



Appeal Decision

Hearing Held on 26 January 2021

Site visit made on 27 January 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/D3830/W/19/3242226

Land to the rear of Peacocks, Church Lane, Horsted Keynes

- 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 Horsted Keynes LLP against the decision of Mid Sussex District Council.
 - The application DM/19/2942, dated 26 June 2019, was refused by notice dated 23 September 2019.
 - The development proposed is an outline application (all matters reserved except for siting and access) for 9 houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline with siting and access to be considered at this stage. The appearance, landscaping and scale of the proposed development are reserved for later consideration.
3. A legal agreement under Section 106 of the Town and Country Planning Act 1990 has been submitted which secures financial contributions towards infrastructure provision (including leisure, community buildings and local community infrastructure); financial contributions towards the Ashdown Forest Strategic Access Management and Monitoring Plan and Suitable Alternative Natural Green Space provision; provision of affordable housing or an affordable housing contribution depending on the eventual gross floorspace of the development; and financial contributions towards transport, education and library provision. I return to this legal agreement in my reasoning below.
4. Reference has been made in representations to the Council's draft Site Allocations Development Plan Document and the Parish Council's draft Horsted Keynes Neighbourhood Development Plan. The Site Allocations Plan has recently been submitted for examination. The Neighbourhood Plan has recently completed a local round of consultation with a final version now being drafted for submission to the Council. In both cases, these plans are at relatively early stages in their development, neither having yet been scrutinised by an independent examiner. Given the stage of development of both plans, I only give them limited weight.

Background and Main Issues

5. The appellant has submitted further information on flood risk and drainage. The Council is now satisfied that, subject to a condition, the development would not be at risk of flooding and could be satisfactorily drained. The Council's concerns in relation to reason for refusal 7 have therefore been suitably addressed. I have considered the appeal on this basis.
6. Against this background, I consider that the main issues are:
 - The effect on the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty
 - The effect on heritage assets including the Horsted Keynes Conservation Area and the settings of nearby listed buildings
 - Whether the site is a suitable location for development, having regard to economic, social and environmental objectives
 - Whether the development would have an effect on the Ashdown Forest Special Protection Area and Special Area of Conservation
 - Whether the development would give rise to demand on infrastructure and affordable housing.

Reasons

Landscape

7. The site lies within the High Weald Area of Outstanding Natural Beauty. The designation recognises the high quality of the landscape, which is characterised by steep valleys clothed in woodland and small pasture fields. The settlement pattern consists of scattered farmsteads with occasional villages, often set on hilltops or ridges, as is the case with Horsted Keynes. The High Weald has a quiet, rural feel to it where even former iron working activities have now merged into the landscape in the form of hammer ponds.
8. The appeal site typifies this landscape character forming part of a small, steep sided valley with pasture fields on both sides. To the north, the upper slopes of the valley are wooded, while to the south can be seen the rear of houses fronting Station Road, which runs along the top of the ridge. St Giles Church stands on the northern side of the valley and is linked to the village on the southern side by Church Lane. A line of houses flanks the western side of Church Lane and forms a visual stop at the head of the valley, with trees and parkland behind.
9. The Mid Sussex Landscape Capacity Study 2017 assessed the site as having high landscape value, moderate sensitivity to change and a low capacity for accommodating new development. Landscape appraisals have been carried out on behalf of the appellant¹, the Council² and an interested party³, which describe the landscape character in more detail but arrive at differing views of the impact of the development on it. The landscape appraisal submitted by the appellant refers to an earlier, larger housing scheme proposed on the site⁴, but

¹ Lloyd Bore Ltd, Landscape and Visual Appraisal, 2017

² County Landscape Architect, consultation response, 2019

³ Bettina Kirkham, Landscape and Visual Evidence, 2020

⁴ DM/17/4913

its baseline assessment remains valid and I have read its conclusions in the light of the current scheme.

