The Planning Inspectorate

Appeal Decision

Hearing held on 2 May 2017

Site visit made on 2 May 2017

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 June 2017

Appeal Ref: APP/D3830/W/16/3163801
Lower Brook, London Road, Sayers Common, West Sussex

- 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 Sevenbuild Ltd against the decision of Mid Sussex District Council.
- The application Ref DM/16/1458, dated 4 April 2016, was refused by notice dated 6 July 2016.
- The development proposed is "Full application for development of 11 chalets/bungalows, together with associated access and extensive local drainage solution".

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Sevenbuild Ltd against Mid Sussex District Council. This application is the subject of a separate Decision.

Preliminary matters

3. One of the Council's reasons for refusal on its decision notice relates to the lack of financial contributions towards local infrastructure. At the Hearing, the appellant provided a completed Planning Obligation under section 106 of the Town and Country Planning Act 1990 (as amended) to secure such contributions and to provide for affordable housing. The Council confirmed that on this basis, it wishes to withdraw this reason for refusal. I have dealt with the appeal on this basis.

4. Prior to the Hearing, the Council provided additional information relating to housing land supply. However, the Council confirmed at the Hearing that notwithstanding this information, it is still in the position that it cannot demonstrate a 5 year supply of housing land. Moreover, that the additional information was simply intended to show an ongoing dialogue between the Council and the Inspector charged with leading the examination of the emerging Mid Sussex District Plan (emerging District Plan). I have considered the appeal on this basis.

5. The Government issued a Written Ministerial Statement (WMS) on 12 December 2016 relating to how policies for the supply of housing in Neighbourhood Plans (NP) should be treated when a Council cannot

demonstrate a 5 year supply of housing. It states that relevant policies for the supply of housing in NPs should not be treated as 'out of date' under Paragraph 49 of the National Planning Policy Framework (the Framework) where all specified circumstances are met. These circumstances are when: the WMS is less than 2 years old or the NP has been part of the development plan for 2 years or less; the NP allocates sites for housing; and the Council can demonstrate a 3 year supply of housing. The view of the main parties is that as the Hurstpierpoint and Sayers Common Neighbourhood Plan 2015 (HSCNP) does not allocate any sites for housing within Sayers Common, the WMS is not applicable in this case. I would agree with this view and have considered the appeal on this basis.

Main issues

6. I consider the main issues in this case to be:

- The effect of the proposal on the character and appearance of the area;
- Whether any future occupiers of the proposal would have acceptable access to local services and facilities; and
- Having regard to the above, whether the proposal would demonstrate sustainable development.

Policy background

7. The appeal site lies out of any settlement boundary as defined within the Mid Sussex Local Plan 2004 (Local Plan) and therefore lies within the countryside for planning policy purposes. It also falls within a Local Gap as defined within the HSCNP.

8. Saved Policy C1 of the Local Plan seeks to restrict development in the countryside to certain forms of development listed within this policy, which does not include housing. The purpose of this policy is to protect the countryside from unnecessary development. Policy HurstC1- Conserving and Enhancing Character, of the HSCNP, sets out that development will be permitted in the countryside where, amongst other things, it comprises an appropriate countryside use and maintains or enhances the quality of the rural and landscape character of the Parish area. This policy broadly reflects the requirements of saved Policy C1 of the Local Plan. Policy HurstH1- Hurstpierpoint and Sayers Common New Housing Development, of the HSCNP, requires new housing development to enhance the existing settlement pattern of the village. Policy HurstC3- Local Gaps and Preventing Coalescence, of the HSCNP, permits development within the countryside provided it does not result in coalescence, and loss of separate identity of neighbouring settlements.

9. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year housing land supply. There is no dispute between the parties that the Council cannot currently demonstrate a 5 year housing land supply.

10. I have had regard to the recent Supreme Court judgment[1] in respect of the interpretation of Paragraph 49 of the Framework. The main parties have been

[1] [2017] UKSC 37 on appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin)

given the opportunity to comment on it and I have taken any comments into account. The Supreme Court has ruled that the Court of Appeal's interpretation of the phrase "relevant policies for the supply of housing" was incorrect and that it prefers a 'narrow' interpretation of the phrase, limiting it to policies that deal with the supply of housing, rather than those which seek to restrict housing. The above mentioned Local Plan and HSCNP policies do not, in my view, deal specifically with the supply of housing. Rather, they seek to restrict housing. Moreover, they are consistent with the broad aims and objectives of the Framework which seek planning to take account of the different roles and character of different areas, to promote or reinforce local distinctiveness and to recognise the intrinsic character and beauty of the countryside. Consequently, they are not out of date in the context of Paragraph 49 of the Framework and I afford them significant weight. However, the absence of a 5 year housing land supply is enough to trigger the operation of the second part of Paragraph 14 of the Framework.

Reasons

Character and appearance

11. The appeal site comprises an undeveloped field located to the immediate south of the village of Sayers Common and to the west of London Road. Dwellings along Furzeland Way lie to the north, separated from the appeal site by areas of paddock. Development along London Road to the south of Sayers Common is limited and sporadic. The open nature of the appeal site provides a strong, rural setting to the village, notably on the approach to Sayers Common when travelling north along London Road. It also reflects the open and undeveloped nature of a field opposite the appeal site on the eastern side of London Road. The open and rural qualities of the appeal site are also apparent from a public footpath which runs along its northern boundary. Though not used for agricultural purposes and is largely unmanaged, the appeal site contributes positively to the rural character and appearance of the area and to the countryside setting of Sayers Common.

12. The proposal seeks to erect 11 white rendered chalets/bungalows and associated rear gardens in a linear formation within the southern part of the appeal site and to provide access to these from London Road. The remainder of the appeal site would be landscaped to provide accessible open space and natural water features to assist with drainage.

13. I acknowledge that the appellant has worked within the constraints of the appeal site, including those relating to drainage, when considering the layout of the proposal. In addition, I note appellant's argument that the continuity of the facades would flow across the appeal site and would rise and fall to frame the open space. Furthermore, that the chalets have been centrally located within the row to integrate the structures into the landscape. I also observed the use of white render on some other dwellings in the area, including on a number of dwellings along Furzeland Way to the north and Foxview to the south. I accept that render painted off-white is one of the preferred materials for buildings as listed within the Parish of Hurstpierpoint and Sayers Common Design Statement 2004. Moreover, I recognise that the density of the development within the developable part of the appeal site would reflect the density of other residential development within Sayers Common.

14. However, the introduction of 11 dwellings onto the appeal site would considerably erode its inherent spatial and rural qualities. Moreover, their positioning, set away from the existing settlement edge, would appear discordant with and removed from the prevailing settlement pattern of Sayers Common. In addition, the use of white render in this particular location would greatly increase the prominence of the proposed dwellings and would not, from my observations, reflect the materials of the majority of other dwellings within Sayers Common, which are predominantly constructed from brick.

15. Views towards the new dwellings from London Road would be clearly obtained through a wide gap in vegetation at the southeast corner of the appeal site. In addition to the use of white render, the approximately 7 metre ridge height of the dwellings on Plots 4-10 would further increase the prominence of built form. It would be likely to take a considerable period of time before any additional landscaping matured to screen these views. The proposed access way would result in the removal of part of the perimeter vegetation which would open up further views of the dwellings and would, itself, exert an additional urban character onto the appeal site and along this part of London Road. Moreover, the urbanisation of the appeal site would be a clear and apparent change from its current rural appearance for any users of the public footpath.

16. I also share the Council's concern in respect of the close proximity of the dwellings on Plots 10 and 11 to some mature trees which form an attractive backdrop to the appeal site. Such a close proximity is likely to result in future pressure to prune these trees, with detriment to their current attractive shape and form and visual amenity. This pressure to prune the trees would likely persist even if the Council were to serve a tree preservation order on them.

17. I therefore conclude that the proposal would represent an obtrusive and incongruous extension to the village which would give rise to significant harm to the rural character and appearance of the appeal site and area and which would fail to respect the countryside setting of Sayers Common.

18. This would be contrary to the aims of saved Policy C1 of the Local Plan; and Policies HurstC1 and HurstH1 of the HSCNP. It would also be contrary to saved Policy B1 of the Local Plan which requires, amongst other things, development to respect the character of the locality and to use materials appropriate to the site and its surroundings. This policy is also consistent with the broad aims and objectives of the Framework as set out above.

19. The proposal would also be contrary to draft Policy DP24- Character and Design of the emerging Local Plan, which requires, amongst other things, development to reflect the distinctive character of towns and villages whilst being sensitive to the countryside. However, as the emerging Local Plan has not yet been fully examined and found to be sound, this is not a policy to which I afford any significant weight at this time.

20. Though the settlement edge of Sayers Common would be extended further to the south, a considerable separation distance would be maintained between this settlement and the settlement of Albourne. Moreover, there would be no intervisibility between the proposal and Albourne. On this basis, I consider that the proposal would not result in the coalescence of Sayers Common and Albourne and would not result in the loss of the separate identity of these settlements. As such, it would not materially conflict with Policy HurstC3 of the

HSCNP. However, this does not change my view on the harm to the character and appearance of the area in general.

Access to local services and facilities

21. Sayers Common has a local shop, a public house, a village hall/community centre, a play area and a place of worship. In addition, it is served by bus routes which provide services to larger settlements including Burgess Hill, Horsham, Brighton and Crawley and their associated services and facilities.

22. According to the evidence the nearest bus stops are within 200m of the appeal site. This seems to me to be a reasonable walking distance for most people. Moreover, the Council acknowledges this to be the case. The proposal would create a new footpath along the western side of London Road which would allow any future occupiers safe pedestrian access to these bus stops and to the abovementioned services and facilities within Sayers Common. In addition, it took me just an approximate 5-6 minutes to walk, at a moderate pace, to the village shop from the appeal site. National Cycle Route 20 runs along London Road and the speed limit changes from the national speed limit to 30mph in close proximity to the proposed access to the appeal site. I consider that these factors would encourage any future occupiers to cycle or walk to the services and facilities on offer in Sayers Common. Though I acknowledge that some bus services do not run late into the evening or on Sundays, they would allow a reasonable level of service to larger settlements and their associated services and facilities during the main part of the day on weekdays and on Saturdays.

23. In respect of a recent planning permission at Land at Kingsland Laines, Reeds Lane/London Road, Sayers Common[2] for the development of 40 dwellings, the Council considered in that case that any future occupiers of these dwellings would have reasonable access to local services and facilities which would reduce the reliance on a private motor vehicle. This followed the view of a previous Inspector who considered an alternative scheme[3] at that location, notwithstanding that at the time, there was no village shop. In addition, as part of determining the recovered appeal, the Secretary of State agreed with the Inspector in this regard. The level of access to local services and facilities, including those within surrounding larger settlements, would not, in my view, be significantly different for any future occupiers of the proposed dwellings in this case when compared to any future occupiers of the consented dwellings at Kingsland Laines.

24. I have had regard to the appeal decisions[4] referenced by the Council in relation to the accessible location of other housing proposals in the District. However, from my reading of these appeal decisions, it would appear that the distances involved from those sites to local services and facilities were considerably greater than is the case in this appeal. Moreover, in respect of the College Lane case, the Inspector found that this road would not be an attractive road on which to walk or cycle given its narrow width and that there were no footpaths. As such, the locations of the sites the subject of those appeal decisions are not helpfully comparable to the location of the appeal site under

[2] Ref DM/15/1467
[3] Ref APP/D3830/A/12/2189451
[4] Ref APP/D3830/W/14/3001881- Land between 149 and 161 College Lane, Hurstpierpoint, West Sussex BN6 9AF; and Ref APP/D3830/W/14/3000584- The Pest House, Bedlam Street, Hurstpierpoint, Hassocks, West Sussex BN6 9EW

consideration in this appeal. As such, they do not change my opinion in respect of this main issue.

25. It is therefore my view that any future occupiers of the proposed dwellings would have a reasonable level of access to local services and facilities which would not require their over reliance on the private motor vehicle. Thus, there would be no conflict with saved Policy T4 of the Local Plan, or the broad aims and objectives of the Framework, which, together, seek to direct development to accessible locations in order to reduce the reliance on the use of a private motor vehicle. Moreover, on the basis that the Council, an Inspector and the Secretary of State considered Sayers Common offers a reasonably sustainable location for new housing development, combined with the close proximity of the appeal site to the village, I consider it unreasonable to suggest otherwise.

Other matters

26. The Planning Obligation would make provision for financial contributions towards local infrastructure, including Hurstpierpoint library, Sayers Common village hall, local community infrastructure, children's playspace, formal sport, total access demand and primary and secondary education. The Council considers that such financial contributions are required to comply with local planning policy requirements. The appellant does not dispute any requirement for these financial contributions. However, given that I intend to dismiss the appeal on other substantive grounds anyway, I do not consider it necessary for me to consider the Planning Obligation where it relates to the abovementioned local infrastructure elements in any further detail, on the basis that it would not affect my overall decision.

27. The proposal would make a contribution, albeit in the wider scheme of things, a limited one, to housing supply and housing mix in the District. This would assist the Council in reducing its 5 year housing land supply deficit. In addition, the Planning Obligation would make provision for three on-site affordable houses and a further financial contribution towards off-site affordable housing. The dwellings would be energy efficient and would incorporate sustainable construction techniques. There would be some additional habitat creation to enhance the ecological value of the appeal site and some additional and publically accessible open space would be provided. Moreover, some improvements would be made to the public footpath which runs through the appeal site. In addition, the proposal would provide improved drainage within the appeal site and along this part of London Road. Furthermore, I recognise that there would be a modest increase in local spending and that the Council would receive additional Council Tax and New Homes Bonus payments. These benefits weigh moderately in favour of the proposal.

Planning balance and conclusion

28. Paragraph 7 of the Framework sets out that there are three dimensions to sustainable development: social, economic and environmental. However, these roles should not be undertaken in isolation, because they are mutually dependent. The proposal would occupy a location with a reasonable level of access to local services and facilities and would provide a range of other benefits to fulfil the social and economic dimensions of sustainable development. However, the environmental harm that would arise to the character and appearance of the area would be significant. Such an adverse

impact would, in my view, significantly and demonstrably outweigh the benefits. This would be the case even if the Council's housing land supply deficit is substantial. Consequently, the proposal would not, overall, demonstrate a sustainable form of development.

29. For the reasons set out above and having regard to all other matters, including noise and disturbance, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Maidment	Analytica Business Solutions
Lyn Williams	Analytica Business Solutions
MBA, Adv DipEd, BEd (Hons)	
Simon Moore	Felce and Guy Partnership
Ian Albutt	Cornerstone Barristers
John Castle	Castles Solicitors

FOR THE COUNCIL:

Susan Dubberley	Mid Sussex District Council
Will Dorman	Mid Sussex District Council

INTERESTED PERSONS:

Judith E Marsh	10 Dunlop Close BN6 9SL

DOCUMENTS SUBMITTED AT THE HEARING

1. Extract from Parish of Hurstpierpoint and Sayers Common Design Statement 2004
2. Completed Planning Obligation
3. Costs application
4. Mid Sussex District Council Development and Infrastructure Supplementary Planning Document 2006