
Appeal Decision

Site visit made on 8 October 2020

by J D Westbrook BSc(hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Appeal Ref: APP/M2270/W/20/3247397

Land to the west of Hartenoak Road, HAWKHURST, TN18 4DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Velvick and Future Habitat Ltd against Tunbridge Wells Borough Council.
 - The application Ref 18/03976/OUT, is dated 21 December 2018.
 - The development proposed is described as residential development of 4.9ha (Access only).
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Decision

1. The appeal is dismissed and planning permission for residential development of 4.9ha (Access only) is refused.

Procedural Matter

2. This is an outline application with all matters except for access reserved for later approval.

Main Issues

3. The main issues in this case are the effects of the proposed residential development on:
 - The character and appearance of the High Weald Area of Outstanding Beauty (AONB)
 - The transport network and highway safety around Hawkhurst
 - Housing provision in the Borough, and
 - Sustainability by way of access to, and provision of, day to day services and facilities in Hawkhurst

Reasons

4. The appeal site is an area of land of nearly 5 hectares in extent, situated to the west of Hartenoak Road. At this point, Hartenoak Road is a narrow, single-track road leading north out of Hawkhurst. The site comprises two parcels of land, one each side of Ockley Lane which, as it runs between the two parcels, is an unmade road/footpath, unsuitable for vehicles. The eastern parcel of land, between Ockley Lane and Hartenoak Road comprises rough pasture and

is surrounded by hedges and trees. It totals a little over 3 hectares. The parcel to the west of Ockley Lane appears to be given over to grazing and it is also surrounded by hedges and trees. This parcel totals some 1.5 hectares.

5. To the south of the eastern parcel there is a large playing field, accessed from Gunther Close, with a large area of allotments, accessed from Ockley Lane, to the south west. To the east of the site is Heartenoak Road with open countryside beyond. To the north is open countryside and to the west the boundary is Ockley Lane. To the west of Ockley Lane, the smaller parcel of the appeal site is bounded by housing to the south, with a belt of trees to the west and trees and open land to the north-west and west.
6. The proposed development would involve the construction of houses on the eastern parcel, with a new access to the land from Heartenoak Road. An illustration of a possible site layout has been provided with the application and this shows that up to 62 houses could be constructed on this part of the site. The western parcel, separated from the housing area by Ockley Lane, would not be developed for housing. The appeal documentation also includes a number of supporting reports, including a Transport Assessment, a Landscape Appraisal, and Arboricultural and Ecological Surveys.

Effect on the AONB

7. Paragraph 172 of the National Planning Policy Framework (the Framework) indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty. In addition, the scale and extent of development within these designated areas should be limited, and planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. In particular consideration should be given to the need for the development; the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
8. Core Policy 4 (CP4) of the Council's Core Strategy (CS) indicates that the Borough's locally distinctive sense of place and character, including the AONB, will be conserved and enhanced. In addition, the Borough Landscape Character Assessment (LCA) will be utilised to manage, conserve and enhance the landscape as a whole. The policy refers to a version of the LCA dated 2002, but it would appear that it has been recently updated. Policy CP14 of the CS indicates, among other things, that new development will generally be restricted to sites within the Limits of Built Development (LBD) of villages, and that the countryside will be protected for its own sake and a policy of restraint will operate in order to maintain the landscape character and quality of the countryside.
9. Policy HD1a of the recently made and modified Hawkhurst Parish Council Neighbourhood Plan (NP), prioritises smaller scale developments within the village, while Policy HD1b states that larger development of 10 or more houses will only be supported if it can be demonstrated that there are exceptional circumstances, as prescribed by the Framework, and if it can be demonstrated that their impact on the sensitive AONB landscape setting and the considerable

environmental constraints of Hawkhurst can be effectively mitigated. The NP forms a part of the Development Plan for the area.