10. The appellant has also referred to a sustainability appraisal carried out by Horsted Keynes Parish Council as part of its preparations for an earlier iteration of the Neighbourhood Plan. The appraisal noted that development on the site may not have an unacceptable impact on the Area of Outstanding Natural Beauty, depending on the layout of development. That sustainability appraisal was withdrawn in 2018 and replaced with a new appraisal using a methodology consistent with the draft Site Allocations Development Plan Document, which concluded that development would have an unacceptable impact upon the character and appearance of the area.
11. Taking all of this evidence into account, it is apparent that the landscape around Horsted Keynes is of high quality and exhibits all of the key characteristics of the High Weald justifying its designation as part of the Area of Outstanding Natural Beauty. The appeal site forms an intrinsic part of this landscape, and in particular of the landscape setting to the village. The open nature of the site, with pasture land coming up to the rear gardens of the houses along Station Road, emphasises the ridgetop nature of the village.
12. The valley also serves to separate St Giles Church from the village and provide it with an open setting. The role the valley plays in the landscape setting of the village and church can be seen from a number of vantage points, including views from the footpath that runs along the valley floor and which is an historic trackway, between buildings from Church Lane and from the Martindale Centre on Station Road.
13. The appeal scheme would erode this character by reducing the open and undeveloped nature of the valley, extending development down off the ridgeline. I acknowledge that the development would be confined to the upper slope of the valley and that open land would remain between it and the footpath but nevertheless the key ridgeline form of the village would be reduced, and the sense of openness that one gets from views opening out from the head of the valley and from the adjacent footpath would be more confined.
14. I also acknowledge that the adjacent housing estate at Cheeleys already comes down from the ridgeline and to an extent intrudes into the valley. However, the edge of this estate is softened by planting and hedging along the rear gardens of the dwellings, and those closest to the appeal site are bungalows with shallow pitched roofs so reducing their prominence in the landscape. In contrast, the appeal scheme would present a hard edge to the countryside with the roadway and proposed houses facing the valley, and with parking and driveways on display. This would result in a more developed, suburban appearance than is presently the case and would be at odds with the rural character and landscape qualities of this part of the Area of Outstanding Natural Beauty.
15. Some mitigation could be achieved through sensitive landscaping, but that would not overcome the loss of openness and would not in my view adequately screen the development given the slope of the land and the likely wish for future occupants to maintain an open view.
16. Although views into and out of the valley are largely enclosed by the topography and surrounding woodland, I noted on my site visit that the

western end of the development would also be seen in longer views from the north and north west. The impact of the development on the landscape character of the area would therefore also extend further afield.

17. I conclude that the proposed development would harm the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty. It would fail to conserve or enhance the landscape characteristics that are significant in the High Weald, which is recognised as a valued landscape of national importance. The ability to mitigate this impact would be limited and would not overcome the harm so caused. As a result of the harm caused to the landscape, the development would conflict with Policies DP12 and DP16 of the Mid Sussex District Plan and Objectives S2 and S3 of the High Weald Management Plan, which together seek to conserve or enhance the natural beauty of the High Weald Area of Outstanding Natural Beauty and to protect the historic pattern of settlement within it.

Heritage

18. The significance of the part of the Horsted Keynes Conservation Area closest to the appeal site lies in the historic layout of the village and its countryside setting. The separation of St Giles Church from the remainder of the village is unusual and is one of the defining features in the layout of Horsted Keynes and represents an important part of its historical development. This separation is emphasised by the largely undeveloped nature of the church's surroundings including the valley between it and the ridge to the south on which the remainder of the village has developed.
19. Of the listed buildings identified by the Council as relevant to the appeal, St Giles Church is the most important, being a Grade I listed, 13th century church in sandstone with a shingled spire. The other buildings at Timbers/Splinters, High Trees/3 Church Cottages (these buildings now being split into two dwellings each) and Ludwell, are Grade II listed and are good examples of vernacular buildings. The setting of St Giles Church includes its rural surrounds. The settings of the other listed buildings along Church Lane are also dependent on the rural surroundings but are more limited than that of the church.
20. Ludwell on the other hand is barely visible from the site with only its chimney stacks and the very top of its ridgeline visible from the western boundary of the site. The upper parts of a new building on the site would be more visible from Ludwell but only to a limited extent. In my view the separation of this property from the site, and the limited intervisibility between the two mean that the proposed development would not impinge to any material extent on the setting of Ludwell. I reach that view notwithstanding that historically the appeal site may originally have formed farmland associated with Ludwell.
21. It was agreed by the main parties that the demolition of Peacocks would have a neutral effect on the Conservation Area, it being a modern building with no historic relevance and built on former garden land. I agree with that view so long as any alternative use of the land resulted in the site contributing to the character and appearance of the Conservation Area as well as the existing building or better.
22. In this case, Peacocks would be replaced by a new residential road with a shared surface giving access to the proposed houses. While demolition of the existing building would open up a new view of the countryside from Church

- Lane, that view would be dominated by the hard surface of the road, which would not preserve or enhance the Conservation Area. The proposed houses and their associated drives and parking areas would also erode the rural surrounds of the Conservation Area. This would harm views out of the Conservation Area as well as views in, the open and undeveloped land being an important backdrop to this part of the Conservation Area and to its historical and visual significance.
23. For similar reasons, the development would also harm the sense of separation between St Giles Church and the later part of the village. As a Grade I listed building its setting is of particular importance. The settings of the other listed buildings along Church Lane would also be harmed to a modest degree by the erosion of their rural surroundings, more so for Timbers/Splinters because of the proximity of the access road to the side and rear of it, less so for High Trees/3 Church Cottages because of the distance between it and the appeal site.
24. I reach these conclusions notwithstanding the sustainability appraisal commissioned on behalf of Horsted Keynes Parish Council for an earlier iteration of their Neighbourhood Development Plan, now withdrawn, which appraised development on the site as not having any harmful impact on listed buildings or the Conservation Area, or the views expressed in the report by Lloyd Bore Ltd.
25. I conclude that harm would be caused to the character and appearance of the Conservation Area, its setting and the settings of St Giles Church, Timbers/Splinters and High Trees/3 Church Cottages. Consequently, the development would conflict with Policies DP34 and DP35 of the Mid Sussex District Plan, which seek to protect heritage assets and conserve or enhance their special character.
26. While I have found that the development would cause harm to the heritage assets, I consider that the harm so caused would be less than substantial. I reach that view on the basis that, while the backdrop of countryside behind buildings along Church Lane and the role the site plays in separating St Giles Church from the rest of the village are important in defining the significance of this part of the Conservation Area, the bulk of the development would lie some distance from the boundary of the Conservation Area and would be partly screened from it by buildings in Cheeleys and along Church Lane. It is also the case that the development would have only a limited impact on the settings of the other listed buildings and cause no appreciable harm to the setting of Ludwell.
27. Paragraph 196 of the National Planning Policy Framework (the 'Framework') advises that less than substantial harm needs to be weighed against the public benefits of the proposal. The benefits agreed between the main parties are set out in the Statement of Common Ground. These include the new homes bonus, the provision of construction jobs and increased population to support local services.
28. Construction jobs would be a temporary benefit as opposed to the permanent harm that the development would cause and therefore I give it little weight. The new homes bonus for a development of this size would be modest and for that reason carries limited weight. I have no evidence to show that local services would be lost unless additional population is created and therefore the

benefit of supporting local services through additional local population also carries limited weight. Other benefits of the scheme as listed in the Statement of Common Ground have not been agreed, and I do not find these persuasive in relation to outweighing harm to the heritage assets.

29. Having found less than substantial harm would be caused to the heritage assets, I nevertheless give great weight to the desirability of preserving the setting of the listed buildings, and preserving or enhancing the character and appearance of the Conservation Area in accordance with paragraph 193 of the Framework. As a result, I consider the development would fail the statutory tests set out in Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to preserve or enhance the character or appearance of the Horsted Keynes Conservation Area, and the setting of the listed buildings noted above.

Location of development

30. Policy DP6 of the Mid Sussex District Plan supports the growth of settlements where development meets identified local housing, employment and community needs. Outside defined built-up area boundaries, the expansion of settlements is supported where three criteria are met, with a further two points to be taken into consideration.
31. The appeal scheme would meet the first two criteria of Policy DP6 in that the proposed development is for fewer than 10 dwellings, and the site is contiguous with the built up area of Horsted Keynes, as defined on the District Plan Proposals Map.
32. The third criterion requires that the development be sustainable. Sustainability is defined in the Mid Sussex District Plan as *'the creation of or maintenance of conditions that fulfill current and future economic, environmental and social requirements.'* This definition is consistent with the explanation of sustainable development in paragraph 8 of the Framework.
33. Horsted Keynes is a category 3 settlement in the Mid Sussex District Plan, defined as a medium sized village providing essential services for the needs of its own residents and immediate surrounding communities. While I note the Council's assertion that there is a lack of employment floorspace in the village and public transport facilities are poor, there is a range of essential services including two churches, a primary school, a shop, two public houses, and recreation and community facilities. All these are within walking distance of the appeal site. There is also a bus service linking the village to nearby towns. I consider these services are sufficient to support the scheme's basic economic and social needs.
34. The Council argues that notwithstanding these factors, the appeal scheme is unsustainable because it would cause harm to landscape and heritage assets, and therefore conflicts with the environmental requirements of sustainability. From my reasoning on the other issues above I have found that harm would be caused to the landscape and to heritage assets. It follows that the environmental aspect of sustainability is not met.
35. Policy DP6 has two further criteria that relate to underdevelopment and phased development. Concern has been raised in representations that the appeal scheme is just the first phase in a larger development, particularly given the

earlier scheme proposed on the site⁵. However, it is also the case that every proposal needs to be determined on its own merits. If a proposal for a later phase were to be submitted, the Council would be able to determine that in accordance with Policy DP6 and other policies in the District Plan.

36. I conclude that the proposed development would conflict with Policy DP6 of the Mid Sussex District Plan because it would not be environmentally sustainable. Because the scheme conflicts with Policy DP6 the site is not a suitable location for development, and it would therefore conflict with Policies DP12 and DP15, which control new homes in the countryside and seek to protect the countryside in recognition of its intrinsic character and beauty.

Ashdown Forest, infrastructure and affordable housing

37. The appellant has submitted a legal agreement that addresses matters relating to mitigation of potential impacts on Ashdown Forest, financial contributions towards the provision of infrastructure, and the provision of affordable housing or a financial contribution towards the provision of affordable housing depending on the gross floorspace of the detailed scheme.
38. The appeal site lies within the zone of influence of the Ashdown Forest Special Protection Area and Special Area of Conservation. Having regard to the advice of Natural England the scheme is likely to have a significant adverse effect on the Forest through increased recreational pressure. The Council, in partnership with other organisations, has devised a means of mitigating such adverse effects through the Ashdown Forest Strategic Access Management and Monitoring Plan and the creation of suitable alternative natural green space.
39. The legal agreement would secure financial contributions towards these measures, which are likely to mitigate the significant adverse effect of the development. However, given my conclusion on other main issues it has not been necessary for me to undertake an appropriate assessment and I have not considered this issue any further.
40. So far as infrastructure and affordable housing are concerned, I am satisfied having regard to the justifications put forward by the District and County Councils that there would be demands on infrastructure and affordable housing that would result from the development that require mitigation. The Council has confirmed that the obligations contained in the legal agreement meet these infrastructure and affordable housing requirements.
41. In relation to these aspects I consider the agreement to be necessary, directly related to the development and fairly related in scale and kind. As such, it would accord with Regulation 122 of the Community Infrastructure Levy Regulations and the tests for planning obligations set out in the Framework. I have given it weight in addressing the concerns raised by the Council in its sixth reason for refusal.

Other Matters

Housing land supply

42. The appellant has argued that the Council has underdelivered on the number of houses built in the District in recent years against the housing requirement set

⁵ DM/17/4913

out in the Mid Sussex District Plan, and that the appeal scheme would help address this deficiency. The appellant has also argued that at the local level, the supply of housing land in Horsted Keynes does not meet the housing allocation for the village and that the appeal scheme would help address this shortfall as well.

