



Appeal Decision

Site visit made on 21 June 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2022

Appeal Ref: APP/Z3825/W/21/3286805

Land adjacent to The Crabtree Public House, Brighton Road, Lower Beeding, Horsham RH13 6PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr V.A.G Tregear against Horsham District Council.
 - The application Ref DC/21/1554, is dated 5 July 2021.
 - The development proposed is five passive and two affordable dwellings on the site adjacent to the Crabtree Public House.
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Decision

1. The appeal is dismissed and planning permission is refused for the development of five passive and two affordable dwellings on the site adjacent to the Crabtree Public House at Land adjacent to The Crabtree Public House, Brighton Road, Lower Beeding, Horsham RH13 6PT in accordance with the terms of the application Ref DC/21/1554, dated 5 July 2021.

Preliminary Matters

2. The description of development in the banner heading and my formal decision above is taken from the planning application form. The appellant has entered a different wording at Part E of the appeal form, describing the proposal as 'outline application for the erection of 7no dwellings with all matters reserved', but neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The application is made in outline with all matters reserved. I have had regard to the plans submitted as part of the application and note the block plan shown on drawing no. 21/67/1A which considers how the site may be developed. The block plan layout is not marked as indicative or illustrative, but from the evidence before me, both main parties have treated it as such, with the Council's appeal statement confirming that matters relating to access, layout, appearance, scale and landscaping are to be dealt with at reserved matters stage and referring to the layout plan as indicative. I have considered the appeal on the same basis.
4. The Council did not determine the planning application within the prescribed period. In response to the appeal, the Council has prepared an appeal statement outlining its view that permission should be refused. The appellant has been able to provide comments in response to the Council's statement and

the suggested reasons for refusal which I have had regard to in framing the main issues below.

Main Issues

5. The main issues are:

- i) whether or not the proposed development would provide a suitable location for housing having regard to its position within the countryside and the spatial strategy for the District;
- ii) the effect of the proposal on the character and appearance of the Crabtree Conservation Area and the landscape of the High Weald Area of Outstanding Natural Beauty;
- iii) whether or not living conditions for future occupiers of the development would be acceptable with particular regard to noise;
- iv) whether or not there would be adequate provision for foul and surface water drainage and the effect of the proposal on flood risk;
- v) the effect of the proposal on biodiversity; and
- vi) whether or not the proposal would make adequate provision for affordable housing.

Reasons

Suitability of the Location

6. Crabtree is a hamlet to the south of Lower Beeding. The appeal relates to part of a field which sits to the south of the hamlet between the Crabtree Public House and a small cluster of predominantly residential development.
7. Policies 2, 3 and 4 of the Horsham District Planning Framework 2015 ('HDPF') together set out the Council's overarching approach towards new development. They provide a settlement hierarchy which guides development generally to defined built-up areas or allocated sites in order to maintain and protect the district's rural character and distinctive settlement pattern, while meeting local needs, ensuring access to services and reducing the need to travel.
8. Policy 3 of the HDPF indicates that Crabtree is an 'unclassified settlement'; these are noted as settlements with few or no facilities or social networks and limited accessibility that are reliant on other villages and towns to meet the needs of residents. It does not have a defined built-up area boundary, and the proposed development would therefore be within the countryside in policy terms. The appellant refers to access to bus routes, bicycling and local services from the site, but facilities close to the site are relatively limited, and it seems to me that there would be likely to be at least some reliance by occupiers on private vehicles to access day to day services in the surrounding area. In any event, the site is not allocated for development within the HDPF or the emerging Lower Beeding Neighbourhood Plan 2014-2031 which steers new development generally towards allocated sites or unidentified sites within the defined built-up area of Lower Beeding. It is not therefore a location where new development is generally supported by Policies 2, 3 and 4 of the HDPF.
9. In addition, Policy 26 of the HDPF requires that any proposal for development outside of built-up area boundaries must be essential to its countryside location, and meet one of 4 criteria for development which include supporting the needs of agriculture or forestry and enabling the sustainable development

of rural areas. No substantive evidence has been submitted to demonstrate that the proposal would meet any of these criteria, nor that it is essential to its countryside location, and it would therefore be contrary to Policy 26.