10. The LCA summarises the Hawkhurst area as a peaceful, managed, farmed landscape of pasture and open arable fields on the gentle open slopes rolling down from the plateau to the River Rother and Hexden Channel. Fields are bounded by thick, wooded shaws with some deep intersecting ghylls, resulting in an interesting landscape pattern with occasional built landmarks such as a windmill or church tower. Other key features include the distinctive character of the ridgetop villages and a mixed agricultural landscape of small-scale pasture and medium-large scale arable fields.
11. The landscape strategy for the LCA includes controlling further development proposals which could adversely affect the rural character of the landscape and tip the scales to a more urban character; and limiting new large-scale development wherever possible because it is rare within the area and has the potential to be highly visible on the ridge lines and intrusive within the quieter picturesque ghyll wooded valleys.
12. The key qualities of the AONB include:
 - Scenic rolling hills and wooded ghyll valleys. The ridgelines and gently undulating hills permit intermittent and glimpsed views within the area.
 - A pattern of dispersed historic farmsteads and hamlets and locally distinctive buildings.
 - Ancient routeways.
 - Woodland – particularly ancient woodlands, ghylls and shaws.
 - The relatively intact ancient landscape pattern of irregular medieval fields bounded by woodland, shaws and ghylls.
13. In this case, the appeal site comprises two separate fields, split by the ancient routeway of Ockley Lane, and lying to the north of the village of Hawkhurst. It would appear that the western field adjoins the LBD of Hawkhurst, while the eastern field is separated from the LBD by the playing field and Gunther Close to the south, and the allotments to the south west. Currently the northern line of development in the vicinity of the proposed housing site would appear to follow the approximate ridge line on which the village is situated. Beyond this line, the land, including the appeal site, begins to fall away to the north into a wooded ghyll running west to east through the generally open countryside.
14. In the light of its location, the appeal site would appear separated from the built-up area of Hawkhurst, within the open countryside. The appellants contend that the site lies within a settlement fringe location. I disagree. It lies beyond the settlement fringe, and it would effectively become an urban- or suburban-type extension that would intrude into the wooded ghyll to the detriment of the character of the AONB in general and the Hawkhurst area in particular. Moreover, the introduction of a new access off Heartenoak Road with an additional footpath, sight lines and road widening, though limited in extent, would also heighten the detrimental effects of extending this type of development into the countryside.

15. The appellants make note of the existence of a new housing development currently under construction on the eastern side of Hartenoak Road, known as Hartenoak Meadows. However, this development would appear to be sited hard up against the LBD on both its western and southern sides, and it does not extend the development of Hawkhurst any further north than the relatively recent development at Gunther Close, on the opposite side of Hartenoak Road. Furthermore, the housing keeps to the upper part of the ridge and does not impinge into the ghyll to the north.
16. The two fields of the appeal site are characteristic of the area within the context of the AONB as a whole. It would appear that the western field is used for sheep grazing at appropriate times during the year. At the time of my site visit, the eastern field was largely overgrown pasture with a significant amount of wildflowers present. Whilst the supporting evidence to this proposal rightly emphasises the significance of the surrounding trees and hedges, the Council indicates that insufficient emphasis is placed upon the significance of the grassed areas. I concur with this opinion. The fields have the appearance of unimproved or semi-improved grassland, and the development would result in the loss of this environment, which is important in terms of its visual, agricultural and biodiversity significance within the AONB, and to the local character of the Hawkhurst area.
17. The appellants have provided a Landscape and Visual Impact Assessment. Submitted photographs indicate that there are 'glimpsed' views from certain locations. Whilst these may only be glimpses, nevertheless they indicate that the site would involve a visual extension of the built-up area of Hawkhurst, which would result in some harm to the overall setting of the village and the wider landscape.
18. The appellants have indicated that the proposal would be accompanied by strengthening of the woodland and hedgerow boundaries to the site, and that the western field would be subject to ecological enhancements. The Council contends that, whilst some ecological benefits could arise, the additional planting suggested would more accurately represent mitigation rather than enhancement and I concur with this. Such mitigation would not, in this case, serve to protect the characteristics of the AONB, as outlined above. A recent amended site plan shows greater buffer zones around the houses, but with the same number of houses. This would effectively result in a higher density of development on the remaining available built area, leading to a more cramped urban-type layout, inappropriate to any open countryside context, and particularly harmful to the character and appearance of the AONB.
19. The appellants contend that the proposed housing would have social and economic benefits. I will deal with this issue in detail later but, in my opinion, to fit up to 62 houses on the reduced available area of the site would be harmful to the character and appearance of the area, whilst to lower the number in an attempt to achieve a more appropriate density for the size and location of the site, would reduce any social and economic benefits.
20. Paragraph 172 of the Framework indicates that planning permission should be refused for major development in an AONB other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Three considerations are given with regard to such exceptional circumstances. I will now move on to other issues raised by this

