



Appeal Decisions

Hearing Held on 31 August 2022

Site visit made on 1 September 2022

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2022

Appeal A Ref: APP/M2270/W/21/3283924

Land adjacent to Wilsley Farm, Angley Road, Wilsley Green, Cranbrook, Kent TN17 2LE

- 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 Mr Andrew Wilford of Esquire Developments against the decision of Tunbridge Wells Borough Council.
 - The application Ref 20/03816/FULL, dated 18 December 2020, was refused by notice dated 6 April 2021.
 - The development proposed is the erection of 20 No. residential dwellings with associated car parking, landscaping, sustainable urban drainage system and associated infrastructure and earthworks and a new vehicular access from Angley Road.
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Appeal B Ref: APP/M2270/W/21/3288645

Land adjacent to Wilsley Farm, Angley Road, Wilsley Green, Cranbrook, Kent TN17 2LE

- 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 Mr Andrew Wilford of Esquire Developments against the decision of Tunbridge Wells Borough Council.
 - The application Ref 21/02655/FULL, dated 2 August 2021, was refused by notice dated 27 October 2021.
 - The development proposed is the erection of 16 No. residential dwellings with associated car parking, landscaping, sustainable urban drainage system and associated infrastructure and earthworks and a new vehicular access from Angley Road.
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Decisions

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

Procedural Matters

3. There are two appeals concerning the site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated. Both proposals involve residential development but differ as to the number and mix of dwellings. The layout in appeal B contains fewer dwellings and would provide greater areas of open space.

4. The plans for each appeal are set out in the Statement of Common Ground. Some adjustments¹ to the documents listed for appeal B were agreed at the hearing to accurately reflect the drawing numbers and to include some drawings that had been omitted.
5. Legal agreements under section 106 of the Town and Country Planning Act 1990 (s106 agreement(s)) dated 7 September 2022 have been provided for each scheme. They each include obligations in respect of the provision of affordable housing as well as financial contributions towards securing an off-site net gain in biodiversity. In addition, financial contributions are included towards providing sustainable transport, primary education, youth services, waste services, recreation facilities and towards community, library and social care facilities. In respect of appeal A only, a further obligation is provided for a financial contribution towards local NHS General Practice facilities. I shall return to the s106 agreements later in this decision.
6. The Council refused the application that is the subject of appeal A on seven grounds. Reasons 3-7 were on the grounds that in the absence of a completed legal agreement, the proposal would not secure suitable provision for biodiversity net gain, sustainable transport, primary education, youth provision, waste provision, community facilities including elements of the Cranbrook Hub project and primary health care facilities. In relation to appeal B, there are six reasons for refusal on the Council's decision notice. Save for primary health care facilities, four of these correspond with similar refusal reasons for appeal A. At the hearing the Council confirmed that these matters have been satisfactorily addressed by the respective s106 agreements. Therefore, it was agreed by the main parties that as these matters are no longer in dispute, refusal reasons 3-7 for appeal A, and refusal reasons 3-6 for appeal B fall away.

Main Issues

7. In light of the above, the main issues for both appeals are:
 - The effect of the proposals on the significance of nearby Grade II listed buildings, 1-2 Wilsley Farmhouse and 1-2 Oak Cottages and the Wilsley Green Conservation Area (CA).
 - The effect of the proposals on the landscape character and appearance of the area having particular regard to the special qualities of the High Weald Area of Outstanding Natural Beauty (AONB).
 - If harm arises, whether this is outweighed by other material considerations.

Reasons

Planning policy

8. The Development Plan includes the Tunbridge Wells Borough Core Strategy, June 2010 (CS), the saved policies of the Tunbridge Wells Borough Local Plan, March 2006 (LP) and the Site Allocations Local Plan, July 2016. The main

¹ Proposed Site Plan Coloured is numbered 29622A 11; Proposed Plans and Elevations Plots 1-3 is numbered 29622B 30; Proposed Plans and Elevations Plots 7-8 is numbered 29622B 32. Added to the list are Proposed Boundary Treatment Plan 29622B 15; Proposed House Type Mix Plan 29622B 16; Highway Plans H01P9, H02P4, H03P1 and H04P1.

parties disagree as to the weight to be given to some of the policies. Paragraph 219 of the National Planning Policy Framework (the Framework) stipulates that due weight should be given to existing development plan policies that pre-date the Framework according to their degree of consistency with it. I deal with this where necessary throughout my determination.

9. There is an emerging Tunbridge Wells Borough Submission Local Plan (emerging LP) that includes a strategy for Cranbrook and Sissinghurst Parish, which covers the appeal site. This plan has recently undergone examination and the examining Inspectors report is awaited. It is probable that there will be at least some modification of the document prior to final adoption arising from the examination process. Consequently, I place limited weight on the policies in the emerging LP.

Listed buildings and CA

10. Part of the appeal site lies within the CA with the remainder of it lying adjacent. The significance of the CA is derived from a combination of factors that reflect the evolution of the settlement over time. This encompasses its medieval origins within the ancient Weald, the subsequent social and economic importance of agricultural farmsteads as well as an association with Cranbrook's broadcloth industry. Wilsley Green Conservation Area Appraisal, Supplementary Planning Document, October 2012 (SPD) summarises the factors that contribute to the special interest of the CA. These include a dispersed rural settlement with attractive wooded surroundings and that most of the buildings within the CA are listed or make a positive contribution using a limited range of materials, with little modern development. Mention is also made of some views out across rolling countryside and parkland. Hence the rural context of the CA is an important component of its significance.
11. There are two Grade II listed buildings within the CA that lie close to the appeal site. Firstly, 1-2 Wilsley Farmhouse, although now a pair of dwellings, the building is a timber framed 17th century farmhouse with 18th century additions. It possesses architectural interest as an example of a farmhouse built in distinctive vernacular materials that include incised plaster, plain tile-hanging, weather-boarding and hipped plain tiled roof with end stacks. In addition, it has historic interest as a physical remnant of a farmstead that helps to reveal information about the agricultural past. Significance and special interest are also derived from the presence and proximity of the nearby rural landscape which generally emphasises the importance of land and agriculture as part of a traditional rural way of life.
12. 1 and 2 Oak Cottages, Whitewell Lane, are a pair of estate cottages dated 1887 on the stack. Their vernacular revival style has a red brick ground floor with decorative and plain tile-hung first floor. They were designed by Mervyn Macartney, considered to be one of the founders of the Arts and Crafts movement. As such, they possess considerable architectural interest. The context of the estate cottages on the edge of the settlement, close to countryside enhances the appreciation of their significance as a pair of attractive estate cottages.
13. I have a statutory duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving listed buildings and their settings. Both Wilsley Farmhouse and Oak Cottages also form an important part of the fabric that

- characterises the CA as a whole and its significance as a designated heritage asset. Section 72 of the Act requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
14. The appeal site is an area of largely undeveloped agricultural land comprising mostly of grass with hedgerows along the southern and western boundaries. Due to the presence of vegetation and absence of built form, it has a natural, spacious appearance and strong countryside character. The boundary hedgerows along Angley Road and Whitewell Lane contribute positively to the verdant rural qualities of the area.
 15. The hedgerow along Angley Road lies within the CA and reinforces the dispersed nature of the linear rural settlement that is identified as forming part of the special interest of the CA in the SPD. It is identified in Figure 3 of the SPD as a significant tree line and hedgerow.
 16. Furthermore, the appeal site is seen in several important views also denoted in Figure 3 of the SPD, namely at the junction of Angley Road with Whitewell Lane, as well as at the existing access to Wilsley Farmhouse from Angley Road. As such, it forms part of the attractive rural surroundings to the CA and enriches its setting. Accordingly, the appeal site both enhances the character and appearance of the CA and forms part of its wider agricultural setting. These factors make a notable contribution to the significance of the CA.
 17. The proximity of the appeal site to, and limited physical separation from, Wilsley Farmhouse means that it forms a notable component of the immediate surroundings in which the building is experienced. Moreover, the evidence points to historic links between the appeal site and farmhouse, as both were in the same ownership between the early 19th century and 1930s. As such, the appeal site lies within a sensitive part of the setting of the building, and as open rural land, makes a positive contribution to the ability to appreciate the asset's significance as part of a former farmstead.
 18. The proximity of the appeal site to Oak Cottages also means that it provides an immediate part of the remaining countryside setting within which they are experienced. Oak Cottages are prominent in views near the junction of Whitewell Lane and Angley Road, which broadly coincides with an important view identified in the SPD. The hedgerows, trees and absence of built form at the appeal site allows for the form of the cottages to be read against a rural backdrop and emphasises their prominence in the foreground. Hence, the site presently makes a positive contribution towards the setting of this designated heritage asset.
 19. The proposals would introduce 20 or 16 houses respectively onto the land, broadly arranged around a loop, part of which comprises a pedestrian path. Hence, in terms of vehicular access, both layouts include cul-de-sacs. Although there would be fewer dwellings in appeal B, either case represents a considerable amount of permanent new built volume. The presence and distribution of the structures would encroach into a spacious area free from built form. Consequently, either proposal would markedly change the character and appearance of the land.
 20. Furthermore, the cluster of residential dwellings arising from either layout would extend considerably deeper into the site by comparison to the broadly linear ribbon development pattern in evidence on the north western side of this

section of Angley Road. The consequent loss of spaciousness would undermine the dispersed character of built form, which is palpably different to the more suburban arrangement evident on the opposite side of Angley Road.

21. Moreover, each dwelling would bring associated activity, lighting, areas of hardsurfacing, boundary treatments, vehicles, domestic paraphernalia and more formal planting arrangements. Owing to these factors, despite the pond area, boundary hedgerow buffer planting, and in the case of appeal B open space and play area adjacent to Angley Road, the strong countryside character would be displaced by a prevailing domestic one.
22. In addition, both schemes propose a new vehicular and pedestrian access from Angley Road, which the main parties agree would measure 21.7m at the widest point of the bellmouth. The creation of the junction would necessitate the removal of a considerable length of hedgerow within the CA in order to achieve a suitable degree of visibility. This would add an urbanising component that would further dilute the rural qualities of the site, as well as permit views into the site thereby making the presence of the built form more obvious.
23. Both proposed layouts involve cul-de-sacs with turning heads and private drive offshoots around which most of the dwelling units are arranged. As such, the overall configuration of either proposal would possess characteristics more synonymous with modern suburban residential development rather than the informal dispersed linear settlement pattern generally seen in the CA. I accept that the proposed materials and detailing for the proposed dwellings have been carefully chosen to reflect some of those traditionally seen in the CA. Even so, this would not fully address or outweigh my more fundamental concerns regarding the presence and appearance of either residential layout in this sensitive context.
24. In combination these factors would erode the rural qualities of the site and would adversely affect the way in which the listed buildings and CA would be experienced. Therefore, the proposals would fail to preserve the special interest of the Grade II listed buildings and CA. It follows that there would be some harm to the significance of each as designated heritage assets. However, given the relatively moderate scale of either development, in all instances this would be less than substantial harm.
25. The main parties seek to differentiate the extent of harm further within the category of 'less than substantial', although it was accepted at the hearing that the Framework did not require this. For the reasons outlined, I judge that either proposal would result in a mid to low degree of less than substantial harm in relation to each of the three designated heritage assets identified.

Heritage balance

26. Paragraph 202 of the Framework states that where the development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Paragraph 199 of the Framework stipulates that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
27. Both proposals would provide additional energy efficient dwellings in a reasonably accessible location and in an area where there is, and has been for

some time, a shortfall in supply. Furthermore, each scheme would provide affordable homes towards the mix of housing. In these respects, as appeal A would result in a higher number of dwellings, it attracts more weight. I am mindful that paragraph 69 of the Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area as they are often built out relatively quickly. Hence, these matters attract significant positive weight.

28. In addition, there would be economic benefits arising from the construction of the dwellings as well as the longer term activity associated with future occupants, who may provide support to local businesses and services. The proposals also include measures to enhance biodiversity and provide some natural green space. The extent of the economic, social and environmental benefits derived from the number of dwellings in either appeal would be relatively limited and therefore, these factors attract a commensurate amount of weight in favour of the respective proposals.
29. Nevertheless, heritage assets are an irreplaceable resource. Overall and in either case, I do not consider the sum of wider public benefits sufficient to outweigh the great weight attributed to the less than substantial harm caused to the three designated heritage assets identified. Conflict therefore arises with the historic environment protection policies in the Framework.
30. My attention was drawn to the findings of other Inspectors² where they reached different conclusions having conducted a heritage balancing exercise. However, it was acknowledged at the hearing that those examples all relate to different heritage assets than those under consideration in these appeals. Consequently, they have limited relevance in the specific balancing exercises undertaken in the cases before me.
31. Accordingly, I find that the proposals would fail to preserve or enhance the character and appearance of the CA and its setting. In addition, by markedly eroding the rural qualities of the settings of nearby listed buildings, the proposals would be detrimental to their significance as designated heritage assets. Consequently, the proposals would be contrary to Core Policy 4 of the CS which, amongst other things, seeks to conserve and enhance heritage assets and pay special regard to their settings. In addition, both schemes would run counter to criteria contained in policy EN1 of the LP which seeks development with a layout that respects the context of the site. Furthermore, both proposals would reduce the extent of an identified important hedgerow in the CA, and so would conflict with criteria in policy EN5 of the LP that seek to preserve such features.
32. Although the policies mentioned contain several criteria covering different aspects of development, those mentioned are broadly consistent with the Framework's design and heritage policies. Therefore, I give full weight to those aspects of the policies cited.

Landscape character and appearance, including AONB

33. The site lies within the AONB. The primary purpose of AONBs is to conserve and enhance the natural beauty of the area and I have a general duty³ to have regard to this purpose. The High Weald AONB Management Plan 2019-2024

² Appendices C, E and F, Council's Statement of Case

³ Section 85, Countryside and Rights of Way Act 2000

- (the management plan) contains a Statement of Significance which identifies five defining components of character that have made the AONB a distinct and homogenous area for at least the last 700 years, thereby summarising the special qualities and scenic beauty of the AONB.
34. The respective components listed in the management plan include references to dispersed historic settlements, a network of historic routeways and small, irregular, productive fields, bounded by hedgerows and woods. These are elements that resonate with my observations of the appeal site as a small field, with established hedgerows on roadside boundaries, close to a historic farmstead. These qualities make a modest but meaningful contribution to the nearby dispersed layout pattern on the north western side of Angley Road, that is a distinctive characteristic of the AONB.
 35. The Tunbridge Wells Borough Landscape Character Assessment, Supplementary Planning Document, December 2017 categorises the appeal site as within the LCA4 Cranbrook Fruit Belt. The summary provided for this area describes it as a diverse zone of transition and typical of the High Weald landscape. The strong yet diverse character incorporates elements of fruit belt, forested plateau and wooded farmland and the historic town of Cranbrook. It goes on to confirm that the area lies within the High Weald AONB and reiterates that elements of character related to the AONB are particularly valued.
 36. The parties concur that neither proposal would amount to major development in the AONB for the purposes of paragraph 177 of the Framework. Having regard to the factors listed in footnote 60 of the Framework upon which such judgements should be based, I see no reason to disagree. Nevertheless, paragraph 176 of the Framework stipulates that great weight should be given to conserving and enhancing landscape and scenic beauty of the AONB and confirms AONBs as amongst designations having the highest status of protection for the natural environment. Hence, the scale and extent of 'non-major' development within the AONB should be limited.
 37. For similar reasons to those described in relation to the first main issue, the introduction of new housing onto agricultural land would result in the reduction of fieldscape. The presence of built form would be brought closer to a section of Whitewell Lane and would penetrate further north westwards than the historic linear settlement pattern on the corresponding side of Angley Road. Furthermore, the loss of a section of boundary hedgerow through the creation of a priority junction onto Angley Road would interrupt and displace an attractive natural feature.
 38. These factors would erode the natural beauty of the appeal site and would be seen or glimpsed in some views to the countryside beyond. Therefore, the proposals would harmfully compromise the contribution the appeal site makes to the special qualities of the AONB.
 39. In coming to my findings, I have had regard to the Landscape and Visual Appraisals provided for both proposals. These conclude that there would be a moderate to high impact during construction but envisage this would reduce over time as the proposed planting in the respective landscape strategies becomes established. On that basis it is asserted that there would be a moderate impact once built. Furthermore, the appellant clarified at the hearing that in their view, there would be a low to moderate impact within 5-10 years.

40. I accept that the proposed planting, which includes mixed species native hedgerow along Whitewell Lane and the northern boundary would soften the impact of either development over time. Furthermore, these are measures that could be secured by condition. Nevertheless, I am not convinced that the mitigation measures would fully address the extent of my concerns. For example, it would not address the loss of a section of prominent hedgerow along Angley Road and the views into the site that that would afford.
41. Moreover, the built form, associated lighting and roofscape are still likely to be glimpsed between or above boundary planting, especially at times of year when trees are not in full leaf. Additionally, realistically the occupants of the units towards the rear of the site in either proposed layout would be likely to desire views of the countryside beyond which could run counter to the long term effectiveness and height of buffer planting proposed along the rear boundary.
42. The Landscape Appeal Statement⁴ for appeal B indicates that the adverse impact on the AONB would be moderate in ten years' time. Although the impact on the AONB was not explicitly addressed in the same way in the LVA for appeal A, it is reasonable to suppose that the scheme containing a higher number of dwellings would have an equal or greater impact. This would mean either proposal would cause notable harm to the AONB for a considerable period.
43. Taking these factors together, the schemes would run counter to Objective S2 of the management plan which seeks to protect the historic pattern and character of settlement, and to Objective S3 which looks to ensure development reflects the character of the High Weald in its scale, layout and design. Even accounting for the mitigation proposed, I find that there would be localised harm to the special qualities and scenic beauty of the AONB. This attracts great weight against the proposals.
44. Accordingly, I find the proposals would fail to comply with Core Policy 4(1) of the CS which seeks to conserve and enhance the AONB. It would also conflict with Core Policy 14(6) of the CS which generally seeks to maintain the landscape character and quality of the countryside.
45. Core Policy 4(1) is consistent with the protection afforded to AONBs in the Framework and attracts full weight. Core Policy 14(6) also refers to a policy of restraint and protecting the countryside for its own sake, which is not consistent with the approach in the Framework. Nevertheless, the parties agree that the AONB is a valued landscape within the context of paragraph 174a of the Framework and paragraph 174b states planning decisions should recognise the intrinsic character and beauty of the countryside. Hence, the conflict with the part of Core Policy 14(6) cited attracts significant weight.
46. Moreover, there would be conflict with criterion 4 in policy EN1 of the LP which seeks to prevent the loss of hedges and other features important to the character of the landscape and is generally consistent with the approach in the Framework to conserving and enhancing the natural environment.
47. As either proposal would have more than a minimal impact on the landscape character of the locality, they would conflict with policy EN25(1) of the LP. The reference to a minimal impact in the absence of a qualitative assessment is not

⁴ Paragraph 4.2.6, Landscape Appeal Statement, dated November 2021, Appendix 4, Appellant's Statement of Case (Appeal B)

entirely consistent with the approach of the Framework. However, the explanation for policy EN25 points out that the LP covers an area of attractive and largely unspoilt countryside, and the policy only applies to development proposed outside of the defined Limits to Built Development. The general thrust to protect the quality of the rural landscape resonates with paragraph 174 of the Framework, which requires planning policies and decisions to contribute to and enhance the natural and local environment. On that basis, the conflict with policy EN25(1) attracts significant weight.

48. In addition, as the appeal site lies outside the Limits to Built Development identified, it would conflict with the requirements of policy LBD1 of the LP. However, both parties agree that this policy is out of date and any conflict with it attracts very little weight. I concur.

Other considerations

Housing land supply

49. It was agreed at the hearing that the Council cannot demonstrate a 5-year supply of deliverable housing sites. A series of relatively recent appeals⁵ means that the Council's five-year housing land supply statement 2020/2021 indicating a 4.93 year supply has undergone considerable scrutiny. A combination of findings in appeals and new information regarding landownership issues has culminated in the Council updating its position as of 22 March 2022. It now considers that it can demonstrate a supply figure of 3,317 dwellings, which equates to a housing land supply of 4.66 years. The appellant accepts this position for the purposes of these appeals in the Statement of Common Ground. Based on the evidence presented, I am satisfied that the Council's figure of 4.66 year housing land supply is reasonably robust. This is a matter which I shall consider further in the overall planning balance.

Emerging LP

50. The appeal site was partially included for residential development of between 15-20 dwellings under draft policy STR/CR1 of the Draft (Regulation 18) Local Plan published for consultation in September and November 2019. However, the site was subsequently excluded from the Submitted Local Plan, submitted for examination on 1 November 2021. The appellant has lodged an objection and challenged the soundness of the emerging LP. The inclusion or otherwise of the site within the emerging LP is not a matter for me and as already indicated, the emerging policy attracts limited weight. As such, this is a factor that has had a broadly neutral bearing on my determination of the merits of the proposals.

Other matters

51. Appeal scheme A would provide 8 affordable housing units, whereas appeal scheme B would provide 6. This equates to 40% and 37.5% on-site provision respectively. Both schemes would therefore exceed the policy requirement set out in Core Policy 6 (CP6) of the CS to generally provide 35% of the total provision as affordable housing. In both cases, the provision of affordable

⁵ APP/M2270/W/20/3247977, APP/M2270/W/21/3273022, APP/M2270/W/20/3265584 and APP/M2270/W/21/3282908

housing is an important benefit of either scheme to be taken into account in the overall balance.

52. The appellants are a small to medium sized building company with a track record of delivering houses in the local area. At the hearing it was explained that the appellant is part of a network of similar sized building companies in the area. As such, even if the appellant were unable to pursue a permitted scheme at the site, it would be likely that a similar sized local company would. Furthermore, a shorter commencement period is something that could be secured by condition. Given the recognition the Framework gives to the role of small and medium sized sites make towards meeting the housing requirement of an area, and the relative flexibility and speed of delivery, these are matters that carry additional weight in favour of the proposals.
53. The appeal site is within an acceptable walking distance of local services provided within Cranbrook including schools, churches, doctors' surgery and a convenience store. It is also reasonably close to bus stops on Angley Road where local services can be accessed. As such, future occupants at the site would have a degree of choice as to mode of travel, which is generally consistent with the Government's promotion of sustainable transport in the Framework. It is a relevant positive factor arising from boosting housing supply at the location proposed, and one which I shall take account of in the overall planning balance.
54. The construction phase and likely spending and activity of future occupants of the proposed dwellings would result in some economic and social benefits, and to a degree are likely to increase usage of local services and facilities. It would also result in some financial revenue for the Council. However, the extent of such benefits arising from either 20 or 16 dwellings would be likely to be relatively limited, and so would attract a commensurate degree of weight in favour of the respective proposals.

Planning Obligations

55. Copies of two executed s106 agreements have been provided, the contents of which are not matters of dispute between the main parties. In addition to the main parties, Kent County Council (KCC) is amongst the signatories to the s106 agreements. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), and paragraph 57 of the Framework make it clear that planning obligations should only be sought where they meet all of the following tests. Firstly, that they are necessary to make the respective developments acceptable in planning terms; secondly, that they are directly related to the development and finally, that they are fairly and reasonably related in scale and kind to the development.
56. The s106 agreements contain measures to provide 8 units for appeal A, and 6 units for appeal B as affordable housing. This would address and slightly exceed the 35% requirement set by CP6 of the CS.
57. Policy CS4 of the LP states that where a residential development would generate a demand for primary school places which could not be met within a two-mile radius of the site, a contribution will be sought towards school provision. The assessments provided by KCC indicate that 5 additional primary school pupils would arise in relation to appeal A, whereas this would be 4 for appeal B. In either case, there is presently no capacity at local primary schools

to cater for the demand. As such, £78,914 for appeal A, and £63,827.50 for appeal B is required towards the enlargement of Cranbrook primary school to provide for these spaces.

58. Core Policy 1(4) of the CS (CP1(4)) requires developments to provide or contribute towards the provision of services, facilities and infrastructure for which they create a need. Furthermore, Core Policy 12 (CP12) of the CS indicates a community facility will be provided in Cranbrook. KCC intends to provide community services relating to adult learning, libraries and social care through facilities at a new Cranbrook Community Hub. Assessments provided by KCC outline that there are already shortfalls in the provision of these services. They calculate the extent that the respective developments are likely to generate additional users of the services, and the respective contributions necessary per dwelling. Accordingly, £8,809.60 for appeal A, and £7,047.68 for appeal B would contribute towards the provision of services at the new Cranbrook Hub.
59. KCC has a statutory duty to provide Youth Services. Demand for this service is presently in excess of current service capacity in the borough of Tunbridge Wells. Calculations are provided to show that some demand would be likely to arise from either development and £65.50 per dwelling would assist in addressing this. As such £1,310 for appeal A, and £1,048 for appeal B would be secured towards local Youth Service provision in line with CP1(4) of the CS.
60. KCC is the statutory Waste Disposal Authority for the area and provides figures for the amount of waste each household produces per year. The existing waste management facilities are over capacity. In order to address this £129.20 per dwelling is sought towards extending and upgrading the existing Waste Transfer Station at Tunbridge Wells. This equates to £2,584 for appeal A, and £2,067.20 for appeal B. The requirements align with the provisions of CP1(4) of the CS.
61. Policy R2 of the LP requires open space provision in line with formulae set out in the policy, where there would otherwise be a deficiency of provision. If this is not provided on the development site, then payment in lieu is expected that will be used to improve existing open space. On that basis, £55,603.99 for appeal A, and £50,330 for appeal B is secured towards improvements to the local community recreational facilities at the Crane Valley play area at Crane Lane Cranbrook and/or the Cranbrook Hub.
62. Amongst other things, paragraph 174 of the Framework states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Paragraph 180 sets out principles that should apply when determining planning applications. The first of these is that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.
63. In order to ensure there is a net gain in biodiversity in respect of either proposal, contributions of £9000 for appeal A and £4500 for appeal B would be secured to be spent on offsite biodiversity improvements. The contributions align with the Council's endorsed interim strategy for biodiversity net gain. The strategy includes developing a local scheme of biodiversity offsetting and specifically improvements to biodiversity on land owned by the Council at

Marshley Harbour Snipe and Bassetts Woods located in Pembury and High Woods located in Hawkenbury.

64. In relation to appeal A, the parties agree that a financial contribution of £17,280 towards the refurbishment, reconfiguration and/or extension of existing specified General Practice surgery premises or a new premises to serve the area would address the additional demand on the primary health care facilities arising from the development. The amount sought has been based on the comments provided by the NHS Kent and Medway Clinical Commissioning Group. The obligation aligns with the requirements of CP1(4) of the CS.
65. Core Policy 3 (CP3) of the CS, amongst other things, seeks to address transport issues and provide necessary infrastructure for sustainable modes of transport to reduce dependence on private car use. On that basis, £1000 per dwelling would be secured for KCC towards the costs of improving specified and ranked public transport services in the Cranbrook area. However, at the hearing, despite general reference to the existence of a 'business case', little cogent explanation was forthcoming as to how the £1000 figure per dwelling had been arrived at for the schemes proposed. Based on what was presented, I am not assured that it has been shown that the amounts requested are fairly and reasonably related in scale and kind to the development.
66. Overall, save for the sustainable transport financial contribution, I am satisfied that the obligations listed are necessary to make the respective developments acceptable in planning terms, that they are directly related to the development and are fairly and reasonably related in scale and kind to the development. As such, they are material to my consideration of the proposals. For the most part they seek to mitigate the impact of the proposals and so are neutral factors in the overall planning balance. However, where necessary I have indicated in the planning balance where a benefit would arise from the obligation provided.