43. The Council considers that it is able to demonstrate a 5.37 years' supply of housing land and has set out how in its latest 5 Year Housing Land Supply Statement, dated December 2020. The housing supply takes account of under delivery in the recent past.
44. The appellant argues those sites which have only outline planning permission or are site allocations ('B list' sites) should not be included because of doubt about their deliverability within the next 5 years. If those sites are excluded from the calculations, the Council would be unable to demonstrate a 5 year housing land supply.
45. The Council has provided evidence of delivery for all the B list sites as part of their appeal submission. In most cases reserved matters applications have been submitted or are in pre-application discussion. A number of the sites are later phases of larger developments already underway, which provide a firm indication of intent to deliver. One site at Friars Oak, London Road, Hassocks has been held up by the need to determine a footpath diversion. I accept the appellant's argument that this could take some time, but the site delivery could slip by up to a year and still fall within the 5 year timescale. The main parties take differing views on whether Covid 19 restrictions would delay development taking place, but I was presented with no evidence to demonstrate that was the case, or to counter the evidence presented by the Council on the deliverability of the B list sites.
46. The appellant has also argued that the Council's housing policies are out of date because housing demand in the Local Plan is not based on the standard methodology and it adopts a stepped housing delivery with lower provision in the early years. These aspects were accepted as a reasonable approach to housing delivery as part of the examination of the Mid Sussex District Plan, subject to an early review. That review is planned to take place between 2021-2023. Having regard to these factors, I consider the Local Plan to be up-to-date and its housing target to carry full weight.
47. I appreciate that there will always be a degree of uncertainty over forecasts of housing delivery, particularly towards the end of the 5 year period, and that such forecasts may be somewhat more uncertain as a result of the Covid 19 restrictions. However, I consider the evidence presented by the Council is well researched and reasonable in the assumptions it makes on housing delivery. In the absence of any evidence to the contrary, I consider that the Council is therefore able to demonstrate a 5 year housing land supply.
48. So far as the supply of housing land in Horsted Keynes is concerned, two sites are proposed to be allocated in the draft Site Allocations Development Plan Document. Together with existing completions and commitments as set out in the Parish Council's statement, these sites would satisfy the housing allocation for the village. I note that the appellant questions the ability of the draft site allocations to accommodate development, but as these have been included in the draft Site Allocations Plan I have no reason to believe that they are not deliverable.

49. The 2020 Housing Delivery Test for Mid Sussex District Council indicates that it achieved 91% of housing delivery measured against its housing target over the last 3 years. This is considerably more than the 75% benchmark used to define substantial under delivery in the Framework.
50. I conclude that as the Council is able to demonstrate a 5 year housing land supply, and as the latest Housing Delivery Test result is greater than 75%, neither of these considerations results in the housing policies of the Mid Sussex District Plan being considered out-of-date in the context of paragraph 11 of the Framework.

Highway safety

51. Although not forming a reason for refusal by the Council, interested parties have raised concern about the effect of the proposed development on highway safety and congestion on Church Lane⁶. Those concerns relate to the lack of adequate visibility splays from the proposed new road on to Church Lane and the increase in vehicle movements causing a highway safety hazard for other users of the lane, including walkers, horse riders, and children and their parents coming and going to St Giles Primary School.
52. Church Lane is a carriageway without centre markings. The surface is shared by vehicles and pedestrians, there being a separate footpath along only a short stretch of the lane in front of Timbers, Splinters and Gordon House.
53. The impression I gained from my site visit is that vehicles tend to drive down the centre of the lane, unless meeting other vehicles in which case they move over to enable each other to pass. I therefore consider that measuring visibility splays to the centre of the lane in both leading and trailing directions to be reasonable in this instance. Even with splays measured to the centre of the lane I acknowledge that visibility would be restricted to considerably less than the normal standard for an estate road, but in mitigation vehicle speeds are low on Church Lane, notwithstanding its slope, and I have no evidence to indicate that it has a poor accident record. There is also an existing access at this point to Peacocks which is in regular use.
54. I understand the concerns expressed about highway safety, particularly given the shared nature of the lane. However, having regard to the factors described above, and to the lack of objection from the Highway Authority, In my judgement the geometry of the proposed access point is so deficient as to result in a highway hazard.
55. Concern was also raised at possible congestion. While the development would result in additional vehicle movements these would not exceed the capacity of the lane, even in its busiest periods. The argument that increased vehicle movements along the lane would inevitably result in an increased risk to highway safety is not borne out by any evidence.
56. I conclude that the development would not have a harmful impact on highway safety or cause congestion and would therefore comply with Policy DP21 of the Mid Sussex District Plan which requires new schemes to protect the safety of road users.

⁶ Submission by Motion on behalf of Save our Sledging Field Group, 2019.

Conclusion

57. Paragraph 172 of the Framework advises that great weight should be given to conserving and enhancing landscape and scenic beauty in areas of outstanding natural beauty.
58. I also attach great weight to the conservation of the Horsted Keynes Conservation Area, its setting and the settings of St Giles Church, Timbers/Splinters and High Trees/3 Church Cottages in accordance with paragraph 193 of the Framework. This great weight is applied irrespective of the harm being less than substantial to the significance of these heritage assets.
59. The harm to the landscape and heritage assets also causes the scheme to conflict with Policy DP6 of the Mid Sussex District Plan. The site would not therefore be suitable for the development because it would conflict with the environmental aim of sustainability. I attach medium weight to this conflict with the policy.
60. Other issues relating to the nature conservation interest of Ashdown Forest and demands on infrastructure, subject to the obligations contained in the Section 106 legal agreement, would have a neutral weight in the appeal in so far as they would satisfactorily mitigate additional demands arising from the development. I also attach neutral weight to the lack of harm to highway safety.
61. Notwithstanding my conclusions on the 5 year housing land supply and Housing Delivery Test result, I acknowledge that the provision of additional housing is of benefit in helping to meet housing demand. The provision in the legal agreement securing affordable housing is also a benefit of the scheme. I accord these benefits modest positive weight in my decision.
62. Taking these considerations together, the great weight attached to the harm to landscape and heritage assets and the lesser but still harmful weight attached to the unsuitability of the site for development significantly outweigh the modest benefits that would accrue from the appeal scheme. The proposed development would therefore conflict with the development plan when taken as a whole.
63. Paragraph 11 of the Framework advises that where policies which are the most important for determining the application are out-of-date, permission should be granted unless, amongst other criteria, the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.
64. In this case I have found that the housing policies in the development plan are not out-of-date and therefore carry full weight. In any event, were I to accept the appellant's argument regarding a lack of 5 year housing land supply, paragraph 11 of the Framework would not be engaged as the policies in the Framework that protect the landscape qualities of the High Weald Area of Outstanding Natural Beauty, and the Grade I and Grade II listed heritage assets, provide a clear reason for refusing the development proposed. In either case, the presumption in favour of sustainable development contained within paragraph 11 of the Framework is not therefore triggered.
65. For these reasons I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR

Appearances

FOR THE APPELLANT:

Duncan Parr BA DipTP DipUP MRTPI Director, Rapleys LLP

FOR THE LOCAL PLANNING AUTHORITY:

Andy Watt BSc (Hons) MTPL MRTPI Senior Planning Officer

Virginia Pullan BA MA CMLI County Landscape Architect

Alice Henstock BA MRTPI Principal Planning Officer

Emily Wade MA MSc Conservation Officer

Paul Brown District Councillor for High Weald Ward

FOR HORSTED KEYNES PARISH COUNCIL:

David Colville Chairman and Parish Councillor

Sarah Webster Parish Councillor

FOR SAVE OUR SLEDGING FIELD ACTION GROUP:

Phil Miles Local resident

Bettina Kirkham DipTP BLD CMLI Kirkham Landscape Planning Ltd

Sam Jackson BSc (Hons) PG Dip MRICS IHBC The Built Heritage Consultancy Ltd

Phil Bell BEng CMILT MCIHT Managing Director, Motion

INTERESTED PERSONS:

Claire Tester MSc MRTPI Planning Advisor, High Weald AONB Partnership

Brian Oliver Local resident

Paul French Local resident

Lynne Mulcare St Giles CE Primary School

Documents received during the Hearing

Appeal decisions APP/Q3305/A/14/2221776 and 2224073

Appeal decision APP/T3725/W/15/3134611

Documents received following the Hearing

Copy of Section 106 Agreement signed and dated 3 February 2021