proposal before balancing the issues, in the light of the three considerations given, to examine the existence or otherwise of exceptional circumstances.

Highway safety

21. Paragraphs 108 and 109 of the Framework indicate that in assessing applications for development, it should be ensured that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Also, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Core Policy 3 (CP3) of the CS, and Policy TP4 of the Borough's Local Plan (LP) conform to the basic thrust of the guidance in the Framework, with specific reference to the relationship of developments to highway capacity and highway capacity improvements.
22. In this case, there would appear to be no significant issues with regard to the ability to provide suitable access to the site from Hearten oak Road. There are, however, concerns regarding the impact of the proposed development on the junction of the A229 and A268 in the centre of Hawkhurst. The NP notes that the levels of traffic currently using the crossroads, especially HGVs, combined with the relative narrowness of the carriageway can lead to congestion and tailbacks at any time. Policy AM1 of the NP indicates that improvements to the A229/A268 crossroads will be sought to ease traffic flow and improve conditions for pedestrians and cyclists.
23. The Highway Authority (HA) refer to a Highway Assessment at the junction which concludes that the junction operates above capacity, and that the proposed housing development on the appeal site would exacerbate this situation. Furthermore, the HA contends that the Transport Assessment provided by the appellants contains a number of inconsistencies and that there are unsupported assumptions regarding potential mitigation measures and their costs.
24. It would also appear that the HA identified over the course of 2019 that a Hawkhurst transport model was required, in addition to the strategic model commissioned by the Borough Council, to inform the emerging Local Plan evidence base. During the time the appeal application was live, the need for the Hawkhurst model - which was to be commissioned by the Council - became increasingly relevant to assist with the assessment of the cumulative impact of a number of moderately sized developments. As a result of the situation regarding possible developments around Hawkhurst, and the cumulative effect of these developments on the A268/A229 junction, the HA has put a holding objection on the current appeal scheme.
25. The appellants contend that it is unreasonable to put a holding objection on all housing developments in the area until the preparation of the emerging Local Plan is completed. I can understand this opinion, but it would appear that, regardless of the need for a wider highway assessment, the proposed scheme on the appeal site would, in any case, result in worsening congestion at the junction. There are also potential implications for increased traffic on the

narrow country roads leading out of Hawkhurst in order to try to avoid congestion.

26. I consider that there would be significant adverse impacts from the development on the transport network (in terms of capacity and congestion), and harm to general highway safety in the area. It would therefore conflict with Policy CP3 of the CS and Policy TP4 of the LP, and with paragraphs 108 and 109 of the Framework.

Housing provision

27. Both parties agree that the Council cannot currently demonstrate a 5-year supply of housing land. The Council has produced a 5-year Housing Land Supply Report based on the methodology required in the Framework. This shows a supply for 4.69 years, which equates to a shortfall of only around 220 dwellings across the Borough over 5 years, and is apparently a marked improvement over the situation some 2 years ago. The appellants contest these figures, contending that the supply could be less than that reported by the council, and that the housing that they propose on the appeal site would go towards meeting the housing land supply shortfall in the Borough. However, whilst the proposed housing would go some way to meeting the shortfall, whatever the precise amount, there is currently no specific evidence to suggest that the figure provided by the Council is significantly in error, and I have based my considerations on the results of the Council's recent assessment.
28. I also note that the Council is currently undertaking a Strategic Housing and Economic Land Availability Assessment (SHELAA) as part of its emerging Local Plan preparation. This process seeks to identify possible site allocations for economic and housing uses across the borough. The SHELAA will seek to identify sufficient housing land to meet housing targets across the new Local Plan period 2016-2036. The Council will take into account that the Standard Methodology calculations will be subject to further changes. Therefore, the Council will ensure that a suitable amount of land is allocated to take into account future changes in housing targets.
29. In the light of the above, I find that shortfall in housing land supply identified in the Council's most recent report is relatively small and may be expected to be addressed in the course of the production of its emerging Local Plan, which will be informed by the SHELAA, and which is in an advanced stage of preparation. This is particularly the case given the recent marked improvement in the situation. Whilst I can only afford the draft Local Plan limited weight, given its current status as an emerging development plan, nevertheless it has weight.
30. Paragraph 11d of the Framework indicates that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless one of two circumstances exist. These circumstances are that either the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
31. Core Policy 6 (CP6) of the CS is a relevant policy with regard to housing supply issues. However, the policy may be considered out of date since it relates to

housing supply figures that were based upon a situation existing prior to the new methodology introduced in the Framework. It is therefore necessary to consider whether one or other of the two circumstances outlined above applies in this case.

32. In considering whether permission should be granted, I have concluded that the application of paragraph 172 of the Framework policy to a protected area, represented in this case by the AONB, provides a clear reason to refuse the development proposed in the light of its significantly detrimental effects on the landscape of the AONB. The presumption of permission, as outlined in paragraph 11d of the Framework, does not therefore apply, and the second circumstance is not, therefore, invoked.
33. The issue of the weight to be assigned to the benefits of the proposed housing to meeting housing land supply in the Borough, and other potential benefits, will be dealt with later.

Access to and provision of day to day facilities

34. The appeal site is located outside of the LBD to the north of Hawkhurst. However, occupiers of houses on the appeal site would be within walking distance of the centre of the village, albeit a substantial walk from the northern part of the site. Concern has been expressed on the impact of the those occupiers on the capacity of local services in the village. I have no evidence of significant problems of capacity and, in any case, funding for enhanced services could be accessed through planning agreements and/or CIL as relevant, and the appellants have indicated a willingness to comply with reasonable requirements on this matter.
35. On this issue, therefore, I am satisfied that the proposed housing would be sustainable in terms of access to, and provision of, local services and facilities.

Other Matters

36. The appellants have put forward a number of points relating to benefits arising from the proposed development, which they contend outweighs any adverse harm from it. In particular, they contend that the housing would go towards meeting the Council's Housing Land shortage; that there would be economic benefits deriving from employment generation and increased spending in the village; that there would be social benefits from the provision of an amount of affordable housing and local pedestrian/recreational facilities; and that there would be environmental benefits from the landscaping and ecological enhancements proposed for the site.
37. I accept that the provision of up to 62 houses would support the housing land supply needs of the Borough. However, the current shortfall is small and it would appear likely that the required 5-year supply will be achieved as a result of the ongoing development plan process, informed by the Council's SHELAA. This is expected relatively soon, and though it may well require use of some land in the AONB, this will be achieved as part of the planning process, following what would appear to be a comprehensive evidence-based assessment. In any case, the proposal would result in significant harm to the character and appearance of the AONB, and an extension of the built-up area of Hawkhurst into open countryside.

38. There would be employment generation resulting from the housing development, but most of this would be temporary and would apply to any development project in the Borough. There would potentially be a degree of increased spending in local shops and this would benefit those shops, though there is no evidence that the shops are currently experiencing economic difficulties, other than those that may arise from the current Covid-19 situation. The Neighbourhood Plan notes that there has already been permission granted for nearly 120 houses between March 2019 and the publication of the modified plan earlier this year. There is therefore little evidence of any likely decline in housing development in the village, or current difficulties in attracting extra spending to local shops. The proposal would have limited impact in this regard.
39. The appellants confirm that there would be an element of affordable housing within the scheme, and this would be of benefit to the community. Wording to form part of a Section 108 agreement has been provided by the appellants, although there is no formal draft document before me.
40. The appellants contend that there would be improved pedestrian provision as a result of the development, and that there would be additional public open space for recreational purposes. However, this would appear to be mainly of benefit to the occupiers of the proposed houses themselves and not a wider social benefit to the community of Hawkhurst. I accept that additional funding could be provided for other social and community needs by way of planning agreements or CIL as appropriate, but this is intended to help provide for any additional pressure on local services and facilities caused by the development.
41. The appellants also contend that the proposals would include environmental and ecological enhancements. I accept that strengthening boundary planting and the provision of a pond on the western field could lead to biodiversity benefits. However, this has to be balanced against loss of two fields for agricultural use and the coverage of a significant amount of one of those fields with housing development. The result would be a net loss of an amount of unimproved or semi-improved grassland which would also have ecological implications. In addition, the introduction of an urban- or suburban-type development, effectively separated from the built-up area of the village and extending into the countryside, would have significantly harmful effects on the landscape and characteristic environment of the AONB.

Conclusion

42. I find that the proposed housing development would be significantly harmful to the character and appearance of the AONB. It would adversely affect the landscape both visually and functionally, by virtue of its location beyond the built-up area of Hawkhurst, on a north-facing slope below the ridge line occupied by the village. It would also result in the loss of an area of unimproved or semi-improved grassland, while proposed additional boundary planting and other enhancements would fail to compensate for these losses. It would extend an urban- or suburban-type development into the countryside to the north of the village, and would be likely to add, both in itself and cumulatively, to existing congestion at the junction of the A268 and A229 in the centre of Hawkhurst.
43. Benefits arising from increasing the housing land supply, including the provision of some affordable housing, and other relatively minor economic,

social and environmental benefits would not outweigh the harm to the AONB and surrounding countryside caused by the development. Paragraph 172 of the Framework indicates that such harm should be given great weight.

44. I accept that there is a need for more housing in the Borough in order to meet a current shortfall in supply. However, this shortfall is small and the Council is intending to rectify the issue through its SHELAA and the ongoing work on the emerging new Local Plan, which is at an advanced stage of production.
45. I also accept that it is possible that the shortfall in housing land supply may require some new housebuilding within the AONB somewhere within the Borough. However, the small-scale nature of the shortfall would imply that there is likely to be scope for making further provision within and/or outside of the AONB as part of the ongoing planning process in the Borough, and that there would be little cost in doing so.
46. Finally, there would be significant detrimental effect on the environment and the landscape of the AONB resulting from the development, and the proposals of the appellants to mitigate or moderate this effect would not compensate.
47. As a result of the above, I find that the proposal would conflict with policy as laid down in Paragraph 172 of the Framework, in that there are no exceptional circumstances to justify the development and that, on balance, it would not be in the public interest. It would conflict with policies CP3, CP4 and CP 14 of the CS; policy TP4 of the LP; and also with policy HD1b of the NP and the landscape strategy of the LCA.
48. Finally, the presumption in favour of sustainable development, as it is set out in paragraph 11d of the Framework, does not apply in this case, because the application of policies in this Framework that protect areas such as AONBs, provides a clear reason for refusing the development proposed. Accordingly, I dismiss this appeal.

J D Westbrook

INSPECTOR