



Appeal Decision

Hearing (Virtual) Held on 13 and 14 April 2021

Site Visit made on 14 April 2021

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2021

Appeal Ref: APP/D3830/W/20/3251365

Tilgate Forest Lodge, Brighton Road, Pease Pottage RH11 9AF

- 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 Country Court Care and Somerston Development Projects Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/19/2765, dated 5 July 2019, was refused by notice dated 7 November 2019.
 - The development proposed is a 70 bedroom care home (Use Class C2) arranged over two storeys (and ancillary accommodation within the roof space) together with associated communal spaces, back of house and service areas, car and cycle parking, landscaping and planting. Erection of clubhouse building and new access point onto Brighton Road (B2114).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the Hearing the main parties agreed that the Council's description of the proposed development is more comprehensive. I have used this in the banner heading above.
3. In advance of the Hearing, the appellant submitted a response to the Council's comments on the appellant's assessment of alternative sites for the proposed development¹. At the Hearing the Council confirmed that it had been able to consider this document and did not object to its submission. I have considered the appeal on this basis.
4. After the Hearing closed, the appellant submitted an executed planning obligation in the form of a legal agreement². I deal with the planning obligation in 'other matters' below.

Main Issues

5. Including in light of what I heard at the Hearing, the main issues are:
 - whether the proposed development would be in an accessible location, giving a genuine choice for travel by modes other than the private car;

¹ Appellant's 'Assessment of Alternative Sites - Response to Local Planning Authority Statement'

² Town and Country Planning Act 1990 – section 106

- its effect on the character and appearance of the area, having particular regard to the High Weald Area of Outstanding Natural Beauty (AONB); and
- whether there is a need for C2 registered care home bedspaces.

Reasons

Accessible location, travel by modes other than the private car

6. The appeal site is located on the east side of the A23 and B2114 roads. It is outside of the defined settlement boundaries for Pease Pottage (which is about 0.7km to the north) and Handcross (which is about 1.3km to the south), in the countryside.
7. At the Hearing the appellant stated that residents of the proposed care home (the care home) would be mainly aged over 65 and the average age in other Country Court Care homes is 80, with a low level of car ownership due to frailty and reduced mobility. Moreover, the care home would be a largely self-contained living environment and meet most resident's day-to-day needs. This was accepted by the Council at the Hearing and I have no reason to disagree. It seems to me unlikely that there would therefore be a significant need or demand for residents to independently travel from the care home, including to local services at Pease Pottage or Handcross. However, the care home would have a significant number of residents (up to 70), thus potential visitors, and likely approximately 47 staff in total, in a day and night shift with up to 18 staff on-site at one time.
8. Staff and visitors would use the B2114 road which has a pavement, some nearby bus stops and is part of National Cycle Route 20. Showers, secure cycle parking and changing facilities/lockers would encourage cycling and walking, assuming staff or visitors lived within a requisite reasonable distance. However, both modes of travel would be less suitable for visitors with frail residents for trips or outings and inclement weather could also reduce their attractiveness. I walked to and from Pease Pottage (by two routes) and Handcross. It is possible that some visitors or staff could walk to the care home, though Handcross is significantly further away and as a result walking would be less attractive in this direction. In addition, while there are street lights along the A23 there are none along most of the B2114 road, which in places deviates from the A23. Walking would also therefore be less attractive in winter months during hours of darkness for reason of personal safety.
9. The appellant would seek to recruit staff from the local area including Pease Pottage and Handcross, where new housing development has recently taken place or is under construction, and Crawley. Some visitors may also live in the same local area. However, this is not certain and, in any event, the relatively small size of Pease Pottage and Handcross is in particular unlikely to account for a significant number of staff or visitors, let alone who may choose to walk or cycle.
10. Some staff and visitors who live further away might have easy access to bus services using the B2114 road that operate between Crawley and Brighton. I saw that the southbound 'Tilgate Forest Row' bus stop is conveniently within a few minutes walk of the appeal site and northbound, the 'The Stables' stop is only slightly further away and includes a small shelter to take cover during inclement weather. The B2114 road was busy with reasonably fast moving

traffic but visibility is good in both directions for crossing the road. However, both bus stops mainly rely on light spill from the A23 and are therefore likely not well lit during hours of darkness. This factor, and the lack of a shelter in one direction, would reduce the attractiveness of this mode of travel for staff and visitors.

