



Appeal Decision

Site visit made on 26 November 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal Ref: APP/C1435/W/19/3234615

Land at Hawkenbury Road, Bells Yew Green, East Sussex TN2 5BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Rydon Homes Ltd against the decision of Wealden District Council.
 - The application Ref WD/2018/2281/MAO, dated 25 October 2018, was refused by notice dated 7 February 2019.
 - The development proposed is described as outline planning application (with access) or the erection of 18 dwellings (including affordable housing) comprising 2 No. 1 bedroom apartments, 5 No. 2 bedroom units, 10 No. 3 bedroom houses and 1 No. 4 bedroom house with associated development, all other matters reserved for future consideration.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters except access reserved for future consideration. Where the submitted plans show details of scale, appearance, layout and landscaping I have therefore treated these as indicative. Nonetheless, given that the plans present a detailed level of design I consider it likely that they closely reflect the nature of the scheme that would be presented in clearance of the reserved matters. I have therefore placed significant weight on the submitted plans in my reasons below, whilst also considering scope for variation.
3. The Council has confirmed withdrawal of its reason for refusal related to drainage and flooding. This follows comment from the local lead flood authority that risks are capable of being acceptably mitigated. I shall not therefore give this matter any further consideration.
4. The Council has prepared a new Wealdon Local Plan (ELP). This has been subject to recent examination. In accordance with paragraph 48 of the National Planning Policy Framework (the Framework) weight may be given to emerging policies subject in relation to factors which include both stage and to the extent of unresolved objections. Whilst the ELP is at an advanced stage, my attention has been drawn to a number of significant objections. Bode on the evidence before me, it is unclear to what extent these have been or can be resolved. Consequently, I have attached only moderate weight to emerging policies within the ELP, and my decision is principally based on adopted and saved policies within the Wealdon Local Plan 1998 (the LP), and the Wealdon District (Incorporating part of the South Downs National Park) Core Strategy Local Plan

2013 (the CS). The ELP nonetheless remains an important material consideration.

Main Issues

5. The main issues are:

- whether the site is a suitable location for residential development with regard to access to services;
- the effect of the development on highways safety;
- the effect of the development on the character and appearance of the area, including the High Weald Area of Outstanding Natural Beauty (the AONB); and
- the effect of the development on biodiversity.

Reasons

Location

6. Saved Policies GD1, GD2 and DC17 of the LP collectively direct development to locations identified on the basis of development boundaries. As the proposed development would not be located within a development boundary it would conflict with these policies. Policy SPO7 of the CS more generally seeks to reduce the need to travel by car by concentrating development where it can most closely relate to public transport opportunities. In this regard the Council's principal concern is that the location of the proposed development would require future occupants to rely on transport by car to access services on a day-to-day basis, leading to environmental harm.
7. Policy SPO8 of the CS provides a more flexible approach than that set out in the LP, allowing for growth of villages to support the day-to-day needs of rural communities where this would be sustainable. This broadly reflects paragraph 78 of the Framework, which states that housing should be located where it will enhance or maintain the vitality of rural communities, particularly where development in one village may support services in a village nearby. With further regard to Policy SPO7 of the CS, in this context paragraph 102 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.
8. I have little information regarding services within adjacent villages, however Bells Yew Green contains a shop and a public house. Though services are therefore limited, they are greater in number than those found within many small villages. Future occupants could thus potentially make use of these services, helping to sustain them.
9. Frant railway station is located at the edge of the village, providing frequent services to London and the towns between. Bus stops are located on the village green to the south of the site, providing a weekday service to Tunbridge Wells, and a link to the local school. The level of public transport provision is therefore again good for a rural location, and could provide sustainable travel options for future occupants of the development.
10. The pub, shop, railway station and bus stops are all connected by pavements which run as far as the south end of the village green. The appellant has

proposed a footpath which would run within the site to the northern edge of the green. The submissions, including that from the Highways Authority (HA), however indicate that the further continuation of this path across or adjacent to the green would be unlikely to see support. The deliverability of a link between the site and existing pavements is therefore doubtful, and for this reason it could not be properly secured by use of a Grampian condition.

