
Appeal Decision

Hearing held on 30 June & 1 July 2021

Site visit made on 8 July 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2021

Appeal Ref: APP/Z3825/W/20/3261401

Land north of Sandy Lane, Henfield, West Sussex

- 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 Mr Adams of Fairfax Acquisitions Limited against the decision of Horsham District Council.
 - The application Ref DC/20/0427, dated 28 February 2020, was refused by notice dated 29 May 2020.
 - The development proposed is 35 new dwellings, including 35% affordable housing with vehicular and pedestrian access via Dropping Holms, the provision of public open space, associated infrastructure and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline with details of access provided for consideration. Matters of layout, scale, appearance and landscaping are reserved for future approval. I have treated the submitted block plan as being indicative of the proposed layout.
3. A final draft of a unilateral undertaking (UU) was tabled for discussion at the hearing. A signed version was submitted after the event. The UU secures 37% of the new dwellings as affordable units and a financial contribution towards advertising a Traffic Regulation Order to restrict parking on Dropping Holms. It also deals with matters relating to the provision and transfer of the public open space on the site. The Council is satisfied that the UU has addressed the fourth reason for refusal in respect of affordable housing.
4. The Henfield Neighbourhood Plan 2017-2031 (HNP) was formally made on 23 June 2021. This document, which was still emerging at the point the Council issued its decision, now forms part of the development plan and I have determined the appeal on this basis.
5. Following the hearing, the Government published a revised National Planning Policy Framework ('the Framework'). The parties have had an opportunity to comment on the implications for the appeal.

6. My site visit followed a route jointly agreed between the main parties and the Campaign to Protect Rural Henfield (CPRH). I was able to make an assessment of the proposal from two residential properties in Chanctonbury View.

Main Issues

7. The main issues are:
- a) whether the proposal would conflict with the settlement strategy of the development plan;
 - b) the extent to which the Council is unable to demonstrate a five year supply of deliverable housing sites;
 - c) the effect of the proposal on the character and appearance of the area; and
 - d) the effect on the setting of nearby listed buildings and the setting of Henfield Conservation Area.

Reasons

Settlement strategy

8. The appeal site covers an area of 2.11 hectares. It lies outside of, but adjoins the defined built-up area for Henfield within the Horsham District Planning Framework (2015) (HDPF). The significance of this in policy terms needs to be understood by reference to a number of HDPF policies.
9. Policy 2 sets out the overall strategy for development within the District. Amongst other things, this policy supports the sustainable development of settlements through an appropriate scale of development which retains the existing settlement pattern over the plan period. It also seeks to manage development around the edges of existing settlements in order to prevent the merging of settlements and to protect the rural character and landscape.
10. Policy 3 is not directly relevant to this appeal, but is useful context. The policy is permissive of development within towns and villages which have defined built-up areas. This reflects the priority to locate appropriate development, including infilling, redevelopment and conversion within built-up area boundaries, with a focus on brownfield land. The supporting text explains that land outside built-up area boundaries is considered to be in the countryside and development here will be more strictly controlled.
11. Policy 4 sets out the circumstances under which development will be permitted outside of built-up area boundaries. The use of the term 'and' within the policy is a clear indicator that proposals should meet all five criteria in order to be acceptable. The first criterion stipulates that the site should adjoin an existing settlement edge and should also be allocated in the Local Plan or in a neighbourhood plan. On plain reading, the policy does not permit unallocated sites outside of built-up area boundaries. The appellant's interpretation would undermine the spatial strategy which is predicated on planned expansion of existing settlements through the Local Plan or neighbourhood planning.
12. Policy 26 seeks to protect the rural and undeveloped nature of the countryside against inappropriate development. In order to be acceptable, a proposal outside of settlement boundaries must be essential to its countryside location and it must meet one of the four criteria. Although it is suggested that the

proposal would enable the sustainable development of rural areas, there is no compelling evidence to persuade me that major housing schemes should be deemed acceptable in principle under this policy.