Other matters

67. I have taken into account other matters raised including the concerns raised by a local resident who spoke at the hearing, and those who provided written submissions to the proposals.

Planning balance and conclusion

68. There is no dispute that the Council cannot demonstrate a 5 year supply of deliverable housing sites. Footnote 8 to paragraph 11 of the Framework states that in these circumstances relevant policies for the supply of housing are deemed to be out-of-date. It follows that, in relation to the application of paragraph 11(d), it is not necessary to further consider whether the policies which are most important for determining the application are out-of-date.
69. The presumption in favour of sustainable development at 11(d) means that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or (ii) that 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 (the tilted balance).

70. The relevant policies in the Framework for the purposes of 11d)i) are listed in footnote 7. They include the policies in the Framework relating to designated heritage assets and Areas of Outstanding Natural Beauty.
71. I have found, having undertaken the balancing exercise set out in paragraph 202 of the Framework, that the proposal would result in unjustified harm to the significance of several designated heritage assets. This alone amounts to a clear reason for refusing the proposal and consequently, the tilted balance in paragraph 11d)(ii) does not apply. As it would make no difference to my finding on this point, it is not necessary to carry out a further separate balance relating to the impact of the harm arising from non-major development to the AONB.
72. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁶. The benefits arising from the respective proposals include the timely provision by a small to medium builder of 20 or 16 dwellings to the overall housing supply and mix, of which 8 or 6 would be affordable homes. The affordable housing provision exceeds that which is required by policy CP6 of the CS. The dwellings would be provided in an acceptably accessible location and are likely to include features that make them energy efficient.
73. I am mindful of the present shortfall in overall housing supply and that historically this has persisted for a considerable period. Moreover, having regard to the statistics provided in relation to the provision of affordable housing, the appellant's description of the need as 'acute' is not an unreasonable one. Hence, in these circumstances these are important benefits of both proposals and attract significant positive weight. This is broadly consistent with the approach of the Inspector in the Highgate Hill appeal⁷ which was highlighted by the appellant at the hearing.
74. In addition, some social and economic benefits would derive from the construction and future activity of the occupants of the additional dwellings. Moreover, the proposals have s106 agreements that would secure biodiversity net gain. These factors attract additional limited favourable weight. Overall, the cumulative benefits of either proposal attract significant weight in their favour.
75. Given the location of the site outside of the defined Limits of Built Development in the development plan, both schemes would fail to accord with local planning policies that seek to resist this. However, given the absence of a 5 year supply of deliverable housing sites, the consequent conflict with policies in the development plan solely on that account attracts very limited weight.
76. Of greater import are that the proposals would fail to conserve and enhance the historic and natural environment, the importance of which in these cases is underpinned by several statutory duties. I have found both schemes would conflict with the historic and natural environment policies relating to designated heritage assets and AONBs contained in the Framework. These matters attract great weight against allowing the proposals.
77. Furthermore, the proposals would run counter to policies in the development plan that seek to protect aspects of the historic and natural environment and,

⁶ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

⁷ Appeal reference APP/M2270/W/21/3282908, paragraph 120

in those respects, are generally in accordance with the approach in the Framework. I find that the material considerations that weigh in favour of the proposals in either case do not indicate that they should be determined other than in accordance with the development plan.

78. Therefore, for the reasons given above, I conclude that both appeals should be dismissed.

Helen O'Connor

Inspector

APPEARANCES

FOR THE APPELLANT

David Bedford	DHA Planning Consultants
Andy Wilford	Esquire Developments
Sara Davidson	HCUK Ltd
Lydia Hill-Wood	Hill-Wood & Co
Rosie Cavalier	Esquire Developments

FOR THE LOCAL PLANNING AUTHORITY

Marie Bolton	Principal Planning Officer, Tunbridge Wells Borough Council
Debbie Salter	Conservation Officer, Tunbridge Wells Borough Council
David Scully	Landscape and Biodiversity Officer, Tunbridge Wells Borough Council

INTERESTED PARTIES

Stuart Smith	Local Resident
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