11. Pedestrians could presumably continue their walk across the green. However, the surface is uneven, and walking across it would therefore be hazardous when dark, and would not otherwise be suitable for individuals with impaired mobility. It would also not be an option when the surface was wet. Indeed, undertaking my visit during a spell of heavy rain, it was apparent that the green can become very boggy. Residents could walk in the road instead, however the bend of Hawkenbury Road away from the green limits the forward visibility of oncoming drivers, thus giving rise to a collision risk.
12. It has therefore not been demonstrated that safe or convenient pedestrian linkage of the development to services in Bells Yew Green could be achieved. Though some potential may exist to cycle, a consequent reliance by future residents on cars would be the more likely outcome. Notwithstanding the fact that people could be dropped off at the bus stops, this would reduce the likelihood of bus use. Though the journey to and from the pub, shop and railway station would be short, and the corresponding environmental harm small, some harm would be caused nonetheless, reducing the overall sustainability of the development when considered against both Policies SPO7 and SPO8 of the CS, and the Framework.
13. In this regard I have taken into account the fact that though emerging Policies WLP3 and WLP4 of the ELP carry forward the general LP strategy of directing development to within development boundaries, emerging Policies RAS1 and WLP5 of the ELP would nonetheless additionally establish 'core areas' in other locations where some development may be appropriate. This would help to meet the objectives set out in paragraph 78 of the Framework, as outlined above. The site lies outside the core area proposed for Bells Yew Green, within which capacity for 20 dwellings has been identified. Though the appeal site lies directly adjacent to the proposed core area, pedestrian access to services and public transport from within the core area would be better than would exist for the appeal site. Furthermore, though future occupants within the core area would be just as likely to use cars to access services in larger towns as occupants of the appeal scheme, the rate at which related environmental harm would accrue in relation to the appeal scheme would be faster and greater, considered both overall and cumulatively. This is because the ELP anticipates delivery of development consisting of generally smaller units over a much longer timeframe.
14. I have had regard to paragraph 213 of the Framework, which states that due weight should be given to existing policies depending on their degree of consistency with the Framework. Thus, whilst the proposal would conflict with saved Policies GD1, GD2 and DC17 of the LP, as set out above, I place greater weight on the conflict which would arise with Policies SPO7 and SPO8 of the CS as also set out above, which more closely align with the Framework's rural policy and sustainability objectives. In this regard I have also taken into account the fact that the development would conflict with emerging policy within the ELP which seeks to direct future development within Bells Yew Green

to a part of the village where it would be better connected to both local services and public transport than the appeal site, and within which the rate of development would be much lower than proposed. For both these and the reasons outlined above therefore, I conclude that the site is an unsuitable location for residential development given inadequate access to services, and given the environmental harm that would arise from likely reliance on car use. The decision notice also cites paragraph 79 of the Framework, and emerging Policy RAS2 of the ELP, each of which relates to the development of isolated homes in the countryside, and neither of which are therefore relevant, as the site is not isolated.