13. The appellant contends that the proposal would constitute a windfall site. The HDPF glossary defines such sites as those which are not specifically allocated for development in the Local Development Framework but which unexpectedly become available for development during the lifetime of a plan. The appeal site would comply with that definition as it is not allocated for development, but that in itself does not make the proposal acceptable as the development plan needs to be read as a whole. The majority of windfall housing developments will take place within settlement boundaries, whereas those that do not will need to be justified by other material considerations as departures from HDPF Policy 4.
14. In the Threats Lane decision¹ cited by the appellant the Inspector concluded that there would be a small conflict with one single element of Policy 4, in terms of the fact that the site is not allocated within the development plan or a neighbourhood plan. However, in that case it was determined that there would be no other harm. For reasons I will go on to explain, that is not the situation with the current appeal.
15. A number of other appeal decisions have been cited in support of the Council's case. I agree with the finding of the Inspector and Secretary of State in the Sandgate Nurseries² appeal that Policy 4 should be taken at face value. If a site is not allocated in a Local Plan or a neighbourhood plan, it fails the first criterion and hence the expansion of the settlement is not able to be supported by development of that site, no matter how well the site performs against the other criteria.
16. The Council is content that the proposal for 35 dwellings would be appropriate to the scale and function of Henfield. There is no dispute that the settlement has a good range of services and facilities, strong community networks and local employment provision, together with reasonable bus services. In that respect, the proposal would comply with the second criterion of HDPF Policy 4. However, the site's position outside of the built-up area boundary creates a conflict with HDPF Policies 2, 4 and 26. This is not a technical breach, as the appellant suggests, but a conflict with the plan-led settlement strategy.
17. Policy 1 of the HNP sets out a Spatial Plan for the Parish. It reaffirms the built-up area boundary and states that development proposals outside of this boundary will be supported where they conform, as appropriate to their location in the neighbourhood area, to national, HDPF and South Downs Local Plan policies in respect of development in the countryside. The explanatory text notes that the effect of the policy is to confine housing and other development proposals to within the built-up area boundaries. The HNP allocates sites for 270 dwellings but this does not include the appeal site; its approach to sites outside of the built-up area boundary is parasitic upon the HDPF. Thus, the proposal is also in conflict with the Spatial Plan within HNP Policy 1 (P1.2).

Housing land supply

18. Prior to the hearing the parties submitted a Statement of Common Ground in relation to housing land supply. This identifies the five year period to be used

¹ APP/Z3825/W/16/3150965

² APP/Z3825/W/14/3001703

for the purpose of calculating the housing land supply position as 1 April 2020 to 31 March 2025. It is common ground that for the purposes of this appeal the minimum housing requirement is 4735 dwellings, using the standard method and based on the use of a 5% buffer. The main parties disagree over the deliverable supply, with eight sites and the windfall component in dispute. The Council believes that it can demonstrate a 4.98 year supply of deliverable housing sites, whereas the appellant puts the figure lower at 4.08 years.

19. The Framework states that to be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular, it states that where a site has outline planning permission for major development or has been allocated in a development plan, it should only be considered deliverable where there is *clear evidence* [my emphasis] that housing completions will begin on site within five years.
20. The Planning Practice Guidance (PPG) explains that evidence may include current planning status (for example, on larger scale sites with outline permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions); firm progress being made towards the submission of an application; firm progress with site assessment work; or clear relevant information about site viability, ownership constraints or infrastructure provision.
21. **Kilnwood Vale** is a strategic development site, originally allocated in the West of Bewbush Joint Area Action Plan adopted by the Council and Crawley Borough Council in 2009. The site is complex and in multiple phases across two parishes. There is agreement that Phases 1-3 and 6 will deliver 750 dwellings within the five year period. The dispute relates to Phases 4 and 5 in the parish of Ruspur. These phases have outline permission as part of a much larger site. The Council anticipates that a reserved matters application will be submitted in early 2022. However, delivery of housing north of the railway line is contingent upon the discharge of a condition on the outline permission relating to a bridge. There is currently no agreement on the provision of this infrastructure and no firm timescales on when the condition will be discharged. This leads me to the view that it is premature for the Council to include 180 units within its supply.
22. **Land north of Horsham** is a strategic development site, originally allocated in the HDPF. The site has outline planning permission for 2750 dwellings across various phases and some of the key infrastructure is either in place or under construction. The Council has counted 700 units towards its five year supply figure, based upon information supplied by Legal and General with whom the authority has a positive working relationship.
23. Reserved matters approval has been granted for 193 dwellings on Reserved Matters Area (RMA) 1 and all pre-commencement conditions have been agreed. Construction is scheduled to start imminently and consequently there is no reason why this scheme cannot begin to deliver units in 2021/22. There is a current reserved matters application for 197 dwellings on RMA 2 which I understand is due to be approved soon under delegated powers. The Council is also considering a further reserved matters application for 221 dwellings on RMAs 6 and 7 and has held pre-application discussions for 178 units on Phase 1E. For the latter site there is no information from the developer on timescales

for submission of an application and I note that development of this site will be partly reliant upon construction of a link road which is yet to be approved.

24. The above phases would be built out by a minimum of four developers. Based on credible evidence of build-out rates for other sites on the edge of Horsham, it is reasonable to expect each developer to deliver 75 units per annum. The schemes on RMAs 6 and 7 would use modular construction methods and this would reduce the build-out time. Consequently, I consider that there is a realistic prospect of building out these phases within the five years, even allowing for unforeseen delays in the as yet undetermined reserved matters application. There is clear evidence to demonstrate that 611³ dwellings will be delivered in the five year period. There are uncertainties relating to the balance of the 700 units, not least because they are not yet the subject of any application, and therefore I have omitted these from the Council's supply figure.
25. The **former Novartis Site in Horsham** has outline planning permission for up to 300 dwellings which are to be built out in two phases. The site is owned by West Sussex County Council which is proposing to partner with a developer. That partner has been identified, but the legal relationship had not been formalised at the date of the hearing. Although the County Council has provided a projected timeline for development, this will be dependent upon a successful reserved matters application. Despite the aspirations of the landowner to forge ahead, I have seen no evidence of pre-application discussions and there is no other information before me to indicate that firm progress has been made towards submission of a reserved matters application. As such, it is premature to include 133 dwellings in the supply.
26. Turning now to allocations within the HNP, the appellant contends that none of the sites were deliverable at the base date as the neighbourhood plan had not been made. Notwithstanding the Inspector's comments in the Woolpit⁴ case, I can see nothing within the Framework or PPG to support the assertion that these sites cannot be included in the five year supply, if more up-to-date evidence clearly demonstrates that they will deliver within the five year period.
27. **Land north of Parsonage Farm** is allocated for 205 dwellings. The site is being promoted by a strategic land company who have an agreement with the sole landowner. The Council has supplied evidence of technical site assessment work and a viability appraisal which was carried out to support the proposed site allocation. At that stage, the promoter provided anticipated timescales for planning applications and details of its delivery record on other schemes. Whilst this demonstrates intent, I have no means of knowing whether this site will follow the same trajectory. It is possible that the site will deliver the projected 40 units within the five years, but this is by no means certain. There are hurdles to jump in terms of getting a developer on board, gaining outline and reserved matters permissions and discharging conditions. Furthermore, I am told that the outline application will be for up to 230 dwellings; there is no guarantee that this increase in numbers will be supported. There are too many unknowns and thus the information before me does not meet the bar for proving deliverability.
28. **Land east of Wantley Hill** is another HNP allocation, this time for 25 units. The site has been subject to water level and infiltration tests, and there have been some preliminary discussions with the parish council. The County Council

³ 193 + 197 + 221

⁴ APP/W3520/W/18/3194926

has been in the process of tendering for a development partner and I note the intention to submit an application by December 2021. However, until the joint venture agreement is finalised and further progress is made towards working up a scheme, the dates are only speculative. I appreciate that the site is small enough to be built out quickly towards the end of the five year period, but the information before me does not constitute clear evidence regarding delivery.

29. **Land west of Backsettown** is similar in that it is a small neighbourhood plan site which could be built out swiftly. Some master planning work has been undertaken, including a road safety audit. However, a grant of planning permission is estimated to be between 12 and 18 months away, and the evidence points to uncertainties regarding unit numbers and the form of development. A full application is anticipated due to heritage and landscape issues. Based on progress to date, there is no clear evidence that the site will deliver within the five year period. I shall therefore delete 30 dwellings from the Council's supply figure.
30. **Ravenscroft Allotments, Storrington** is an allocation for at least 35 dwellings within the Storrington, Sullington and Washington Neighbourhood Plan. This site spans the boundary with the South Downs National Park Authority. A scheme has been worked up and consulted upon through public exhibition. However, the proposal will be for more than double the number of units in the allocation. This may be contentious and could lead to difficulties in gaining permission from both local planning authorities. The Council argues that there is scope for some slippage in timescales, but this does not alter the fact that there is no clear evidence to demonstrate that the site will deliver units within the five year period.
31. The last disputed site is **Upper Beeding** where there is a neighbourhood plan allocation for around 70 dwellings on land east of Pound Lane. A substantial amount of assessment work has already been carried out in connection with previous applications at the site. These applications were either refused or withdrawn. The Council has advised that a fresh application is expected by the end of August. Notwithstanding recent pre-application discussions, I have no means of knowing whether permission will be forthcoming this time around. Furthermore, there is no detailed information before me regarding timescales for build-out. As such, clear evidence on delivery has not been provided.
32. The final supply component in dispute is **windfalls**. Paragraph 71 of the Framework states that where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.
33. The Council is relying upon a figure of 605 dwellings whereas the appellant has estimated windfall supply to be lower at 466 dwellings. The difference between the parties (139 units) lies in the contribution from major sites. Following on from a previous appeal for the site, the Council carried out an analysis of historic trends going back a further two years back to 2012 on sites of 5+ units. This additional data makes the authority's assessment more robust.
34. However, the appellant contends that for an allowance to be included for windfalls from major sites within the next three years, these schemes must already be with the Council for determination, to enable them to deliver by

31 March 2025. The allegation is that the authority has not provided any evidence to show that there are sufficient pending applications which could deliver the projected level of major windfalls. There is some substance to this argument.

35. Notwithstanding this, the Council has been conservative in its consideration of supply by omitting sites brought forward under permitted development rights. These amounted to 467 dwellings between 2014 and 2018. Although delivery has been inconsistent across this period, I have no reason to think it will not continue at broadly the same scale, especially with new permitted development rights having come into existence since 2018. This component of supply can be factored into the equation. Even if, as I suspect, the Council has over-estimated the future yield from windfalls on major sites, the contribution from permitted development schemes will comfortably make up the difference. Consequently, I have not reduced the Council's windfall figure for the purposes of this appeal.

Conclusions on housing land supply

36. Based on the above, 180 dwellings should be discounted from the Council's figures for Kilnwood Vale, 89 dwellings for land north of Horsham, 133 dwellings for the former Novartis Site and 170 for neighbourhood plan sites. This results in a supply of 4142 dwellings, which translates to approximately 4.4 years supply of deliverable housing sites, when measured against the agreed requirement of 4735 dwellings. Self-evidently, this analysis is a snapshot in time based on the evidence presented in connection with this appeal.
37. I have a degree of sympathy with the Council in relation to its neighbourhood plan sites. A number of referenda were delayed by the pandemic and some developers have held back to respect the neighbourhood planning process. The community argues that it should not be penalised for this, and I agree with that sentiment. It may well be the some of the sites make rapid progress and end up delivering units within the five year period. However, the Framework makes explicit the requirement for clear evidence to demonstrate deliverability, and therefore I have applied that strict test.

Character and appearance

38. The appeal site comprises a triangular-shaped, sloping parcel of arable land adjoining the built-up area boundary on the south-western edge of Henfield. It is bounded to the north by modern housing in Chanctonbury View, to the south by Sandy Lane and to the west by a belt of mature oak trees. The site tapers to a point at its eastern end, where it meets Dropping Holms. Beyond Sandy Lane to the south lies a horticultural nursery and a scattering of residential properties.
39. The site is well-contained in the sense that it is not visible at a distance from the surrounding countryside. It does not have the same prominence as other land along the sandstone ridge on the southern fringes of the village. Nonetheless, the land is open and undeveloped, and there are views across it from adjoining public footpaths and residential properties. Some of the views from footpaths were heavily filtered by vegetation at the time of my visit, but the site will be exposed for long periods of the year when the trees are not in leaf.
40. The site is also conspicuous when approaching from the direction of Nep Town Road, due to its position on the outside of a bend. From the corner of Mill End and Dropping Holms there is an attractive vista towards the South Downs on the horizon, with the site in the foreground and the oak trees on the field

boundary in the middle distance. This 'prominent view' is identified in paragraph 5.81 of the HNP as being worthy of preservation under Policy 10.

41. A previous application for 42 dwellings on the site was dismissed at appeal⁵. The Inspector in that case noted that the site has rural qualities that make a strong contribution to the setting of Henfield. Based on my observations at the site visit, I concur. The current proposal differs from the earlier one in that the number of dwellings has been reduced to 35. Furthermore, the indicative layout shows the houses pushed towards the western end of the site where the land is lower. The eastern part would be used as public open space. It was put to me that this would address the concerns of the last Inspector by maintaining a buffer to Dropping Holms and preserving views of the South Downs.
42. The omission of the plots nearest to Dropping Holms and concentration of built form further down the slope of the site would reduce the prominence of the development from the road relative to the previous scheme. Wire frame modelling demonstrates how the South Downs and the tops of the trees on the western boundary would be visible above the roofs of the dwellings. Despite these improvements, the proposal would urbanise the site; its character would be altered from that of an undeveloped arable field to one of a modern housing development with buildings, hardstanding and domestic paraphernalia.
43. Whilst the eastern part of the site would remain free of buildings, the internal road and engineered access onto Dropping Holms, together with the new pavements on either side of the junction, would significantly erode the rural character of the site. Notwithstanding any improvements over the previous scheme, the depth and quality of the view identified by the local community as being important would be irreparably damaged.
44. The Horsham District Landscape Character Assessment (2003) notes the existence of a harsh abrupt urban edge along the north-eastern boundary of the site. It is contended that the appeal scheme would present an opportunity to improve this interface. Additional planting within the site would help to soften views of properties in Chanctonbury View, but any benefits in this regard would be outweighed by the harm arising from the introduction of buildings onto a significant proportion of the site.
45. The application is submitted in outline. The scheme would provide additional landscaping, the principles for which are shown on the indicative block plan and details for which would be provided as part of the reserved matters. The planting would assist in screening the development from public footpaths. However, it would not address the fundamental change in the character of the site arising from the loss of openness and the introduction of urban form. This land provides a visual connection between Nep Town and the countryside and it is significant in this regard. Notwithstanding the proposal to confine the buildings to the lower end of the site, the development would read as a harmful extension of the built-up area into the countryside.
46. The Council is not contending that the site is a valued landscape within the meaning of paragraph 174 a) of the Framework. However, paragraph 174 b) of the Framework recognises the intrinsic character and beauty of the countryside. Policy 25(1) of the HDPF is consistent with national policy in seeking to protect, conserve and enhance landscape and townscape character, taking into account

⁵ APP/Z3825/W/19/3227192

individual settlement characteristics. In harming the rural setting of the village, the proposal would conflict with this policy. There is also a conflict with HNP Policy 10 (P10.3 d.) in respect of the need to protect important views.

47. One of the main underlying purposes of HDPF Policies 2, 4 and 26 is to protect the countryside and landscape of the District. Policies 32 and 33 of the HDPF seek to ensure that development integrates with its surroundings. There would be conflicts with these policies also.

Designated heritage assets

48. The appeal site is located outside of the Henfield Conservation Area but falls within the setting of this designated heritage asset. It is common ground that the settings of a number of Grade II listed buildings, namely Old Mill House, Wisteria Cottage and Rosemount Cottage, would be affected by the proposal. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision-makers to have special regard to the desirability of preserving the setting of a listed building. There is no equivalent duty for conservation areas, but the principle is established within Government policy.
49. Historically, this end of Nep Town has been associated with sand quarrying and market gardening, and there is some evidence to link the site with these activities. Nowadays, the site presents itself as an arable field – a property in the corner of the site nearest Sandy Lane and Dropping Holms having long since been demolished and the land incorporated into the field. The site contributes to the significance of the Conservation Area by maintaining a connection between Nep Town as a historic rural settlement and the worked landscape surrounding it. This link between heritage and landscape has been recognised through the erection of interpretation boards near the site for one of Henfield's heritage trails.
50. Old Mill House is the closest listed building to the appeal site and is orientated towards it. This property stands to be most affected in heritage terms by the proposed development. Although within the built-up area boundary, the dwelling retains an intimate relationship with the countryside to the south and west; this is particularly evident from Sandy Lane. Together, the three listed buildings form a distinctive group on the edge of Nep Town and these vernacular cottages are an important reminder that this is an historic settlement with rural origins.
51. The appellant explained that the current scheme had been designed in direct response to the previous appeal decision. In that case, the Inspector concluded that the proposed development of 42 dwellings would have had an urbanising effect which would reduce the legibility and understanding of Henfield and Nep Town as historic rural settlements and dilute the appreciation of the transition between the historic hamlet of Nep Town and the adjacent countryside.
52. The latest proposals show a reduction in the quantum of development to 35 dwellings and a shift in the location of built form down the slope of the site. The absence of buildings at the end closest to Dropping Holms would be an improvement, but the site access road would remain an alien urban feature. Although careful design of footways, kerbs and lighting could lessen the visual impact, the site's rural character would be significantly harmed and this would have an adverse effect on the manner in which nearby heritage assets are experienced. The setting of Old Mill House in particular would be eroded, its status as a vernacular building on the edge of countryside diminished. The

impact on the settings of other heritage assets would reduce with distance, with Rosemount Cottage being the least affected.

53. The decision notice does not reference the development plan in relation to heritage matters. Nevertheless, Policy 34 of the HDPF has been cited in the Council's evidence. This policy was found in the last appeal to be out-of-date on the grounds that it was not wholly consistent with the Framework. Inasmuch that Policy 34 seeks to protect heritage assets there is a conflict with the development plan. However, it is also necessary to apply the provisions of Framework paragraphs 200-202 which set out the most up-to-date policy tests. Paragraph 200 requires clear and convincing justification for any harm to the significance of a heritage asset and paragraph 202 requires that less than substantial harm should be balanced against the public benefits.
54. At the hearing, there was agreement amongst the parties, including CPRH, that the proposal would lead to less than substantial harm to the significance of heritage assets through changes to the site within their respective settings. The Framework does not require the impacts to be placed on a sliding scale, but the previous Inspector noted that the harm to the significance of Old Mill House would be towards the middle of the spectrum and the harm to other assets, including the Conservation Area, at the lower end of the scale. I have reached much the same conclusions in relation to the current scheme, albeit there would be a minor reduction in the degree of harm relative to the last scheme. I shall undertake the paragraph 202 balance later in my decision.

Other Matters

55. The proposed site access onto Dropping Holms would provide adequate visibility for road users and the submitted UU secures funding to advertise a Traffic Regulation Order which would prevent parking within the splays. Traffic volumes on Dropping Holms are not excessive and surveys demonstrate that vehicle flows have not increased as a result of recent housing development on West End Lane. Whilst I note the concerns of local residents, the Highway Authority is satisfied that the proposal would not result in adverse highways impacts. There is no technical evidence to lead me to a different view.
56. The site is located wholly within Flood Zone 1, but residents report problems with localised flooding. I saw evidence of this when I walked the footpath along the site's western boundary. Although layout is a reserved matter, the appeal scheme would incorporate Sustainable Drainage Systems. These would ensure that there is no increase in water run-off leaving the site.

Planning Balance

57. The failure to demonstrate a five year supply of deliverable housing sites engages paragraph 11 d) of the Framework. This states that, in circumstances such as this, permission should be granted unless 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.
58. For the reasons I have set out above, I have found that the proposal would cause less than substantial harm to the settings of the Henfield Conservation Area and nearby listed buildings. There would be a minor reduction in harm

comparative to the previous scheme but it would be harm, nonetheless. Less than substantial harm does not equate to less than substantial objection. Moreover, the Framework makes clear that any harm to the significance of a designated heritage asset should require clear and convincing justification.

59. In terms of public benefits, the proposal would deliver 35 new dwellings and it would make a modest contribution to remedying the shortfall in housing sites. The development would comply with HDPF Policy 16 by including 13 affordable homes for which there is a pressing need in the District. Bearing in mind the Government objective of significantly boosting the supply of homes, these factors attract significant positive weight in favour of the scheme.
60. The proposal would create employment during the build phase. Thereafter, it would add to the local labour supply and expenditure by new residents would provide some support for businesses in Henfield and the wider district. The Council would also receive additional revenue through the New Homes Bonus and the Community Infrastructure Levy, albeit I have no means of knowing whether these monies would benefit the residents of Henfield. The overall economic benefits would be relatively modest on a scheme of this scale and therefore I have afforded them only a small amount of weight.
61. The development would be capable of providing net ecological enhancement through the provision of new landscaping, and this attracts some limited weight in favour of the scheme. Although the appellant cites public open space as a benefit, this is intended to serve the occupants of the new dwellings and therefore it is neutral in the planning balance.
62. Applying the balance within paragraph 202 of the Framework, the public benefits would not outweigh the less than substantial harm to designated heritage assets. As such, heritage harm provides a clear reason for refusing the application and the proposal does not benefit from the presumption in favour of sustainable development set out within Framework paragraph 11.
63. Moving onto the overall planning balance, the appellant's case is predicated on the Council's housing land supply position and the Framework stipulation that the development plan policies which are most important for determining the application are out-of-date in such circumstances. In particular, it is argued that the increased levels of housing need identified through the Government's standard method and the emerging Local Plan means that the HNP was instantly out-of-date the moment it was made.
64. The housing land supply position means that I have attached limited weight to the policy conflict arising from the site's location outside of the built-up area boundary. That boundary was defined against an outdated housing need figure within Policy 15 of the HDPF. Nevertheless, development of the appeal site would run contrary to community aspirations as expressed through the HNP. To allow this appeal so soon after the neighbourhood plan is made would significantly undermine public trust and confidence in the planning system. The community has engaged positively with the Government's neighbourhood planning agenda by agreeing a quantum of development with the Council and, through local consensus, identifying housing sites that would cause the least harm to planning interests. The proposal would drive a coach and horses through this community-led process.

65. I have taken into consideration the community's stated willingness to find additional housing land as part of the emerging Local Plan, to help meet the increased housing need at district level. Although progress on the emerging plan has stalled due to the publication of a revised Framework, there would be nothing to prevent an immediate review of the HNP to consider future directions for growth. The availability of alternative, potentially less harmful, sites lends weight to my view that the harm to designated heritage assets in this case is not justified.
66. Paragraph 14 of the Framework applies in situations such as this, where paragraph 11 d) is engaged. It explains that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided that: a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made; b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement; c) the local planning authority has at least a three year supply of deliverable housing sites; and d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.
67. It is common ground that the above criteria are met. The HNP is recently made and it identifies sites for the housing numbers agreed with the Council. That the overall district-wide level of housing need has increased does not mean that its identified housing requirement has not been met. The Council can demonstrate a 4.4 year supply of deliverable housing sites and the Housing Delivery Test measurement for 2020 indicates that the authority has delivered well in excess (155%) of its housing requirement over the past three years.
68. The wording of Framework paragraph 14 is caveated with the word 'likely'. However, the expectation is that, more often than not, the conflict with a neighbourhood plan should prevail and I judge this to be the case here. The specific circumstances are such that I attach the conflict with the HNP very substantial weight. I have also given considerable weight to the adverse impacts on the character and appearance of the area and heritage assets. These impacts cannot be adequately mitigated and would be irreversible.
69. I have been referred to a recently allowed appeal for a site adjacent to the settlement boundary for Burton on the Wolds in Leicestershire⁶. There are some similarities to the current appeal, including in respect of a core strategy which dates from 2015, a very recently 'made' neighbourhood plan and the absence of a five year housing land supply. However, there was a particular set of circumstances which led to the Inspector placing reduced weight on the dwelling figure set out in the neighbourhood plan. Such circumstances do not apply here and it is common ground the HNP contains policies and allocations to meet its identified housing requirement. Whilst I have taken the Burton on the Wolds decision into account, it does not alter my findings on this case.
70. To conclude, the proposal is contrary to Policies 2, 4, 25, 26, 32, 33 and 34 of the HDPF and Policies 1 and 10 of the HNP. It conflicts with the development plan taken as a whole. Notwithstanding the absence of a five year land supply and the level of housing need, including for affordable housing, the combined harms would significantly and demonstrably outweigh the benefits. As such, there are no material considerations sufficient to justify a decision otherwise

⁶ Ref. APP/X2410/W/20/3264488

than in accordance with the development plan. The appeal scheme would not constitute sustainable development and it follows that planning permission should be refused.

Conclusion

71. For the reasons given above, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Boyle QC	Landmark Chambers
Richard Brookes BSc (Hons) Dunelm MTP(UC) IHBC MRTPI	Director, Turley Heritage & Townscape
Steven Brown BSc (Hons) DipTP MRTPI	Principal, Woolf Bond Planning LLP
Michael Kitching BSc (Hons) MSc CMILT	Director SK Transport Planning Ltd
Ian Newton BA (Hons) Dip LA CMLI	Director, Hyland Edgar Driver Landscape Architecture
Tim Rodway BSc (Hons), DipTp, Licentiate member RTPI	Director, Rodway Planning Consultancy Limited
Paul Whitby BSc MCIEEM, CEcol	Managing Director Ecology Co-op

FOR THE LOCAL PLANNING AUTHORITY:

Adrian Smith BA (Hons) MA MRTPI	Major Applications Team Leader
Tal Kleiman BA (Hons) MPlan MRTPI	Senior Planning Officer (strategic)
Sean Rix MSc IHBC	Senior Conservation Officer
Ines Watson CMLI	Senior Landscape Architect

INTERESTED PARTIES:

Steve Bailey	CPRH
Malcolm Eastwood	Chairman, Henfield Parish Council
Rob Gordon	Local Historian & Chairman Henfield Museum
Andrew Griffith	Arundel and South Downs MP
David Huskisson	Managing Director, Huskisson Brown Associates

Philip Johnson	Chairman, CPRH
Mike Morgan	District Councillor
Joshua Potts	District Councillor
Mike Russell	Chairman Sussex Ornithological Society & Chairman Henfield Birdwatch
Liz Taylor	Owner of Rosemount Cottage
Jessica Thomas-Seaton	Local resident
Jilly Wallis	Owner of Old Mill House

CORRESPONDENCE RECEIVED AFTER THE HEARING

1. Emails dated 1 and 2 July 2021 with written transcripts of oral submissions from third parties at the hearing
2. Email dated 6 July 2021 confirming the route for Inspector site visit
3. Emails from the parties dated 14 July 2021 regarding housing requirement figure
4. Email dated 15 July 2021 attaching signed UU
5. Email dated 22 July 2021 with an update on the emerging Local Plan
6. Email dated 23 July 2021 regarding witness qualifications, suggested conditions and the implications of the revised National Planning Policy Framework
7. Email dated 28 July 2021 with an update on progress with the emerging Local Plan following publication of the revised National Planning Policy Framework
8. Email dated 6 August 2021 with a consolidated list of agreed conditions