11. Notwithstanding the above, the most up-to-date timetables³ indicate that the arrival and departure times of buses at both stops would not anyway be convenient for the care home staff shift patterns and working hours that are before me in evidence in this appeal. Consequently, a majority of staff would either arrive at work inordinately early, or too late, or would have an unduly unsociable wait to go home. This would therefore be a significant deterrent to bus use and substantially reduce the attractiveness of this mode of travel for staff. At the Hearing the appellant agreed that this was 'not necessarily a good fit'. I appreciate that there might be some flexibility insofar as working hours could be changed by the appellant, including perhaps to better align with the bus services, and that bus frequency and timetables could change. However, in this appeal there is no certainty in these regards or, as the appellant agreed at the Hearing, any suitable mechanism before me to ensure an acceptable coincidence of bus services to meet staff needs in this regard.
12. I accept that some visitors could arrange journeys around the available bus services. Nonetheless, the more limited times or frequency of buses during evenings and at weekends, when visits are likely to be more prevalent, would be less convenient and as a result be a significant deterrent to bus use by visitors. Moreover, a bus is less likely to be suitable for visitors with frail residents for trips or outings. Accordingly, these considerations would reduce the attractiveness of this mode of travel for visitors.
13. The appellant's Travel Plan⁴ seeks to promote walking, cycling, public transport and car sharing⁵. I also recognise that the location of the appeal site in a rural area means that it is not possible to 'maximise' sustainable transport solutions⁶. However, for the reasons given above, the Travel Plan would have a more limited practical effect in this particular case, especially with regard to buses. In addition, there is no compelling comparative objective evidence before me to suggest a likely take-up of staff car sharing, for example as may occur at other Country Court Care homes. Moreover, the Framework fundamentally seeks to 'manage patterns of growth' including that 'significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes'⁷. This is in essence reflected in the Council's adopted settlement hierarchy⁸ and defined settlement boundaries which otherwise support sustainable communities.
14. The Council has previously granted planning permissions for development at Woodhurst Lodge, near the appeal site on the west side of the A23, including a 10 bed care home for young people. However, on the evidence before me, including what I heard at the Hearing, the level of car parking (and travel by car) accepted by the Council in that case was informed by the significantly

³ Effective from 16 January 2021, submitted as part of the Council's appeal statement

⁴ Prepared by PEP, June 2019

⁵ Framework paragraph 102 (c) and 108 (a)

⁶ Framework paragraph 103

⁷ Framework paragraph 103

⁸ MSDP Policy DP6

larger quantum of proposed development, including a substantial amount of floorspace that already existed, as well as the nature of the main proposed use for typical NHS healthcare services. It can therefore be distinguished from the circumstances of the current appeal in these regards.

15. I find that while there would not be any significant need for residents to travel to local services, there would be a heavy reliance on the private car for travel by staff and visitors to the care home. The appeal proposal would not be within an accessible location, giving a genuine choice for travel by modes other than the private car. It would not accord with Policy DP21 of the Mid Sussex District Plan, March 2018 (MSDP). This policy includes that development should be sustainably located to minimise the need to travel and so that appropriate opportunities for increased use of alternative means of transport to the car, such as walking, cycling and public transport, can be taken up. It would also conflict with Framework paragraphs 102(b), 103 and 108(a). These include that development should ensure appropriate opportunities to promote sustainable transport modes can be taken up, given the type of development, its scale and location.

Character and appearance of the area and the AONB

16. The appeal site is in the countryside and the AONB. In the AONB the Framework states that 'great weight should be given to conserving and enhancing landscape and scenic beauty' and that the 'conservation and enhancement of wildlife and cultural heritage are important considerations'⁹. The Framework also indicates that the 'scale and extent' of development within the AONB should be 'limited' and that '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'¹⁰.
17. The appeal site has mostly tall, mature tree and hedgerow planting along most of its boundaries, including some evergreen species. On the east side of the A23 and B2114 roads there are some residential and agricultural buildings, and some used by small businesses, next to or near the appeal site. Development further to the north leads towards Pease Pottage while the countryside to the east, and further south to Handcross, is largely undeveloped. The care home building would have a C-shaped floorplan and be mainly two storeys in height with a mansard style flat roof, a single storey flat roof wing at either end and a smaller protuberance behind. The access road would divide within the appeal site towards a drop off and servicing area on one side of the building and a car park on another side. The rest of the appeal site would be landscaped, including for incidental outdoor use.
18. A range of viewpoints were identified in evidence, and referred to at the Hearing, which I was able to see at my site visit. In some places the appeal site boundary trees, understory planting and hedgerows are lower, less dense or include gaps. The development, including activity on the appeal site, would therefore be seen in some short distance views from the private tracks on the north and south sides of the appeal site, including at the proposed 'maintenance access gate', and also from some of the adjoining residential properties. The proposed landscaping would in time reduce the extent of such views but would not render the development imperceptible to the occupiers of

⁹ Framework paragraph 172

¹⁰ Framework paragraph 172

these properties or to visitors due to its close proximity and, at night time, the influence of external lighting (though the extent of light spill, if any, might depend on the nature and details of such lighting). I consider that there would therefore be a limited and very localised adverse visual effect in these semi-public views.

19. The denser and taller west boundary planting that extends in depth into the appeal site would screen the development in short distance public views from the pavement along the B2114 road. The new access would create a reasonably narrow gap in this planting and as such views of the development from the pavement at this point would be partial and glimpsed in nature. There would therefore be a limited and very localised adverse visual effect in this public view. In longer distance public views, I saw that the existing boundary planting on the appeal site, in conjunction with other similar planting either side to the north and south, forms an extensive belt of branches and foliage. While a general aura of external lighting might be noticeable on the appeal site during hours of darkness, this would be seen in the context of the nearby A23 street lighting. Consequently, the development would not be unduly conspicuous or prominent in these public views, even in winter months.
20. However, the absence of any more significant public visibility does not mean the absence of material planning harm with regard to landscape character. On the evidence before me, and from what I heard at the Hearing and saw at my site visit, the appeal site is located within a part of the AONB that generally reflects a sparse, dispersed settlement pattern. There is also some scattered, mainly small-scale, residential properties and some farmsteads, including some larger scale agricultural (or originally agricultural) buildings. Some of these are historic or traditional rural buildings and most, including their size and use, are not unusual or unexpected in the countryside and in this rural landscape.
21. The appeal site is a reasonably small irregularly shaped field of rough pasture enclosed on all sides by hedgerow, tall in places, and a wooded shaw or belt of trees on three sides. Moreover, the appellant's aerial photograph¹¹ shows the considerable extent of woodland to the north and south of the appeal site and a broadly similar arrangement of nearby fields and surrounding woodland elsewhere on the east side of the A23 and B2114 roads. This is legible and locally distinctive and, in my view, I agree with the Council that it suggests some provenance with an historic assart field pattern. Furthermore, the undeveloped internal nature of the appeal site, contained and enclosed by trees and hedgerow, conveys a palpable sense of intimate seclusion as a smaller-scale component of the surrounding countryside. Despite the presence of some background road noise, mainly towards the western boundary, there is also a tangible sense of remoteness and some tranquillity within the appeal site.
22. The appeal site and its immediate surroundings therefore exhibit a number of the key characteristics of the AONB, as also informed by the individual landscape character areas (LCAs) or landscape studies that cover this part of the AONB¹².

¹¹ Landscape and Visual Statement prepared by FPRC Environment and Design Ltd, April 2020

¹² Key characteristics, issues, sensitivities and guidelines are conveniently summarised in Appendix 5 of the Appellants' Landscape and Visual Assessment (LVA) Part 1 Baseline and Sensitivity and these areas are shown on plan L1 in LVA Appendix 1

23. The overall extent, scale and massing of the proposed building on the appeal site, and its use as a reasonably large 70 bed care home, would in-fill a large part of the central area of the appeal site, including in places reasonably close to boundary trees and hedgerow. In addition, the access road, car parking and other hard surfaces would occupy a significant proportion of the remainder of the appeal site. The appeal proposal would therefore be at odds with most of the development nearby; which is either significantly smaller in footprint, scale and massing or extent of ground coverage (eg The Gate Lodge and New Cottages, Cedar Cottage and Tilgate Forest Lodge), or not so contained or fully enclosed by boundary planting such that some buildings face onto, or towards, larger open fields (eg Home Farm, Rose Cottage, Stable Cottage and The Coach House).
24. Consequently, even if the appeal site was not originally formed by tree or woodland clearance (ie it is not an assart field) the development would nonetheless unduly erode the openness of the appeal site and be an unexpected and incongruous intervention in this part of the AONB, at odds with its key defining characteristics. Even based on the appellant's 'medium to high' baseline assessment of landscape value and overall sensitivity of landscape character¹³, in my judgement, the overall magnitude and nature of effect on the landscape character of the appeal site¹⁴ would therefore be 'major adverse' and result in an 'important' adverse impact on the landscape character of the appeal site.
25. I accept that the development would affect a small part of the AONB and have a 'very localised effect'¹⁵. It would also be possible to manage existing planting on the appeal site and enhance it with new planting. However, individual pockets of undeveloped fields enclosed by woodland, such as the appeal site, are valuable in maintaining the overall landscape character and appearance of the AONB and its loss would also add to the potential cumulative erosion of such features. The appeal proposal would therefore cause unacceptable intrinsic harm and as a result unduly erode the integrity of landscape character in the AONB. Furthermore, it would compound existing pressures for urban development in the AONB and be manifestly at odds with what the Council seeks to achieve with regard to the landscape character and appearance of the AONB. Accordingly, in my judgement the overall magnitude and nature of effect on this landscape character of the AONB¹⁶ would be 'major adverse' and result in an 'important' adverse impact on the landscape character of the AONB.
26. At my site visit I saw that the countryside on the west side of the A23, in the vicinity of the appeal site, is generally larger fields divided by rows of trees or hedgerow. It is therefore a noticeably more open and expansive landscape, seen against a wide visual horizon and the sky in most directions and in contrast to the tighter, more contained, enclosed and wooded nature of the landscape on the east side of the A23. Moreover, while Woodhurst Lodge is a large building and has a noticeable visual presence, it is a pre-existing building of some historic or cultural provenance, originally as a country residence. Its status as previously developed land was a significant consideration in the Council's decision to grant planning permission for further development,

¹³ LVA Appendix 5, Part 1 'Baseline and Sensitivity'

¹⁴ LVA Appendix 5, Part 2 'Description of Change, Magnitude and Importance'

¹⁵ LVA Appendix 5, Part 2 'Description of Change, Magnitude and Importance'

¹⁶ LVA Appendix 5, Part 2 'Description of Change, Magnitude and Importance'

- including extensions to this building, whereas the appeal site is a greenfield site. Furthermore, due to intervening natural and man-made features, there would be no meaningful visual or spatial relationship between Woodhurst Lodge and the proposed development on the appeal site and while it is reasonably close, it is nonetheless in a distinctly different landscape and part of the AONB.
27. While I find that the proposed development would have a limited and very localised adverse visual affect on the AONB, it would nonetheless have a harmful urbanising impact on the rural landscape character and appearance of the area and fail to conserve or enhance the landscape and scenic beauty of the AONB or conserve or enhance its wildlife or cultural heritage.
28. Despite its modest height to eaves and ridge, the relatively large single floorplan, floorspace (approximately 3,700m²) and volume of the proposed building would extrude across the main central part of the appeal site. It would be a building of appreciable extent, scale and massing taking up a significant proportion of the 1.5 hectare appeal site for a reasonably large care home for 70 units of accommodation. Moreover, while its architecture and external appearance would have some commonality with residential flats, the overall form of the building in its immediate setting, and related activity within that setting, would nonetheless be for the purpose of a care home. In my judgement, it would convey the overriding impression of a large scale and institutional style building, at odds with its setting in terms of the prevailing pattern and nature of existing development nearby and cause a significant adverse impact on landscape character and a purpose for which the AONB has been designated.
29. Consequently, while I accept that the development would not be of a district wide 'strategic scale', it would also not be limited in scale and extent or 'of a nature... commonplace within the AONB', as the appellant suggests. Having regard to Framework paragraph 172 footnote 55, I consider it would be major development in the AONB.
30. It would not accord with MSDP Policies DP12 and DP16 or with Policy 1 of the Slaugham Neighbourhood Plan, June 2019. These policies broadly seek to ensure that the countryside is protected in recognition of its intrinsic character and beauty and that development should maintain or enhance the quality of the rural landscape character and conserve or enhance the natural beauty of the AONB, including with regard to identified landscape features or components, character and local distinctiveness, settlement pattern and sense of place and the conservation of cultural heritage. It would also conflict with Framework paragraphs 170(a) and (b) and 172. These include that development should enhance the natural environment, protect and enhance valued landscapes, conserve and enhance landscape and scenic beauty in the AONB and recognise the intrinsic character and beauty of the countryside.

Need for C2 registered care home bedspaces

31. The appellant has promoted the appeal site as a potential site allocation for the care home in the Council's emerging Site Allocations Development Plan Document (SAD). Meantime, the appellant contends that there is a 'significant' need for the development 'now'. The Council's most up-to-date assessment of the need for older persons living accommodation and care in the district is contained in the Housing and Economic Development Needs Assessment Addendum, August 2016 (HEDNA). At the Hearing the main parties agreed that

- the appeal proposal should be considered against the overall C2 registered care need in the HEDNA (ie 'residential care' plus 'nursing care'). I have no reason to differ.
32. The HEDNA informed the examination of the MSDP and it states that after accounting for supply as at 2014, there would be a demand (ie unmet need) of 762 C2 registered care bedspaces (bedspaces) by the end of the MSDP plan period in 2031. The Council's evidence¹⁷ also shows a potential provision of 83 bedspaces since 2014. On this basis, demand in the district by 2031 would be 679 bedspaces. At the Hearing the main parties agreed that extrapolating as a straight line between the HEDNA demand for 1,452 bedspaces in 2014 and 2,442 bedspaces in 2031 indicates a demand for 1,852 bedspaces in 2021. The MSDP does not make any site allocations for C2 registered care home development. Instead, MSDP Policy DP30 facilitates provision on suitable sites by the development management process; or, if necessary, the Council will consider allocating additional sites for C2 development in the SAD¹⁸. The Council's approach in this regard is supported by Planning Practice Guidance (PPG)¹⁹ and was found to be 'sound' relatively recently by the MSDP examination Inspector.
 33. The appellant's need assessment report²⁰ (NAR) uses a market catchment area (MCA). The MCA is centred on the appeal site extending to an average distance travelled by residents moving into a care home elsewhere of an equivalent nature to the appeal proposal. I accept that the MCA may be distorted by other factors, such as travel distances that visitors may be prepared to endure, but I have no reason to doubt the general voracity of this evidence or the methodology used by the appellant and, in this regard, it is not 'arbitrary', as the Council suggests; moreover, at the Hearing both main parties agreed that both respective assessments of need were material considerations. Given that the appeal site is located near the edge of the Council's district, the MCA includes parts of Horsham District Council (HDC) and Crawley Borough Council (CBC) administrative areas which are not in the AONB.
 34. The NAR states that in 2021 there would be a net need for 116 bedspaces in the MCA, after accounting for current supply and assuming all planned supply is developed. Excluding potential supply not yet granted planning permission or under construction, the level of need in the MCA in 2021 could be as high as 371 bedspaces. Moreover, I note that the appellant also suggests an additional need for 63 specialist dementia bedspaces in 2021. The main parties agree that a significant proportion of care home need in the MCA is generated outside of the Council's district, which otherwise accounts for 206 bedspaces and about 16% of the overall need²¹. At the Hearing the main parties agreed that after accounting for planned supply in the part of the Council's district in the MCA (151 bedspaces) the net need in 2021 would be 50 to 55 bedspaces in the MCA in this part of the Council's district within the AONB.
 35. The NAR provides two forecasts of need, though I note that the appellant concedes that an 'upper' forecast of 595 bedspaces required by 2031 is based on a 'somewhat unrealistic assumption'. Nonetheless, and even taking into

¹⁷ Appeal Statement, Table 3

¹⁸ The SAD currently seeks to allocate a housing site for 550 residential units to include a component of C2 use, albeit the quantum of C2 use is unspecified

¹⁹ PPG paragraphs ID: 63-006-20190626, ID: 63-012-20190626 and ID: 63-013-20190626

²⁰ Prepared by Carterwood, January 2020

²¹ Statement of Common Ground – Table 4, page 23

consideration that future need may increasingly be met by other forms of specialised housing and care for older persons (and assuming a 50% shift to these other forms of provision) the NAR indicates that by 2031 there would be a 'lower' forecast need for 356 bedspaces in the MCA. At the Hearing the main parties agreed that the net need in the part of the Council's district in the MCA would be 87 bedspaces in 2026 increasing to 135 bedspaces by 2031.

36. I accept that the demand (or need) and supply of bedspaces at any point in time may be affected by change in other external factors, such as the availability of alternative sites. The appellant has carried out a detailed review of potential alternative suitably sized sites in the MCA outside of the AONB, including development plan provisions in HDC and CBC and an extended catchment area²², also taking into account potential constraints to development.
37. At the Hearing the appellant agreed that it had considered potential additional supply in the extended catchment area, but not need; though it seems to me a moot point in my decision, since any change in need could go either way and be higher or lower. I also accept that some sites included within the appellant's analysis have been assessed by the Council (and by HDC and CBC) for 'housing' potential. As was established at the Hearing, the Council did not specifically invite interest for care homes or some sites were promoted only for housing. Nonetheless, the appeal proposal would provide a form of housing and, on the evidence before me, I am satisfied that in this appeal there is no certainty that the alternative sites would make a meaningful contribution to meeting the need that I have referred to above now, or in the immediate future.
38. Demand is also likely to be influenced by market trends, the perceptions or interests of developers (including delivery rates) and most recently, the effect of the Covid-19 pandemic. I also acknowledge that not all of the Council's or the appellant's predicted need in 2031 must be met now and could be met gradually over the remaining plan period, including under the Council's existing MSDP and emerging SAD development plan strategies, and that the Council could seek to take necessary action through the MSDP and the development management process to address any apparent shortfall by 2031, which is still a significant time away, or in annual delivery rates.
39. However, the actual level of provision that needs to be made by the Council for C2 registered care homes in the emerging SAD in the period to 2031, including whether it is necessary or appropriate for the Council to allocate sites for such development in the AONB, or elsewhere in its district, including to meet any unmet objectively assessed needs of other Council's for such development²³ (and the stage of existing or emerging development plans and progress reached by those Councils in meeting such need), are matters to be determined through the plan-making process and examination of the SAD.
40. Nonetheless, meantime, I note that the proposed development is not a speculative proposal. The appellant is a developer and provider of C2 registered care homes and, on the evidence before me, intends to build and operate the appeal proposal. Moreover, assuming reasonable 'lead in' times for construction

²² In response to the Council's concerns that the original catchment was too narrowly defined, thus excluded some potential alternative sites

²³ PPG paragraph ID: 8-041-20190721

and opening, I find that the provision of 70 bedspaces would make a timely and meaningful contribution to C2 registered care bedspace need in this appeal now, or in the immediate future; whether in the context of the Council's current and forecast HEDNA district need, or the appellant's current or forecast MCA need, including specifically that part of the MCA within the Council's district.

41. While the main parties agree that the Council has a 5-year housing land supply, and there is no evidence before me to suggest otherwise, the development would nevertheless be aligned with the Government's objectives to 'significantly boost' the supply of homes and meet the needs of groups with specific housing requirements, such as older people where the need to provide housing is 'critical'²⁴. Accordingly, I consider that this would be a significant public benefit of the appeal proposal. It would accord with MSDP Policy DP30. Amongst other things, this policy seeks to meet current and future suitable accommodation needs of different people in the community, including older people. It would also be consistent with Framework paragraphs 59 and 61.

Other Matters

42. The planning obligation would secure financial contributions to improve library services at Haywards Heath and for traffic calming improvements within the Parish of Slaugham, where the appeal site is located. The main parties agree that this would satisfy the Council's infrastructure requirements and overcome the Council's reason for refusal No 2, such that the development would accord with MSDP Policy DP20. The delivery of this infrastructure would be aligned with the Government's objectives to ensure that facilities and services are retained and developed for communities²⁵ and to mitigate impacts on highway safety²⁶.
43. I have been provided with the Council's detailed calculation methodology and written justification for its requirements²⁷. I am therefore satisfied that the planning obligation would mitigate the impact of otherwise unacceptable development in these regards and make it acceptable in planning terms²⁸. Accordingly, it is necessary, related directly to the development and fairly related in scale and kind. As such it would accord with the provisions of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and the tests for planning obligations set out in Framework paragraph 56.
44. The appeal proposal would also provide employment during the construction and operational stages of the development and have a positive impact on the local economy. Commensurate with the scale of the proposed development, these would be modest social and environmental public benefits of the appeal proposal.
45. The proposed level of car parking would be satisfactory and the appellant's mitigation and compensation measures would avoid significant harm to biodiversity and deliver net gains in this regard. The contemporary architectural design and complementary external materials would be