Highways

15. The proposed access would be located within the site frontage facing onto Hawkenbury Lane. This is a reasonably narrow road which runs north east from the village green, sloping uphill past the site towards a ridge. The speed limit of the road switches between 60mph and 30mph part the way along the frontage.
16. The parties disagree over whether Manual for Streets (MfS) or the Design Manual for Roads and Bridges (DMRB) provides the most appropriate guidance for calculating visibility splay requirements. As MfS clearly states that its focus is upon lightly-trafficked residential streets, it cannot be considered ordinarily applicable to Hawkenbury Road, which is a rural lane. Though MfS nevertheless indicates that the principles it contains may be applied to lightly-trafficked rural lanes, it also states that the guidance on stopping sight distances (SSDs) applies to streets where 85th percentile speeds are up to 60 km/h, or 37 mph. Above this speed MfS indicates that the DMRB may be more appropriate.
17. A speed survey was conducted in March 2019. The parties dispute the exact weather conditions when it took place, and thus what bearing this should have upon the data used to calculate SSDs. Based on the information provided I have no way of being certain either way, thus a precautionary approach is appropriate. In this regard I note that in the absence of a wet weather reduction, all speeds at the location in which they were recorded fell above 37mph. As the location appears to have been around the point at which the speed limit changes from 60mph to 30mph, it can be reasonably assumed that vehicles travel much faster prior to this point. I indeed observed as much during my visit. Therefore, I agree with the Highways Authority (HA), that the DMRB presents the most appropriate guidance in this instance.
18. The length of the road between the proposed site access and the ridge to the north east lies at around 75m, beyond which there is no visibility on account of falling levels. This means that the DMRB requirement of 90m splay cannot be met. The HA has however indicated that a splay around the same length as the space available would be acceptable. I see no reason to disagree.
19. The appellant has submitted a plan which indicates that a splay of up to 65m could be achieved, whilst confirming that the view at 75m would be largely obstructed. The plan assumes the availability of verge space sufficient to allow clear views across from the access. However, though derived from a topographical survey (TS), the TS in question does not appear to have been concerned with the accurate mapping of features on the ground. Indeed, some features, including trees and hedges, are shown using a generic set of shapes. The TS does not therefore provide a reliable basis upon which to make an assessment of visibility from the proposed access. I also observed during my

visit that verge width along Hawkenbury Road is very limited in places, such that it could be diminished to almost nothing with relatively light growth of adjacent hedging and vegetation. I thus have reason to both doubt the length of the splay that would be achievable, and whether this could be practically maintained.

20. A reduction in the speed limit along Hawkenbury Road has been proposed by the appellant. Demonstrably lower vehicle speeds would form a basis to justify a reduction in the length of the required visibility splay. The means by which the quoted £6k cost required to amend the Traffic Regulation Order would be secured is however unclear. The HA also indicates that the process would be subject to consultation, meaning that the outcome cannot be guaranteed. I therefore again have reason to doubt whether an adjustment of the speed limit would occur or be achievable. Consequently, I attach little weight to this matter.
21. Though use of a condition to preventing development until it was demonstrated that adequate visibility splays could be achieved has been proposed, this would be inappropriate. This is because no certainty would exist that the condition was capable of clearance.
22. I acknowledge that the number of recorded accidents in the area is low. However, this has little bearing on how safe the access would be, given that the access does not currently exist.
23. In the absence of the provision of an appropriate visibility splay northeast from the access, drivers and cyclists waiting to leave the development might not see a vehicle approaching at speed from the northeast. This would give rise to a reasonable risk of collision where the space available to the oncoming vehicle was insufficient to safely stop. The collision risk would be greatest for vehicles and cycles leaving the access to turn right. The risks would be unacceptable.
24. For the reasons outlined above I conclude that it has not been demonstrated that the site access would be safe, or therefore that the effect of the development on highways safety would be acceptable. The development therefore conflicts with saved Policy TR3 of the LP which amongst other things requires developments to provide a satisfactory means of access. This is broadly reflective of paragraph 108(b) of the Framework, which similarly seeks safe and suitable access for all users.

Character and appearance

25. Development within the village is principally concentrated along Bayham Road, which runs northwest from the village green. Housing along both Rushlye Close and on the southwestern edge of the green forms part of the same general cluster. Though most of the development within the cluster is relatively modern, a looser and more dispersed pattern of historic frontage development is otherwise discernible both outside it and around the green. This includes houses located along Middle Road to the south east of the site, and the dwelling immediately to the northeast.
26. The site forms part of a field which lies to the northeast of the village green. Though existing dwellings within the vicinity of the site are appreciable on plan, these are not clearly visible from the site. Those in Cricketers Close on the opposite side of Hawkenbury Road, and the dwelling to the northeast of the

site are each heavily screened. The immediate setting of the site is not therefore perceived as developed, and the impression gained upon travelling from the green northeast along Hawkenbury Road is one of leaving the village behind. The rural character and openness of the site, as too the attractive views across the green space it contains, play an important role in this visual transition. This is complete upon passing over the ridge to the northeast of the site, into the open countryside beyond. I note that the appellant's landscape and visual impact assessment reached a similar view.