10. The appeal proposes that 2 of the 7 dwellings on the site would be affordable. I have therefore had regard to Policy 17 of the HDPF which indicates that limited amounts of greenfield land may in exceptional circumstances be released for the development of affordable homes. However, I have not been provided with compelling evidence demonstrating that the proposal would meet an identified local need that could not be met elsewhere which is a requirement of Policy 17. Moreover, the greatest proportion of the dwellings would be market housing, and the absence of a mechanism to formally secure affordable housing as part of the development means that I can have no certainty that the proposal would in fact deliver any affordable homes on the site. Accordingly, I do not consider that this is a situation that would reasonably comprise an exceptional circumstance to release land for development under Policy 17 of the HDPF so as to justify a departure from the overarching spatial strategy provided for by Policies 2, 3, 4 and 26 of the HDPF.
11. For these reasons, I conclude that the development would not provide a suitable location for housing having regard to the position of the development within the countryside and the spatial strategy for the District, and it would conflict with Policies 2, 3, 4 and 26 of the HDPF. The weight to be given to the conflict with these policies is a matter that I consider further in my Planning Balance below.

Character and Appearance

12. The appeal site is located within, albeit on the edge of, the High Weald Area of Outstanding Natural Beauty ('AONB'). I have therefore had regard to Section 85 of the Countryside and Rights of Way Act 2000 which requires relevant authorities to have regard to the purposes of conserving and enhancing the natural beauty of AONBs when performing their functions. The majority of the site is also part of the Crabtree Conservation Area ('CA'), and I am therefore also mindful of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which imposes a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
13. In previous linked appeal decisions where development on the appeal site and another site on Leechpond Road were considered¹, the Inspector commented that the field which includes the appeal site *'allows open views from the A281 across towards higher ground at Steep Wood to the east and through trees across fields to the west. As such it comprises an obvious gap in built development within the settlement. The gap contributes strongly to the rural character of Crabtree and is important in appreciating its development over time and heritage significance as a conservation area. The gap is also important in appreciating the intermittent nature of development in Crabtree seen from the AONB'*. From the evidence before me, I see no reason to take a different view. Although there is development to either side of the site, I consider that the site adds to the distinctive rural character of the area, and that it makes a positive contribution to both the significance of the CA and to the landscape and scenic beauty of the AONB.

¹ Appeal refs APP/Z3825/W/20/3248183 & 3248182

14. The proposal is in outline with all matters reserved. However, the proposal for 7 dwellings together with associated parking, access and gardens would undoubtedly result in transformation of the undeveloped site to a housing site. This would be urbanising, and the indicated two-storey buildings would result in an unwelcome loss of openness. Moreover, the appellant's evidence acknowledges that Lower Beeding is a spread-out community. The submitted block plan suggests that accommodating 7 dwellings would spread development across a considerable proportion of the site, effectively resulting in the loss of the existing clear open gap between the Crabtree Public House and buildings to the south, and the coalescence of the currently separate areas of development on this part of Brighton Road.
15. I note that land levels fall generally across the site away from Brighton Road, and that vegetation to the boundaries of the site would provide some screening of the development. Even so, it was clear from my visit that the suggested two-storey dwellings would still be visible including from Brighton Road where they would intrude in the foreground of views from the CA across and into the AONB. The development would also be readily apparent from Peppersgate, and from a public footpath to the south east of the site which runs east into the AONB from Peppersgate.
16. Whether or not the dwellings would be in a Sussex village style in keeping with the immediate area and the site boundaries maintained, I find in these views as well as in views from nearby properties that the proposal would be dominant, detracting conspicuously from the open and rural character and appearance of the site and diminishing the natural beauty and rural character of the landscape that it forms part of. It would also distort the historic form of Crabtree, and erode the loose-knit dispersed pattern of groups of buildings within a rural setting which is characteristic of the area.
17. The appellant refers to an appeal decision in Apsley Guise where development was found to be limited infilling in a village, and so comprised an exception to inappropriate development in the Green Belt according to paragraph 89 (now paragraph 149) of the National Planning Policy Framework (the Framework). However, the appeal site is not within the Green Belt, and even if I were to agree with the appellant that the appeal proposal would also comprise limited infilling, the effect of development on the character and appearance of the area is an additional and different consideration to the effect on the openness and purposes of Green Belt. For the reasons above, I consider that the infilling of the site would in this case harm the character and appearance of the area, and would not complement the surrounding characteristic pattern of development.
18. The appellant has also drawn my attention to other development that has been approved locally, but there is little evidence of direct comparison with the individual circumstances of this appeal, and I have not been provided with full details of any schemes that have resulted in infilling of an existing gap of similar scale and relationship to its surrounding development as would occur here. In particular, I note comments that the Peppersgate development occupies the site of former redundant farm buildings and it is consequently distinct from the undeveloped appeal site. I have therefore reached my own conclusions on the appeal proposal on the basis of the evidence before me.
19. For these reasons, I conclude that the development would cause significant harm to the character and scenic landscape qualities of the AONB. There would

accordingly be conflict with Policies 25, 26, 30, 32 and 33 of the HDPF insofar as they together broadly seek development that protects, conserves and enhances landscape and townscape character, the natural beauty of the AONB, and the rural and undeveloped nature of the countryside; and which complements locally distinctive character and relates sympathetically to its surroundings.

20. For the same reasons, I also conclude that the character and the appearance of the CA would be adversely affected, and in my judgement this would cause less than substantial harm to the significance of the designated heritage asset in the terms of the Framework. The harm to the CA would conflict with Policy 34 of the HDPF which includes requirements that development makes a positive contribution to the character and distinctiveness of the area, and that development in conservation areas is consistent with the special character of those areas. Policy 34 is generally consistent with the Framework in seeking to conserve and enhance the historic environment. However, it does not reflect the Framework requirement to balance less than substantial harm to the significance of heritage assets against the public benefits of development. I return to this matter as part of my overall planning balance below.

Living Conditions

21. At the time of my visit, Brighton Road as it passes the appeal site was reasonably busy with a fairly constant stream of vehicles, and my impression was that these were generally travelling at or around the 40mph speed limit. The resulting vehicle noise was fairly significant, and was readily apparent for some distance into the site despite the general slope down of the site away from the road and hedging to the boundary. I therefore consider it likely that this noise could be noticeable to future occupiers of the site, particularly within the gardens and rooms served by windows that may be closest to the road. In addition, noise and activity associated with the adjacent Crabtree Public House and its car park may well be appreciable from the closest dwellings, particularly later into the evening when I would expect that general background noise levels would be lower and residents may be trying to sleep.
22. From my observations at the site, I consider that noise from the above sources has the potential to significantly detract from the living conditions of future occupiers of the development and is therefore fundamental to consideration of the acceptability of the proposal. In the absence of an objective assessment quantifying noise, the extent of any harm to the quality of life of occupiers on the site through noise is unclear, and I have little certainty that any adverse impacts could be effectively mitigated. Given these factors, I am not satisfied that it would be appropriate in this case to defer proper consideration of noise impacts to a planning condition.
23. The appellant refers to other developments along Brighton Road which have been allowed, including on appeal. However, I do not know the full details of these cases, and there is little evidence that their individual circumstances, including their relationship with potential noise sources and the relevant policy context that applied when they were permitted, are directly comparable to those of this appeal. I do not therefore find these other developments a compelling reason to allow development on the appeal site where it is unclear if suitable living conditions for future occupiers could be assured.

24. For these reasons, I am unable to conclude on this main issue that living conditions for future occupiers of the development would be acceptable in respect of noise. The proposal would therefore conflict with the aims of Policies 24 and 33 of the HDPF which, amongst other things, require that developments minimise exposure to noise.

Drainage and Flood Risk

25. The appellant indicates that there is an existing sewage treatment plant on their land serving development at Peppersgate with outflow to a watercourse on the wider estate; that there is sufficient additional land to provide further facilities; and that they own the adjacent watercourses. They advise that the proposed development would have its own dedicated foul drainage system, and that the outflow from this system and storm water would be to watercourses on the estate. However, I have limited firm details of the proposed drainage arrangements, including to show how surface water would be collected or stored on the site before discharge or details of the watercourse, and I have no substantive information demonstrating the effect of the proposal on the watercourse and its capacity to accept discharge from the site. I am accordingly unable to determine whether adequate and effective drainage could be provided at the site, and I cannot be sure that flood risk either on the site, at the watercourse, or elsewhere would not be increased.
26. While the site is in an area with a 'low probability' of river and sea flooding, the Council advise that the Environment Agency's Long-term Flood Risk Map for Surface Water shows levels of flood risk from potential surface water flooding ranging from 'very low' to 'high' on the site, and this is not disputed by the appellant. That there is already an existing identified risk of surface water flooding gives added emphasis to the need to ensure that flood risk is not further increased by development on the site. Moreover, the management of surface water in particular may have implications for the layout of development. Although layout is a reserved matter, I am unable from the submitted evidence to say with any confidence that it would be possible to provide adequate and effective drainage while accommodating the quantum of development applied for on the site. Given this uncertainty and in view of the surface water flood risk, I consider it important that sufficient information is available prior to any grant of permission to ensure that adequate and effective drainage could feasibly be achieved as part of a detailed scheme. I do not therefore find that it would be appropriate in this case to defer consideration of these matters to a planning condition or to reserved matters stage.
27. In conclusion on this main issue, I find that it has not been demonstrated that the proposal would make satisfactory provision for foul and surface water drainage, and I cannot be sure that flood risk would not be unacceptably increased. The proposal would therefore conflict with Policy 38 of the HDPF. Amongst other things, this sets out that development should be safe from flooding without increasing flood risk elsewhere, and that proposals must incorporate the use of sustainable drainage systems where technically feasible, or incorporate water management measures which reduce the risk of flooding and ensure flood risk is not increased elsewhere.

Biodiversity

28. The Council's Ecology Consultant advises that there are several priority habitats within 1km of the appeal site including deciduous woodland, and refers to a

number of records of European Protected Species within 2km of the site. At the time of my visit, the site itself was largely vegetated with hedgerows to the boundaries with Brighton Road, Peppersgate and the Crabtree Public House.

29. I consider that the nature of the site and its surroundings mean that there is a reasonable prospect that development here could affect protected species, wildlife or biodiversity that may be present. Although the proposal would directly affect only part of a wider field, that does not mean that protected species or biodiversity are absent or would not be adversely affected by the development, nor that impacts would be of minimal or no importance. Without a detailed assessment considering potential ecological constraints on the appeal site and the effects of the proposal, I have no firm basis to determine that protected species or biodiversity at or in the vicinity of the site would not be unacceptably harmed by the proposal. Similarly, while the appellant suggests that there would be scope for additional planting with native species and I note management of the wider estate area, it is not clear whether this would provide for an overall enhancement to biodiversity, and I am unable to determine that suitable and effective mitigation for any adverse effects could be achieved as part of the development. Given the significant uncertainty in relation to these matters which are fundamental to the acceptability or otherwise of development on the site, I do not consider that it would be appropriate to defer consideration to reserved matters stage or to a planning condition.
30. For these reasons, I am not satisfied that biodiversity would be suitably protected, far less enhanced as part of the proposal, and I conclude that the development would conflict with Policy 31 of the HDPF which broadly seeks protection and enhancement of biodiversity and nature conservation features.

Affordable Housing

31. On sites providing between 5 and 14 dwellings, Policy 16 of the HDPF sets out that the Council will require 20% of dwellings to be affordable, or, where on-site provision is not achievable, a financial contribution equivalent to the cost of the developer of providing the units on site.
32. The 2 proposed affordable dwellings would meet this requirement. However, I have already noted that there is no mechanism before me which would secure these dwellings as affordable.
33. Be that as it may, the HDPF pre-dates advice within the Framework indicating that provision of affordable housing should not be sought for residential developments that are not major development. This is an important material consideration, and I have not been provided with substantive evidence of local circumstances that would provide a compelling case for continued application of the requirement at Policy 16 contrary to the more recent provisions of the Framework. Indeed, the Council's evidence acknowledges the Framework advice, and comments that there is no requirement for the scheme to deliver affordable housing.
34. While the absence of a mechanism to secure affordable housing as part of the development means that the proposal would not comply with the requirements of Policy 16, I conclude in light of the Framework as a material consideration that the lack of affordable housing would not in itself be unacceptable.

Other Matters

35. The Council's eighth suggested reason for refusal concerns the effect of development on the integrity of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites which are European Sites of Nature Conservation Importance. It follows the receipt of advice from Natural England identifying that development within the Sussex North Water Supply Zone should not add to existing impacts of water abstraction on these sites, and indicating that the matter of water neutrality should be addressed in assessments for all new developments within the Sussex North Water Supply Zone.
36. European sites are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (as amended) which impose a duty on the competent authority to consider whether a proposed development may have a significant effect on the conservation objectives of such sites either alone, or in combination with other plans and projects within the framework of an Appropriate Assessment. I note the appellant's comments that no information on water neutrality had been requested by the Council, and that if requested, they could demonstrate water neutrality. However, given the harm that I identified above and that I am dismissing the appeal for other reasons, I have not pursued this matter further and sought further details from the appellant as it could not be determinative in this case.

Benefits of the Development

37. The Council accepts that it is unable to demonstrate a five year supply of housing, advising that the Annual Monitoring Report at 31 December 2021 shows a supply position of around 4 years which is slightly less than the supply position referred to by the appellant. Against this fairly significant shortfall, the proposal for 7 dwellings on the site would make a small, but nevertheless important contribution to reducing the deficit, and would advance the Government's objective outlined within the Framework to boost significantly the supply of homes from a variety of sites. I consider the delivery of housing that would help to meet local needs would attract significant weight as a public benefit of the proposal, albeit that the extent of the benefit would be very modest given the small scale of the development.
38. The proposal includes 2 affordable dwellings. However, the absence of a mechanism to secure these dwellings as affordable means that I cannot be certain that they would be delivered. I am accordingly unable to give weight to the provision of affordable housing as a further public benefit of the appeal.
39. There would be direct and indirect social and economic benefits of the development, both short-term during construction and longer-term on occupation. These would include support for local services and employment, and expenditure contributing to the local economy. However, the benefits associated with 7 dwellings would be small, and I give them modest weight. I have also noted the appellant's comments that other houses on the wider estate have high maintenance costs and that proceeds of development would go towards improvements and the maintenance of farmland and woodland which is subject to a Stewardship Agreement. However, I have no firm details to demonstrate that the development would secure delivery of these outcomes.

40. I note the appellant's suggestion that the dwellings would make use of modern construction methods and renewable technologies, and that they would meet passive house and zero carbon standards contributing towards carbon savings and reduced use of natural resources. However, there is little firm evidence to demonstrate that this would be exceptional or significantly in excess of what would otherwise be necessary to comply with the requirements of the current building regulations and development plan policies, and I give limited weight to this factor as a benefit of the scheme.
41. The appellant suggests that a path between Mill Close and the right of way to the south of the site would be fenced and cleared. Although this would offer a slightly more direct route than via Brighton Road and Peppersgate, the difference would not be large, and I do not consider the submitted evidence to demonstrate that this would constitute a significant benefit of the proposal.
42. The appellant refers to provision of zones for promoting wildlife on the site, as well as planting and management work on land within the wider landholding. However, the extent of any biodiversity net gain is not currently clear, and would depend somewhat on the detail of reserved matters in terms of the site itself. Moreover, I have found that there is insufficient evidence to demonstrate that the proposal would protect biodiversity, far less that it would result in an overall enhancement that would attract weight in favour of the proposal.
43. I have no reason to doubt that the development could be designed to ensure dwellings of suitable size to meet the needs of occupiers and that suitable living conditions for neighbouring occupiers of the site could be maintained. I also note that occupiers would have some access to local public transport links and footpaths, and connections out of Horsham to London and surrounding areas. However, I am not persuaded from the evidence before me that these represent positive benefits weighing in favour of development.

Heritage and Planning Balance

Heritage Balance

44. I have found that the proposal would cause harm to the significance of the Crabtree CA. While the harm would be 'less than substantial', the Framework outlines that great weight should be given to the conservation of designated heritage assets, and I give the harm that would be caused considerable importance and weight.
45. In this context, I do not find that the modest public benefits of the proposal are sufficient to outweigh the harm that I have identified. The development would therefore conflict with the aims of the Framework as it would fail to sustain the significance of the CA, and public benefits would not outweigh the harm.

Planning Balance

46. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise.
47. The appellant suggests that the development plan is not up to date, but in light of footnote 8 of the Framework, the policies which are most important for determining the application would in any case be deemed out-of-date given that the Council is unable to demonstrate a 5 year supply of housing. The

presumption in favour of sustainable development outlined at paragraph 11(d) of the Framework is therefore engaged, and provides that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) 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.

48. However, that does not mean that conflict with policies of the development plan should be disregarded, and weight should be given to conflict according to their degree of consistency with this Framework.
49. Given that the Council is unable to demonstrate a five year supply of housing, it is clear that the settlement strategy and built up area boundaries which Policies 2, 3, 4 and 26 are based on are not currently meeting requirements for housing. This reduces somewhat the weight that I give to the conflict with these policies on account of the location of the development within the countryside.
50. Insofar as they broadly seek to maintain and improve environmental quality, ensure suitable living conditions and to ensure that development is sympathetic to the landscape and local character, I find however that the relevant provisions of Policies 24, 25, 26, 30, 31, 32, 33 and 38 of the HDPF are generally consistent with the Framework. I therefore afford significant weight to the conflict with these policies in these terms. I have found that Policy 34 is not fully consistent with the Framework given the absence of a heritage balancing exercise. However, I have in this case concluded that the public benefits of the proposal would not outweigh the harm, and because it reflects the overall aim of the Framework to conserve and enhance the historic environment, I also afford significant weight to the conflict with Policy 34.
51. In any event, I have found that policies within the Framework that protect designated heritage assets provide a clear reason for refusing the development proposed. On this matter alone, footnote 7 of the Framework therefore makes it clear that the presumption in favour of sustainable development at paragraph 11d) would not apply. The Framework also sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues. I have found that the proposal would cause harm to the landscape and scenic beauty of the High Weald AONB contrary to this requirement, and in my view, policies within the Framework relating to AONBs provide a further clear reason for refusing the development proposed.
52. Furthermore and in addition to the harm to the landscape and scenic beauty of the High Weald AONB and the character and appearance of the Crabtree CA, it has not been demonstrated that the development would be acceptable in terms of living conditions for future occupiers, provision for foul and surface water drainage and flood risk, and biodiversity. Taken together, the adverse effects of the development attract substantial weight, and I find that they would significantly and demonstrably outweigh the modest benefits of the proposal when assessed against the policies in the Framework taken as a whole. Even if I had not found that policies within the Framework that protect designated heritage assets and AONBs would provide a clear reason for refusing the development, the proposal would not therefore benefit from the presumption in

favour of sustainable development within the Framework. Neither do I find that there are material considerations sufficient to justify a decision otherwise than in accordance with the development plan.

Conclusion

53. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations including the Framework do not indicate that a decision contrary to the development plan should be reached.

54. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR