
Appeal Decisions

Site visit made on 16 August 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2021

Appeal A Ref: APP/D3830/W/20/3261500

Highbrook Sawmills, Hammingden Lane, Highbrook, Ardingly RH17 6SS

- 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 Attwood Stevens Projects against the decision of Mid Sussex District Council.
 - The application Ref DM/20/1352, dated 8 April 2020, was refused by notice dated 1 July 2020.
 - The development proposed is demolition of existing buildings, removal of plant, machinery and equipment and clearance of the site. Cessation of the use of the site as a sawmill. Erection of four detached dwellings and provision of revised access to the site, with new road and parking.
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Appeal B Ref: APP/D3830/W/20/3261501

Highbrook Sawmills, Hammingden Lane, Highbrook, Ardingly RH17 6SS

- 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 Attwood Stevens Projects against the decision of Mid Sussex District Council.
 - The application Ref DM/20/1354, dated 8 April 2020, was refused by notice dated 30 June 2020.
 - The development proposed is replacement of existing residential mobile home with new residential dwelling.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. The application under Appeal A is submitted in outline with details of access provided for consideration. All other matters are reserved for future approval. I have treated the submitted layout plan as illustrative.
4. The application under Appeal B seeks a grant of full planning permission. The plans include details of the siting and design of the dwelling.
5. Following the Council's decision, a revised National Planning Policy Framework ('the Framework') was published. The parties have had an opportunity to comment on the implications for the appeals.

Main Issues

6. The main issues common to both appeals are:
 - a) whether the site is a suitable location for housing, having regard to its accessibility to services and facilities and the development plan; and
 - b) the effect of the proposals on the character and appearance of the area, with particular reference to the location of the site within the High Weald Area of Outstanding Natural Beauty (AONB).
7. Appeal B raises the additional issue of whether the scheme includes sufficient detail to demonstrate compliance with development plan policy in respect of sustainable design and construction.

Reasons

Whether the site is a suitable location for housing

8. Highbrook Sawmills lies outside of any built-up area boundary and is therefore deemed to be in the countryside for the purposes of planning policy. Policy DP12 of the Mid Sussex District Plan 2014-2031 (MSDP) restricts development in the countryside to that which is necessary for the purposes of agriculture and where it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.
9. Policy DP15 of the MSDP states that new homes in the countryside will be permitted where special justification exists. Of the criteria set out in the policy, the only one of potential relevance is the circumstance where the proposal meets the requirements of MSDP Policy DP6 on Settlement Hierarchy. This supports the expansion of settlements outside of defined built-up area boundaries where the proposed development is for fewer than 10 dwellings. In order to comply with the policy, the site must be contiguous with an existing built-up area of the settlement and the proposal must be demonstrably sustainable, including by reference to the settlement hierarchy.
10. Highbrook is identified within Policy DP6 as a Category 5 settlement. This is the lowest tier of the hierarchy comprising those hamlets with very limited or no services. There are services and facilities available in other nearby settlements, notably Ardingly, West Hoathly and Sharpthorne. However, this would involve travelling some distance along narrow country lanes, those lanes being narrow, unlit and unsuitable for pedestrians.
11. MSDP Policy DP21 requires development to support the objectives of the West Sussex Transport Plan 2011- 2026, one of which is to provide access to services, employment and housing. The policy explains that to meet its objectives, decisions on development proposals will take account of whether the scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses. The former sawmills use on the appeal site would fall under the latter category but in my view there is no overriding reason why residential development should be deemed acceptable in this location.
12. The appellant makes reference to the case of *Braintree District Council v Secretary of State for Communities and Local Government & Ors* [2018]. This considered the meaning of the word 'isolated' in the context of Framework

paragraph 79 [as it was then] which stated that decisions should avoid the development of isolated homes in the countryside. The site is not isolated as it lies adjacent to a pair of cottages on Hammingden Lane. Nevertheless, Policy DP15 refers to countryside rather than isolation. Its provisions are broadly consistent with Framework paragraph 105 which states that the planning system should actively manage patterns of growth in support of sustainable transport objectives. In any event, paragraph 15 of the Framework reminds decision-makers that the planning system should be genuinely plan-led; this reflects the primacy of the development plan set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004.

13. The appellant contends that the proposals are small scale and minor, and that the provisions of Framework paragraph 105 do not apply. It is contended that the commercial use of the site has the potential to generate vehicle movements without any limit on the amount or type of traffic. Making accurate predictions of the likely fallback for comparison purposes is difficult. The existing buildings are of poor quality and most of the site is open, making the site unattractive to many potential occupiers. Whilst I acknowledge the fallback arguments, it does not alter the fact that residents of the development would have poor access to services and facilities, and would be dependent on the private car for most everyday trips.
14. A number of appeal decisions have been cited in support of the appellant's case. These relate to sites in other local authority areas and the circumstances will be specific to each case. However, broadly speaking the Inspectors took the view that the proposals concerned (which ranged from one to three dwellings) were not significant and that an element of car use could be tolerated. That is as may be, but I have also been presented with a recent appeal decision for West Lodge¹ which lies immediately to the north of the Highbrook Sawmills site in which the Inspector found that the site is an unsustainable location distant from significant places for employment, transport and services.
15. The West Lodge decision relates to more or less the same location as the appeal site and it was determined against the same development plan policies. Given the strong parallels, I have attached it very significant weight as a material consideration. Although I have taken into account the decisions presented by the appellant, they do not provide sufficient reason for me to reach a finding which is inconsistent with the West Lodge decision.
16. Both appeal schemes would conflict with Policy DP6 insofar as it seeks development that is sustainable by reference to the settlement hierarchy. Even if I had accepted the appellant's arguments regarding trip generation and fallback, Policy DP6 requires that the site is contiguous with an existing built up area of the settlement. Although it lies adjacent to a pair of dwellings, the site is divorced from the main part of the hamlet several hundred metres to the north and some considerable distance from the defined boundaries of Ardingly and West Hoathly and Sharpthorne.
17. Accordingly, I conclude that the proposals conflict with the spatial strategy and transport objectives out within Policies DP6, DP12, DP15 and DP21 of the MSDP.

¹ APP/D3830/W/20/3254663

Character and appearance

Appeal A

18. Highbrook Sawmills was formerly in use as a sawmill and fencing business. The site covers just under a hectare and mainly comprises rough hardstanding which at the time of my visit was being used to store an array of vehicles, machinery, caravans and containers, along with miscellaneous detritus. There is a rudimentary metal clad building towards the eastern end of the site, adjacent to a mobile home which lies within the site boundary for Appeal B.
19. There is a wooded area at the western end of the site, and numerous mature trees along the remaining three boundaries. The dense vegetation on the boundaries creates a high degree of visual containment, with public views limited to glimpses through the site entrance onto Hammingden Lane.
20. The submitted plans show a row of four large, detached dwellings facing onto an internal service road running parallel to the northern boundary. Each of the plots would contain a detached garage and an area of private driveway. A fifth dwelling is being proposed to replace the mobile home and this is the subject of a separate planning application and Appeal B.
21. The local area has a strong rural character, with Hammingden Lane flanked by a mix of woodland blocks and farmland. Existing housing along the lane is informal and sporadic. Many of the buildings have a traditional appearance and a direct relationship to the lane. The appeal scheme would be akin to a modern suburban cul-de-sac and this would be at odds with the prevailing pattern of development. The scheme would not impact upon the scenic qualities of the landscape, but it would be a visually harmful feature within the High Weald AONB.
22. It is contended that the proposed development would improve the appearance of the land. There is certainly scope for enhancement, given the dilapidated state of the employment building and the untidy condition of the site. However, I do not consider that it would be acceptable to replace one inappropriate form of development with another – particularly a residential scheme which is likely to endure long term. I acknowledge that most of the development would only be visible to those persons entering the site – in that sense the visual impacts would be localised. Furthermore, it would be possible to retain the dense tree cover along the boundaries. Nonetheless, this does not justify a discordant form of development which is out of keeping with the area.
23. MSDP Policy DP12 is consistent with the Framework in seeking to protect the countryside in recognition of its intrinsic character and beauty. Policy DP16 states that development within the AONB will only be permitted where it conserves or enhances natural beauty, including in relation to character and local distinctiveness and settlement pattern. Notwithstanding the current use of the site, the proposal would fail to respect the character and appearance of the wider area and as such it would conflict with the above policies.

Appeal B

24. This site is contiguous with the site for Appeal A, forming part of the wider commercial use. The land is currently occupied by a mobile home and a modest store/workshop type building. This area is relatively discreet, tucked behind a dense roadside hedgerow. Sporadic housing close to the road is a distinguishing feature of Hammingden Lane and the development of a single dwelling in this

location would be consistent with this character. However, if the site were developed in conjunction with Appeal A it would read as part of a residential cul-de-sac which, as I have explained above, would be wholly out of character with the rural surroundings.

25. Subject to conditions to secure high quality materials and detailing, the proposed design would be acceptable. A condition could also be used to secure a scheme of landscaping for the boundary with the remainder of the sawmills site and for the plot's frontage onto the existing access road. Considered on its merits as an individual plot, the proposal under Appeal B would not cause material harm to the character or appearance of the area. There would be no conflict with Policies DP12 and DP16 insofar as they seek to protect the intrinsic character and beauty of the countryside and scenic qualities of the AONB.

Sustainable design and construction (Appeal B)

26. Policy DP39 of the MSDP states that all proposals must incorporate, where appropriate and feasible according to the type and size of development and location, measures to improve the sustainability of the development. This includes use of renewable sources of energy and measures to minimise energy use through the design and layout of the scheme including through the use of natural lighting and ventilation.
27. In the case of an application for outline planning permission, where the design and layout of the scheme is not yet fixed, such matters can be dealt with via condition. However, for Appeal B where full details are known it is reasonable to expect the application to include sufficient information to show how compliance with Policy DP39 would be achieved. This approach is reflected in the Council's Design Guide which requires an applicant to demonstrate how their scheme responds to the need to minimise the use of resources and energy.
28. The appellant contends that the scheme would comply with Part L of the Building Regulations and considers that a strategy to maximise recycling and re-use of materials through construction and occupation and measures to limit water use could be secured by condition. However, this does not address all of the policy criteria and consideration should be given to opportunities for using renewable sources of energy. It is unclear whether such provision could be 'retro-fitted' into the scheme shown on the plans. Appeal B does not comply with MSDP Policy DP39 and this weighs against that scheme.

Other Matters

29. The appellant has provided a completed unilateral undertaking (UU) which is intended to secure a financial contribution to mitigate the adverse impact of the development on Ashdown Forest Special Protection Area and Special Area of Conservation, in line with Policy DP17 of the MSDP. The Council considers that the UU is unenforceable owing to the lack of a plan, but the appellant has indicated that this can be resolved. Had the proposal been acceptable in all other respects, I would have taken this up with the parties. Since the appeal is being dismissed there is no need for me to consider the matter further.

Planning Balance – Appeal A

30. This proposal would facilitate the redevelopment of an untidy parcel of previously developed land. However, the replacement scheme would be suburban in appearance and it would not respond to its rural context.

Notwithstanding the present condition of the site, the scheme would not represent a visual improvement.

31. The development would deliver 4 new homes and contribute to the supply of housing in the District. However, the site is poorly located in relation to services and facilities and future occupiers of the dwellings would be reliant on the private car. This runs contrary to development plan policy on the location of new housing and the environmental objective of sustainable development.
32. There is no challenge to the Council's assertion that it is able to demonstrate a five year supply of deliverable housing sites. As such, the tilted balance within paragraph 11 d) of the Framework is not engaged. The proposal conflicts with the development plan taken as a whole. I have considered all arguments put forward, but conclude that there are no material considerations to justify a decision otherwise than in accordance with the development plan.

Planning Balance – Appeal B

33. This site could be developed as an individual housing plot in the manner proposed, without detriment to the character and appearance of the area. However, the site suffers from the same locational deficiencies as Appeal A in relation to services and facilities. The appellant has argued that the dwelling would be replacing a mobile home the residential use of which has taken place for a number of years. However, the Council has refused an application for a Certificate of Lawfulness and therefore I have attached the fallback position very limited weight.
34. The proposal would conflict with the policies of the development plan in relation to the location of new housing and sustainable design and construction. The modest social and economic benefits arising from the delivery of a single dwelling would not be sufficient to outweigh the conflict with the development plan taken as a whole.

Conclusion

35. For the reasons given above, I conclude that both appeals should be dismissed.

Robert Parker

INSPECTOR