planning Act 1990.
- 4. This condition is imposed in accordance with the provisions of Section 92 of the Town & Country Planning Act 1990.
- 5. For the avoidance of doubt and in the interests of proper planning.
- 6. In the interests of the visual amenity of the area.
- 7. To prevent increased risk of flooding.
- 8. To prevent increased risk of flooding.
- 9. To ensure a satisfactory standard of development in accordance with Policy SC3 of the Hastings Planning Strategy 2014.
- 10. To ensure a satisfactory standard of development in accordance with Policy SC1 of the Hastings Planning Strategy 2014.

11. To safeguard the amenity of adjoining residents.
12. To prevent contamination and damage to the adjacent roads.
13. In the interests of the visual amenity.
14. In the interests of the visual amenity.
15. To ensure a satisfactory form of development in the interests of the visual amenity.
16. To ensure a satisfactory form of development in the interests of the visual amenity.
17. In the interests of the visual amenity of the area.
18. To protect features of recognised nature conservation importance.
19. To protect features of recognised nature conservation importance.

#### **Notes to the Applicant**

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.
3. A formal application for connection to the public foul sewerage system maybe required in order to service this development, please contact Southern Water, Southern House, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Telephone: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
4. In the event that any sewers are found within the site the applicant is advised to contact Southern Water, Southern House, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Telephone: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works. No excavation, mounding or tree planting should be carried out within 3 metres of the public water main without the consent of Southern Water. No new soakaways should be located within 5m of public sewer.
6. Consideration should be given to the provision of a domestic sprinkler system.

7. The applicant is advised to consult the Environment Agency regarding the use of a sewerage treatment plant, which disposes of effluent to sub-soil irrigation. The owner of the premises will need to maintain the works to ensure its long term effectiveness.

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**Officer to Contact**

Miss S Roots, Telephone 01424 783329

**Background Papers**

Application No: HS/OA/15/00719 including all letters and documents