27. The development would see a cul-de-sac constructed within the field. Though the boundary along Hawkenbury Road could be thickened over time, it is likely that the development would remain visible from the frontage, including via the access. Glimpses might also be possible from Bayham Road to the southeast, though views from other directions would generally be well screened.
28. The development would not form a strong, if indeed any visual relationship with existing development within its setting. The cul-de-sac layout, combined with the number of dwellings proposed, would otherwise be at odds with the open and dispersed pattern of frontage development prevalent within this part of the village. The resulting low level of integration between the development and the village at large would be accentuated by the lack of any direct or appreciable connection by pavement. Viewed relative to its setting, and the transitional role the site currently plays, the development would have a strongly suburbanising effect, further typified by the cul-de-sac layout.
29. The site is located within the AONB, as is the whole of the surrounding area. I have therefore had regard to the statutory purposes of the AONB's designation, which are most particularly to conserve and enhance the natural beauty of the area; and paragraph 172 of the Framework, which states that great weight should be given to conserving and enhancing landscape and scenic beauty within ANOBs. As noted above, the site is heavily screened in most directions, and thus it is not visually exposed within the wider landscape. The important role the site plays in the transition from village to open countryside, and vice versa, nonetheless holds significance in broader landscape terms, informing the way in which this lightly developed side of the village relates to its landscape setting. Given the suburbanising effect of the development in this context it would clearly fail to conserve or enhance the landscape or scenic beauty of the AONB. I attach great weight to the harm that would be caused.
30. The harm I have identified could not be adequately mitigated by landscaping, and would not be altered in any fundamental way by use of 'traditional' design for the dwellings. As little scope exists to alter the layout, harm could not therefore be addressed within the scope of the reserved matters.
31. I taken into account the fact that the core area proposed for Bells Yew Green within the ELP largely corresponds with the existing cluster of development identified above. Emerging policy thus seeks to direct development to parts of the village where there would be little, or much less impact on the AONB than would arise from the proposed development. The appeal scheme would clearly conflict with this approach.
32. For the reasons outlined above I conclude that the development would cause unacceptable harm to the character and appearance of the area, including the AONB. It would therefore conflict with saved Policy EN6 of the LP, Policy SPO1 of the CS, and emerging Policy EA5 of the ELP, which each seek to provide

protection to the AONB; Objective S2 of the High Weald AONB Management Plan (the MP); and saved Policy EN27 of the LP and emerging Policy BED1 of the ELP, which each seek to secure development which reflects the character of adjoining development, including the landscape in the case of emerging Policy EN27; and relevant provisions relating to the AONB and design within the Framework, with which I find the above policies are broadly consistent.

Biodiversity

33. The site is covered with grassland which the appellant's submitted Botanical Survey (BS) has confirmed contains a species rich mix of plants. The BS confirms that the grassland can be expected to become more diverse over time, but that it has yet to reach to a composition which would justify its classification as lowland meadow. In this regard the site does not appear to be subject of any kind of designation, and it is unclear what control, if any, exists over the management of the field in its current use. Thus I cannot be certain that the grassland would in fact achieve the status of which it is considered capable in the event that the development did not take place, or indeed that its current status would be maintained.
34. Here I acknowledge that Objective FH3 of the MP seeks to enhance the ecological function of habitats within the AONB, and that a Nature Recovery Network is also being piloted. I also acknowledge that the development would lead to substantial loss of the grassland. Loss or degradation might however also occur if, in its current use, the field was managed in a non-traditional way. For this reason I attach limited weight to the potential for harm in this instance.
35. The development would additionally lead to loss of parts of the existing hedgerow along Hawkenbury Road. Replacement hedging could however be replanted along at least part of the frontage, and further hedgerow planting could occur elsewhere within the site.
36. For the reasons outlined above I conclude that the development would not have a demonstrably unacceptable effect in relation to biodiversity, or therefore conflict with Policies SPO1 and WCS12 of the CS, and emerging Policy EA1 of the ELP, which each seek to protect and enhance biodiversity; and related provisions within the Framework. Though the decision notice also cites saved Policy EN15 of the LP, this relates to designated sites, so is not relevant.

