



Appeal Decision

Site visit made on 11 July 2019

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2019

Appeal Ref: APP/M2270/W/19/3225051

Land east of Tanyard Cottages, The Broadway, Lamberhurst, Royal Tunbridge Wells TN3 8DD

- 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 Mr R Jarvis (Jarvis Strategic Land Ltd) against the decision of Tunbridge Wells Borough Council.
 - The application Ref 18/01680/FULL, dated 25 May 2018, was refused by notice dated 12 February 2019.
 - The development proposed is described as the construction of 9 dwellings alongside associated parking, access and landscaping works on land to the east of Spray Hill.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The description for the proposal on the original application form refers to eight dwellings and the appellant has indicated on the appeal form that this description has not been changed. However, the scheme was revised during the processing of the application and the number of dwellings was increased to nine and the appellant describes the proposal as being for nine dwellings on the appeal form. Accordingly, it would appear that the wrong box was ticked on the appeal form and so I have described the proposed development as being for nine dwellings.
3. Since the application was refused the National Planning Policy Framework 2018 has been replaced by the National Planning Policy Framework 2019 (Framework). As this happened before the appeal was lodged both main parties have had the opportunity to comment on any relevant changes introduced in it and I have taken any responses into account.
4. The appellant has commented that the Council's statement is misleading because the decision notice does not refer to Lamberhurst Conservation Area (LCA) and the Council's delegated report focuses largely on the Area of Outstanding Natural Beauty (AONB). It is clear from the reason for refusal and the delegated report that the Council has concerns relating to the effect of the proposal on the character, appearance and significance of the LCA and its historic setting. In addition, the reason for refusal refers to Core Policy 4 of the Tunbridge Wells Borough Council Core Strategy 2010 (CS) and paragraph 172 of the Framework, which specifically refer to the setting of heritage assets and the importance of cultural heritage within AONB's. Accordingly, I consider that

the reason for refusal is clear and deals with the heritage assets, the AONB and their inter-relationship.

Main Issue

5. The main issue is the effect of the proposal on the character and scenic beauty of the AONB and the character, appearance and significance of the LCA, including its setting.

Reasons

6. The Appeal site is located within a rural area on the edge of the village of Lamberhurst and the LCA, which is both located within and contributes to the landscape and scenic beauty of the AONB. Lamberhurst is a linear Kentish village with a strong north/south orientation and whose linear form is emphasised by the River Teise, which cuts across the village a short distance to the north of the village green. Not only does the River Teise link the village to the countryside, it adds to the character of the valley floor and reflects the commercial origins of the settlement. There are a number of ancient paths in the locality which link the settlement to the countryside and facilitate walks along the river bank.
7. Objective S2 of the High Weald Area of Outstanding Natural Beauty Management Plan 2014 – 2019 (MP), seeks to protect the historic pattern of settlements. Objective R1 of the MP is to maintain the historic pattern and features of routeways, which includes footpaths. This includes maintaining a routeway network that has a symbolic relationship with settlement location, hinterlands and identity.
8. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty in AONB's, which have the highest status of protection in relation to these issues. The conservation and enhancement of cultural heritage within AONB's is similarly an important consideration. Also, whether a proposal amounts to a major development for the purposes of paragraphs 172 and 173 is a matter for the decision maker, taking account of the nature, scope and setting of the proposal and whether it would have a significant adverse impact on the purposes for which the area has been designed or defined. The primary purpose of the AONB is to conserve and enhance its natural beauty.
9. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) requires special attention to be paid towards the desirability of preserving or enhancing listed buildings or their settings. Core Policy 4 of the CS and Policy EN5 of the Tunbridge Wells Local Plan 2006 (LP), are consistent with this. Paragraphs 193 and 194 of the Framework state that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to its conservation. Any harm resulting from development within its setting requires clear and convincing justification, whilst opportunities for new development in conservation areas should be sought. Where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Heritage assets

10. The village green is located in the heart of the village, a short distance from the crossing over the river. It provides a strong open focal point adjacent to the junction of High Street, The Broadway and Spray Hill. Other than the village green there is a strong sense of containment within High Street and The Broadway, which together with the steep incline along High Street reinforces the linear nature of the street scene and the LCA. Along Spray Hill the hedgerows and trees that flank the narrow lane and provide glimpses through to the open countryside reinforce the linear nature and rural setting of the LCA.
11. Looking north from the village green up Spray Hill, Chequers Oast and the surrounding trees and vegetation form a gentle transition between the village centre and the undulating open countryside beyond. The gaps to the sides of Rope Cottage and Chequers Oast are devoid of built development and provide an open, rural setting which contributes to the appreciation of the rural origins of the LCA. Spray Hill and the adjacent countryside similarly contribute to the historic rural setting of the LCA in the vicinity of the village green.
12. Just beyond Chequers Oast is a public footpath which runs behind Chequers Oast and along the edge of the sports ground. The footpath links the village to the open countryside, provides access to the sports field, the river valley and provides public views into the LCA. This path, which follows the route of an historic footpath, links up with other historic footpath routes leading to the open countryside, the village centre, the Down Conservation Area and the open countryside to the west of Lamberhurst. The western end of the footpath and the adjacent section of Spray Hill fall within the LCA.
13. The appeal site, which includes part of the footpath, comprises an irregular shaped area of rough grassland interspersed with scrub and tree belts, which provide wider albeit limited views towards the undulating countryside beyond. There are a number of grass covered spoil arisings just to the rear of the proposed dwellings, which add to the informal rural character and appearance of the appeal site. Together they make a valuable contribution to the rural setting of the LCA.
14. The above features and characteristics are important components of the LCA and its setting, both physically and historically. They make a strong contribution to the appreciation of this historic asset and its significance.
15. The appeal site projects almost at right angles to the defined settlement boundary and LCA. Whilst it adjoins the sports field, the proposed housing development would nonetheless be viewed as projecting into the open countryside. The proposed dwellings would be informally sited and set back varied distances from the existing footpath/track, which would be widened to serve the proposed properties. The dwellings would be traditionally designed, separated into two groups by the existing tree belts and a pond would be formed to the front of plots 4 and 5.
16. Whilst the proposal would retain the existing tree belts, it is possible that they would be cut back where they overhang the proposed gardens, particularly in relation to plot one, which has a small rear garden. In addition, the planting within the proposed gardens would be likely to be more domestic than rural.

17. As a result of these factors, the proposal would have the appearance of a low density, suburban housing development located within the setting of the LCA and the countryside. The proposal would be at odds with and would undermine the pattern and grain of the LCA and would fail to respond positively to its historic setting.
18. The existing experience when walking along the part of the historic footpath route within the appeal site is one of leaving a traditional rural Kentish village and entering the open countryside. It is a quiet and peaceful environment, although this likely changes to a livelier community environment when the sports pitches are in use. With the proposal this would completely change as the path and its immediate environment would take on a suburban residential character and appearance and the sense of leaving the village and entering the countryside would be largely lost. Similarly, the proposal would materially weaken the physical and historic rural agricultural link between the LCA and the countryside.
19. The situation would not be helped by the close proximity of the dwellings on plots one, two and nine to the path. In particular, the dwellings on plots one and two would be highly prominent and would dominate the outlook from the adjacent section of the path. Furthermore, from the village green, parts of The Broadway and Spray Hill the roofs of some of the dwellings would be visible and would detract from the rural setting of the LCA.

Overall, the proposal would detract from the linear pattern and grain of the LCA, its historic rural identity and its setting, which all make a material contribution to the character, appearance and significance of the LCA. It is noted that Historic England¹ raise similar concerns. Whilst individually and collectively this harm would be less than substantial, it needs to be weighed against the public benefits that would result from the proposal.

20. There are a number of public benefits that would result from the proposal. It is acknowledged that the appeal site is located in an accessible location adjacent to a rural settlement and the dwellings would incorporate energy efficiency measures. The scheme includes the provision of nine family homes, including some smaller dwellings for which there is an identified need and they would help boost the supply of homes locally and in the Borough as a whole. The construction of these dwellings would provide employment and contribute to the local and wider economy and the occupiers of the proposed dwellings would be likely to support local services and facilities. In these ways the proposal would support the economic and social objectives of sustainable development.
21. Whilst these factors all weigh in favour of the proposal, in this instance, both individually and cumulatively these public benefits clearly fail to outweigh the identified harm to the LCA, including its setting, to which I give great weight, as required by the Framework.
22. Conversely, due to the distance and sense of separation between the appeal site and The Downs Conservation Area I find that the proposal would have a neutral effect on its character, appearance and significance.

¹ Historic England letter dated 6 July 2018

AONB

23. It is acknowledged that subject to the retention of existing trees and hedges the site would be largely contained and so the harm to the natural landscape within the AONB would be localised and thus not significant. This reflects the fact that Natural England², who confirm that their statutory purpose is to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, raised no objections to the proposal. Also, bearing in mind the harm to the AONB would be localised and less than significant I find that the proposal does not amount to a major development for the purposes of paragraphs 172 and 173 of the Framework.
24. Notwithstanding this, the LCA is an integral part of the AONB and thus the proposal would have a negative impact on the scenic beauty of the AONB. At the same time the proposal would have an uncharacteristic and suburbanising impact on the immediate surrounding landscape. For these reasons, the proposal would result in a moderate level of harm to the AONB, having regard to objectives R1 and S2 of the MP and the overall objective of the AONB. I give considerable weight to this identified harm.
25. I conclude on the main issue that the proposal would unacceptably harm the landscape and scenic beauty of the AONB and would fail to preserve or enhance the character or appearance of the LCA and its setting. It would also result less than substantial harm to the significance of the LCA and this harm would not be outweighed by any public benefits. Accordingly, the scheme would conflict with Core Policy 4 of the CS, Policies EN5 and EN25 of the LP, objectives S2 and R1 of the MP and the objectives of paragraphs 172, 193, 194 and 196 of the Framework. Together and amongst other things they seek to conserve and enhance the scenic beauty of AONB's and to preserve or enhance the character, appearance and significance of heritage assets and their settings.

Other matters

26. It is acknowledged that there are a number of modern housing developments in Lamberhurst. However, the existence of development elsewhere is not an appropriate reason to find in favour of a development that would otherwise cause harm for the reasons I have set out.
27. The appellant has referred to an appeal decision in Goudhurst³, which relates to a site within the AONB and which projected away from the settlement. However, that site is not within or adjacent to a conservation area and it adjoins more recent housing developments. As stated by the Inspector the area the site is located in is less clearly defined by its historic linear development pattern and the proposed development would not represent a significant extension of the limits of the development in spatial or character terms. As such that scheme is not directly comparable to the current appeal site.
28. The Appellant states that the Council cannot demonstrate a deliverable five year housing land supply and as such, under paragraph 11 of the Framework the policies most important to the supply of homes are therefore out of date. However, the Appeal site lies within the AONB and the setting of the LCA and

² Natural England letter dated 21 June 2018

³ APP/M2270/W/18/3196553

- paragraph 11 d) of the Framework states that where policies are silent or out of date permission should be granted, unless policies in the Framework that protects areas or assets of particular importance provide clear reasons for refusing permission. Footnote 6 to paragraph 11 of the Framework identifies such areas and includes AONB's and designated heritage assets. Having regard to the harm identified above, the tilted balance advocated in paragraph 11 of the Framework does not apply irrespective of the fact that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites.
29. Regarding the protection of trees, biodiversity and archaeological interests and highway safety, having regard to the nature and level of information submitted, I am satisfied that these are all matters that could be adequately dealt with by the imposition of conditions. In relation to the adjacent sewerage treatment works, the appellant has submitted evidence to demonstrate that its operation would not result in a material level of noise or odour for the occupiers of the proposed houses. Also, whilst I note that parts of the site are located in areas that are liable to flood, there have been no technical objections to the development, subject to suitably worded conditions.
30. A planning obligation by way of a unilateral undertaking for the provision of community facilities was submitted during the appeal. Although I acknowledge the contribution towards 'bookstock', is to make the proposed development acceptable, it is not necessary for me to give further consideration to the detailed provisions of the obligation or the potential need for any other community provisions given my decision to dismiss the appeal.
31. Accordingly, these are all neutral factors in the consideration of this appeal.

Conclusion

32. For the reasons given above, and having regard to the Development Plan when read as a whole, the appeal is dismissed.

Elizabeth Lawrence

INSPECTOR