²⁴ Framework paragraphs 59 and 61 and PPG Housing for Older and Disabled People

²⁵ Framework paragraph 92 (d)

²⁶ Framework paragraph 108 (c)

²⁷ MSDP Policy DP20, Development Infrastructure and Contributions Supplementary Planning Document, July 2018, West Sussex County Council (WSCC) consultation 23 August 2019 and WSCC Written CIL Justification, 8 February 2021

²⁸ Framework paragraph 54 and PPG Paragraph: 002 Reference ID: 23b-002-20190901

acceptable. I note that the Council did not object to the development for any of these reasons. The absence of harm in these regards is a neutral factor in my decision.

46. Some interested parties objected for reason of the new access, increased traffic, surface water drainage, loss of trees subject to a Tree Preservation Order (TPO), impact on wildlife and noise and disturbance to the occupiers of nearby residential properties.
47. While there are two existing vehicular accesses either side of the appeal site, and another further to the south, these serve a relatively limited amount of development with commensurate traffic generation. The B2114 road is reasonably straight as it passes the appeal site, with a pavement and grass verge. Even if it does not benefit at all from the nearby A23 street lighting, and despite that it is a reasonably busy road with relatively fast moving traffic, there would be adequate visibility sightlines and stopping sight distances, even considering the curve in the road which is further away, closer to the A23 slip road roundabout. Any overflow parking on the B2114 road would be a regulatory matter for the Council, the Highway Authority or the Police.
48. There is no substantive evidence before me to suggest that satisfactory details of a surface water drainage strategy could not be submitted to and approved by the Council using a planning condition, were I minded to allow the appeal. Whether or not any approved drainage scheme requires the use of third party land, and whether such land would be available to the appellant, would be a private matter between the respective parties.
49. Some TPO trees to be removed would include three higher value category B trees. This would be a relatively few number of trees compared to those that would be retained. The overall individual and collective amenity value of these trees would therefore be maintained and there would be replacement tree planting elsewhere on the appeal site. The appellant's Preliminary Ecological Appraisal²⁹ acknowledges that while the site has habitat with potential for use by fauna, including some protected species, these are common and widespread in West Sussex. The appraisal includes recommendations for mitigation and compensation measures.
50. There would be some relatively short term noise and disturbance on the appeal site during construction, and thereafter from the development in use. Considering the nature of the care home, I would expect a generally more sedate level of external activity and appropriate noise details for plant and equipment could be approved by the Council by a planning condition, were I minded to allow the appeal. Moreover, vehicle movements and parking would be a reasonable distance from nearby residential properties. I note that the Council and the Highway and Local Lead Flood Authorities (West Sussex County Council) did not object for any of the above reasons.
51. Increased nitrogen deposition from vehicle emissions as a consequence of the appeal proposal may result in atmospheric pollution and adverse effects on the habitat and wildlife of the Ashdown Forest, which is a Special Area of Conservation (SAC). The Council's Habitats Regulations Assessment, including screening assessment, has considered the proposed development, the likely catchment area for staff and residents and forecast trip generation. I note that

²⁹ Prepared by The Ecology Consultancy, April 2019

the main parties agree that the appeal proposal (and in combination with other development) would not have a significant effect on the SAC. In light of my findings on the main issues above, it is not necessary for me to consider this matter further.

Planning Balance and Conclusion

52. The development would not be in an accessible location and would cause harm to the character and appearance of the AONB. I attach substantial weight and great weight respectively to these considerations. The appeal proposal would not provide a suitable site for the care home in these regards.
53. The development would meet a need for older persons care accommodation. I attach appreciable weight to this consideration. It would also result in public infrastructure improvements and provide employment opportunities. I give moderate weight to these considerations.
54. The appeal proposal would not accord with the development plan overall and there are no exceptional circumstances for the proposed major development in the AONB, which would not be in the public interest. There are no material considerations which indicate that my decision should not be taken otherwise in accordance with the development plan.
55. For the reasons given above, I conclude that the appeal is unsuccessful.

Robin Buchanan

INSPECTOR

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Senior Planning Officer

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INTERESTED PARTIES:

Mr Peter Hobbs

appeal site owner