Other Matters

37. The Council states that the development would have a significant effect on the integrity of the Ashdown Forest Special Area of Conservation (SAC) and the Lewes SAC considered both alone and in combination with other plans and projects. This is due to nitrogen deposition arising from increased traffic. A failure of the scheme to mitigate this effect was a reason for refusal of planning permission. The issue is contested by the appellant. The appellant has nonetheless made provision for a mitigatory contribution within the submitted UU.
38. I acknowledge that this proposal has the potential to increase traffic on roads in proximity to the Ashdown Forest SAC, which could result in adverse air quality effects upon the European protected site. Had I been minded to allow this appeal, I would have sought a screening direction from the Secretary of

State in accordance with Regulation 14(2) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. I may have also needed to engage with the requirements of The Conservation of Habitats and Species Regulations 2017 to consider the likely significant effects of the proposal on European protected sites (individually and in-combination with other plans and projects), and whether it was necessary to undertake an Appropriate Assessment. However, as I am dismissing the appeal for other reasons, I need not consider this matter any further.

39. The site was considered suitable for housing development within the Council's Strategic Housing and Economic Land Availability Assessment (SHELAA). The level of detail in which the site was assessed and the stage it reached in the process is unclear. The fact that such an assessment does not reflect emerging Policy in the ELP however appears to indicate that this option was rejected. I therefore attach little weight to the SHELAA assessment in question.
40. Alongside up to 12 market dwellings, the development would provide up to 6 affordable dwellings built in accordance with modern energy efficiency standards and potentially suited to a range of household types. The Council indicates that the level of provision would policy compliant, and has been secured with the UU. In this regard I am satisfied that the UU meets the tests set out paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulation 2010 (as amended).
41. However, insofar as the 2016 Wealdon District AONB Housing Needs Survey can be relied upon to provide current information, this indicates only 2 households in need of affordable housing within the village. Whilst other households are identified in Frant, Frant is a separate settlement located around 1.5 miles to the west. Notwithstanding the fact that both settlements are located in the same parish, the provision of affordable housing in Bells Yew Green would not directly service a need which exists in Frant, or for that matter directly serve needs which demonstrably exist elsewhere in the Council area.
42. I consider that the provision of affordable housing should generally be given great weight, and in this context I acknowledge that the existing need in Bells Yew Green would be serviced. However, the significant overprovision of affordable housing would not otherwise demonstrably serve the needs of the existing community in Bells Yew Green, and this is would be similarly true in relation to the scale of market housing proposed. Each would compound the broader failure of the scheme to achieve integration. In this regard paragraph 77 of the Framework, which states that decisions should be responsive to local circumstances and support housing developments that reflect local needs, offers little additional support for the scheme. For these reasons I attach only moderate weight to the social and economic benefit of housing provision overall.
43. The Council lacks a 5-year supply of deliverable housing sites, and so policies most important for determining the application are out-of-date. I consider these to be saved Policies EN6, TR3 and EN27 of the LP, and Policies SPO1, SPO7 and SPO8 of the CS, the relevant parts of which I have nonetheless found to be broadly consistent with national policy set out in the Framework.
44. Under paragraph 11 of the Framework planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the Framework that protect areas or

assets of particular importance provide clear reasons for refusal. In this case the great weight I have attached to AONB harm outweighs the moderate weight I have attached to the benefits of the development, and the resulting conflict with paragraph 172 of Framework provides a clear reason for refusal of planning permission. Even if I had found otherwise, the combined weight of the harms that would be caused by the development would be sufficient to significantly and demonstrably outweigh the benefits. I therefore find that in this case material considerations do not indicate that the appeal should be determined other than in accordance with the development plan.

Conclusion

45. For the reasons outlined above I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR