



Appeal Decision

Hearing held on 17 October 2023

Site visit made on 18 October 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 01 November 2023

Appeal Ref: APP/C3810/W/23/3323939

Lansdowne Nursery and The Barn, Littlehampton Road, Ferring, West Sussex BN12 6PB

- 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 Barry Boxall of Lansdowne Nursery against the decision of Arun District Council.
 - The application Ref FG/124/22/PL, dated 20 July 2022, was refused by notice dated 13 March 2023.
 - The development proposed is 70 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised landscape plan with supporting information was submitted at appeal. This shows minor modifications to the layout of public open space and drainage but does not result in any fundamental change to the overall scheme. I am satisfied that given the nature of the changes, and having raised the matter at the Hearing, it would not be procedurally unfair to any party for me to take this material into account.
3. Within the above context the Council confirmed that its objection in relation to drainage had been addressed. Submission of a Section 106 Agreement (S106) further addressed its objection in relation to affordable housing. I shall therefore consider these matters below only to the extent that they remain relevant.

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the proposed development having regard to its effect on the character and appearance of the area, including the setting of the South Downs National Park (the National Park) and Highdown Hill Camp;
 - the effect of the development on the economy;
 - the effect of the development in relation to agricultural land and soils; and
 - whether public open space provision would be acceptable.

Reasons

Character and appearance

(a) Background

5. Policy SD SP2 of the Arun Local Plan 2011-2031, 2018 (the Local Plan) seeks to focus development within Built Up Area Boundaries (BUABs). As the site is not located within a BUAB it forms part of the defined 'countryside', within which Policy C SP1 seeks to generally restrict development in the interests of safeguarding intrinsic character and beauty. Whilst this sets out exceptions, none are obviously applicable. As the site additionally falls within land forming part of the 'Angmering to Worthing Gap' (the Gap) it is also the subject of other restrictions outlined within Policy SD SP3 aimed at avoiding coalescence.
6. The site is additionally located a short distance from the boundary of the National Park, which runs across Highdown Hill immediately to the north of the site. Highdown Hill in turn hosts Highdown Hill Camp, a Scheduled Ancient Monument (the SAM). Here the Planning Practice Guidance (the PPG) indicates that the duty set out within Section 11A(2) of the National Parks and Access to the Countryside Act 1949 is relevant when considering development proposals that are situated outside a National Park, but which might have an impact on its setting. This duty sets out the requirement to have regard to the purposes of the National Park, which include conserving and enhancing natural beauty and cultural heritage. Paragraph 176 of the Planning Policy Framework (the Framework) further establishes that great weight should be given to conserving and enhancing landscape and scenic beauty within National Parks, as too cultural heritage. This principle logically extends to consideration of development within the setting, which the Framework further states should be sensitively located and designed to avoid or minimise adverse impacts.
7. The SAM is itself a designated heritage asset identified as being amongst those of the highest significance by the Framework. Whilst the SAM forms part of the cultural heritage of the National Park, the Framework also separately states that great weight should be given to the conservation of designated heritage assets, including in relation to development proposed within their settings. I shall assess the appeal scheme accordingly.

(b) Context

8. The site comprises a roughly rectangular piece of land located immediately to the north of the east-west line of the A259. The A259 in turn forms the northern boundary of the Ferring BUAB, and the southern boundary of the Gap.
9. Land within the BUAB is strongly characterised by suburban residential development which spreads across the coastal plain. In contrast, development on rising ground to the north of the A259, and within the Gap, is for the most part sporadic, chiefly consisting of nurseries, equestrian uses and a small number of scattered dwellings set amongst open space. This pattern is only modestly undermined by a block of mixed commercial development and short row of dwellings located towards the west of the site. Clear differences in character thus exist between development and land within the BUAB, and that on the opposite side of the A259.
10. The site itself falls into 2 main parts. These comprise a small nursery containing greenhouses of modest height in its southern part, and a single

dwelling known as 'The Barn' in its northern part. The dwelling is set within open space, and whilst open land of similar character lies immediately to the north and west, another small nursery lies towards the east. Development currently on site is thus consistent with the prevailing rural character of land on the north side of the A259.

11. Land to the north of the site rises steeply to Highdown Hill. From the series of public rights of way which run across it, the vast sprawl of development along the coastline between Brighton to the east and Littlehampton to the west is appreciable, as too is its deep extension north to Angmering and West Durrington to either side. From these vantage points the positive role played by surviving open land in breaking the continuity of development, and more specifically that of the BUAB and Gap in additionally helping to restrict the sprawl of residential development north of the A259, is also strongly apparent.
12. To the extent that Highdown Hill falls within the National Park, existing development to the south compromises the sense of remoteness, tranquillity and scenic beauty experienced at the top. Here the important role played by open space to the north of the A259 in buffering the setting of the National Park from further encroachment is again appreciable in southward views. This is the case even if the gaze of the viewer is focused on the distant sea. Such a gaze inevitably includes the landscape between, within which the site is prominent.
13. The transition in character north of the A259 is otherwise experienced in ascending Highdown Hill via the footpath which runs north along the east side of the site. Indeed, the sense of tranquillity and perception of openness grows immediately upon moving away from the A259. Though the hedge along the west side of the path currently provides some screening of the site, clear intervisibility in any case exists between much of the site and land within the National Park. In both the above regards a sense of continuity is provided by open space of similar character both inside and outside the National Park's boundary. Again, that within the site makes a positive contribution, as is appreciable in the clear and direct visual corridor which exists along the east side of the site between the A259/Littlehampton Road and Highdown Hill. Highdown Hill Camp provides a key focal point within this view.
14. Highdown Hill Camp's designation as a SAM is chiefly based on its national importance as a Bronze Age hilltop enclosure of rare type. Its hilltop positioning thus constitutes a defining feature, and perception of its prominent setting within the landscape in turn informs appreciation of its significance. This is experienced in views from the SAM across the landscape, in views towards the SAM from within the landscape, and upon approaching the SAM through the landscape. This is much as considered within the broader context of Highdown Hill and the National Park above. However, in this case views towards the south from the SAM are given emphasis by the obscuration of views in most other directions by trees. Similar applies in relation to views towards the SAM, which are most clear and direct from the south. Past erosion of the open setting of the SAM by development to the south again detracts from appreciation of its identity, distinctiveness and presence within the landscape. As such, open land north of the A259, including that within the site, again plays an important role in both enabling the SAM to be viewed within a reasonably open setting, and in buffering this setting from further encroachment.

(c) Assessment

15. The development would see a block of residential development introduced to the north side of the A259. Given my findings above, this would be starkly at odds with the prevailing character of development and land on the north side of the A259. This would be emphasised by the lack of any direct relationship with existing residential development of similar type, and by the continued existence of open space on the north, west and eastern sides of the site. Within this context, the construction of dwellings close to the edges of the site, as too the overall increase in the distribution and massing of built form across it, would cause the development to be highly conspicuous.
16. No meaningful relationship would exist between the proposed development and existing residential development on the south side of the A259. The proposed development would be distinctly separate. It would otherwise be of completely different character, featuring a layout of more urban type. This would in turn accentuate its incongruity.
17. The development would see a loss of openness within the site, and a transformative erosion of rural character. Notwithstanding the existing block of development towards the west, the northward sprawl of housing would be at odds with the generally well contained form of Ferring, and would severely compromise the integrity and function of the Gap.
18. The scheme would thus see the intrusive encroachment of major residential development into the immediate physical and visual settings of both the National Park and SAM. Land within the site would no longer complement that within the National Park, and important views through the site would be lost. So too would the transitional role that the site currently plays, eroding the ability to experience the broader change in character ascending Highdown Hill. Whilst dwellings along the north edge of the site would appear prominent in views from Highdown Hill itself, the development would, as a whole, further diminish the sense of remoteness, tranquillity and scenic beauty experienced at the top. Erosion of the open setting and loss of views through the site would similarly detract from appreciation of the identity, distinctiveness and presence of the SAM within the landscape.
19. The development would represent a significant source of artificial light within a location currently hosting little. This would cause the adverse effects identified above to be additionally appreciable at night. This could not be wholly mitigated by sensitive specification of street lighting, particularly when taking other sources of artificial light likely to be associated with occupation and use of the development into account.
20. The proposed design strategy of using green roofs, slender building forms, 'muted tones' and boundary planting would also not alter the harm identified above. Nor would it provide effective visual mitigation given that the presence of residential built form would be apparent to any observer from whichever direction the site was viewed. It would of course also be apparent to anyone entering and using the development itself.
21. The development would provide a linkage to the existing pavement and pedestrian crossing towards the west. Whilst the primary purpose of this would be to enable future occupants to access public transport, and services on the opposite side of the A256, it would also improve broader access to the footpath

along the east side of the site. The benefits of this would however be directly eroded by the harm identified above.

22. I therefore find that the development would harm the character and appearance of the area, giving rise to intrusive sprawl. In this regard it would not be sensitively located in relation to the National Park, and attempts to avoid or minimise adverse impacts would do very little to alter the harm that would arise. The appeal scheme would therefore: (a) be at odds with the statutory purposes of designation of the National Park, insofar as these include conservation of natural beauty and cultural heritage; and (b) fail to conserve and enhance the landscape, scenic beauty and cultural heritage of the National Park. I attach great weight to the significant harm that would be caused. This harm stands to be weighed against the benefits of the scheme.
23. As the SAM forms part of the cultural heritage of the National Park, my findings above are informed by the adverse impact that the scheme would additionally have upon appreciation of the significance of the SAM. The harm caused would be less than substantial, to which I attach great weight. In accordance with the more explicit provisions of paragraph 202 of the Framework, this harm again stands to be weighed against the public benefits of the scheme.

(d) *Balance*

24. The development would provide 70 dwellings, 30% of which would be affordable, as secured by the S106. Whilst this would help to address a general need for each, it would more specifically help to address a pronounced shortfall in the Council's demonstrable 5-year supply of deliverable housing sites (5YHLS). This is currently held to have fallen as low as 2.36 years. I thus attach significant weight to the modest scale of the social and economic benefits that would be generated by the scheme.
25. The development has been presented as assisting in the relocation and expansion of the existing nursery business. The assumption is therefore that relocation would give rise to benefits exceeding those generated by the business in its current location, and that these benefits would be partly enabled by funding from the proposed development. However, whilst I appreciate the appellant's aspirations, I have not been provided with any detailed economic evidence, and the appellant acknowledges that the proposed development would not be required to solely fund relocation. As I shall consider further below, the option exists to restrict commencement of development until the business is relocated elsewhere. However, it remains the case that the nature and scale of any additional benefits which might arise in relation to relocation are uncertain and cannot be guaranteed. For this and the above reasons, these potential benefits attract little weight in favour of the appeal scheme.
26. The development has also been presented as offering net gains in biodiversity. This is however a broad expectation, and some aspects of the proposed strategy, including wildflower lawns, appear questionable. More meaningful gains could otherwise be delivered from improved management of the site in its current state. I therefore again attach little weight to this consideration.
27. Notwithstanding the benefits I have attached to housing delivery within the context of an acute shortfall in 5YHLS, these benefits would not outweigh the separate and overlapping harms that would be caused to the National Park and SAM identified above.

(e) Conclusion

28. For the reasons set out above I conclude that the site would be an unsuitable location for the proposed development given its adverse effects on the character and appearance of the area, including in relation to the settings of the National Park and SAM. It would therefore conflict with Policies SD SP2, C SP1 and SD SP3 of the Local Plan as considered above; Policy LAN DM1 of the Local Plan which restricts development that would harm views into and out of the National Park; Policy D SP1 of the Local Plan which seeks to secure development that reflects the characteristics of the site and local area; and Policy HOR DM1 of the Local Plan which indicates that proposals for non-horticultural uses of horticultural sites will be considered on a case by case basis, and with reference to Policy C SP1.

The Economy

29. The appeal scheme has been proposed in conjunction with a separate proposal for a replacement nursery at Clapham. It was confirmed at the Hearing that Clapham falls within Arun District, despite planning functions within that locality being exercised by the South Downs National Park Authority. That scheme is the subject of a separate appeal which has yet to be determined.
30. The Council's objection to the scheme was based on there being no appropriate relocation site. It nonetheless expressed confidence that the appellant would relocate the business if the related appeal was allowed. In the absence of certainty on that front, the parties agreed that the matter could be addressed by a condition requiring the replacement nursery to be established before the proposed development could commence. This could be broadly worded to apply to a site anywhere within the District. The PPG states that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. Here I am prepared to accept that the appellant's commitment to find an alternative site indicates that at least some prospect of relocation elsewhere would exist even if the related appeal was dismissed.
31. For the reasons set out above I conclude that subject to the imposition of conditions the development would not have an unacceptable effect on the economy. It would therefore comply with Policy EMP DM1 to the extent that this broadly encourages the relocation of existing firms wishing to expand within the District, and Policy HOR DM1 to the extent that this more specifically provides scope for relocation of horticultural businesses. Overall conflict with Policy HOR DM1 would however remain on account of my findings in relation to the first main issue.

Agricultural Land

32. The majority of the 2.5 Ha of the site is occupied by greenhouses, a dwelling and associated structures, and hard surfacing. The remaining 1.1 Ha of open space is unevenly distributed across the northern part of the site and along its eastern edge. 0.4 Ha of this is Grade 2 land, and 0.7 Ha Grade 3a. All therefore constitutes best and most versatile land (BMVL).
33. The land has been used for agricultural purposes in the past, and this remains its lawful use. Its most recent use within this context was for keeping chickens, in relation to which soil quality had limited relevance. Whilst this activity

appears to have been very small scale, it is also said to have ceased around a decade ago. Much of the land now forms part of a homogenous area of grass/lawns which surrounds the dwelling, some parts of which have been planted with trees and shrubs, or contain outbuildings. Fields immediately adjacent are in use for equestrian purposes. Whilst the land in question may be BMVL, neither it nor land adjacent is therefore in active agricultural use, and that on site hasn't been for some time.

34. It would not be impossible to reintroduce some form of agricultural activity to land within the site. However, its amount, its isolation, and its distribution within the site, as too the fact that the dwelling, trees and shrubs are located within it act as significant constraints. The small scale keeping of chickens in the past cannot be considered to demonstrate otherwise. As such, the site's value as BMVL is unlikely to be realised within an agricultural context.
35. Use of the land for horticulture would be somewhat more realistic given its existing association with a nursery. However, insofar as the land in question again largely surrounds the dwelling, issues of compatibility would arise. The same would appear to exclude potential use for forestry. Consequently, the value of BMVL within the site is unlikely to be realised within either context.
36. A soil resource plan has been provided, whose application would ensure stripping and reuse of soil without compromising its quality. Potential adverse effects on the soil itself could therefore be mitigated.
37. Policy SO DM1 of the Local Plan restricts the use of BMVL but accepts that the need for its protection can be outweighed. Insofar as it specifies how this can be demonstrated, the appellant has not fully complied. Nor would the scheme meet the generalised requirement for compliance with all other Local Plan policies. Whilst a conflict with Policy SO DM1 thus exists, my findings above indicate that the development would not have an unacceptable effect in relation to agricultural land and soils.
38. For the reasons set out above I conclude the development would not have an unacceptable effect in relation to agricultural land and soils. This indicates the acceptability of the scheme in this regard, despite conflict with Policy SO DM1.

Public open space

39. The Council confirmed at the Hearing that its amenity concerns related solely to public open space provision, despite additional issues having been identified within the officer report. Here Policy OSR DM1 of the Local Plan sets out the requirement for new development to contribute towards open space provision. However, it contains no standards, and instead defers to other guidance. The Council's Open Space, Playing Pitches, Indoor and Built Sports Facilities Supplementary Planning Document 2020 (the SPD) is not amongst those referenced as it postdates the Local Plan. It is also not cited in the decision notice, but the appeal scheme's performance against the SPD nonetheless forms a basis for the Council's objection.
40. The SPD sets out size criteria and the requirement that open space should not include drainage features. Drainage features however vary in terms of type. So called dry swales would occupy a large chunk of the proposed public open space. Though these shallow features would hold water at times of rain, at other times they would be dry, and could be maintained as grassland. They

would not therefore be wholly inaccessible. If swales are included within the open space calculation a minor shortfall of around 32m² would arise. If they are excluded this would rise to around 647m².

41. Though the SPD also makes no allowance for the availability of publicly accessible open space off site, Policy OSR DM1 itself acknowledges that in some areas open space provision is sufficient. Within this context future occupants would have direct access to Highdown Hill and to the network of public rights of way which cross it. When taking this into account, the shortfall in public open space on-site would not be unacceptable, whether or not swales are included in the calculation.
42. The SPD does not state that public open space must be 'tranquil' or sited away from roads which are located off-site. Indeed, it is hard to see how such a requirement could be met as a generality. The fact that the proposed public open space would be partly located in an area close to the A259 does not therefore indicate that its quality would be unacceptable.
43. The extent to which the proposed public open space would be overlooked would vary, however I see no reason to believe that it would be unsafe or unattractive.
44. For the reasons set out above I conclude that the development would make acceptable provision of public open space, notwithstanding conflict with the SPD. Conflict with Policy OSR DM1 itself would only arise insofar as this requires compliance with all other Local Plan policies. The scheme would otherwise comply with Policy D DM1 to the extent that this seeks to secure attractive and successful outdoor areas, albeit an overall conflict would remain given my findings in relation to the first main issue. Both Policy D SP1 which deals generally with design, and Policy H DM1 which relates to housing mix, were also cited in the decision notice, however neither is directly relevant.

Other Matters/Considerations

45. The appeal scheme would conflict with the development plan taken as a whole. As the Council lacks a 5YHLS, the policies most important for determining the application are however deemed 'out-of-date'. Even so, to the extent that the policies with which I have identified a conflict address the countryside, the National Park and design I am satisfied that they broadly reflect similar considerations set out within the Framework. When assessed against the Framework itself, my findings in relation to the National Park and SAM in any case provide clear reasons for refusing planning permission.

Conclusion

46. For the reasons set out above the overall effects of the development would be unacceptable, giving rise to conflict with the development plan taken as a whole. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR

APPEARANCES

For the Appellant

Mark Akmenkalns	Bright Plan
Barry Boxall	Appellant
Alex Budd	Bright Plan
Euan Clarke	Folkes Architects
Susan Leeson	Smith Simmons and Partners
Richard Moores	Sims Williams
Joshua Peacock	Lizard Landscape Design and Ecology
Peter Williams	Reading Agricultural Consultants
Christopher Young KC	No 5 Chambers

For the Council

Zac Ellwood	Lead Officer
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Interested parties

Ruth Arnold	Parish Council
Sylvia Berinder	Parish Council
Jane Cecil	National Trust
Tracey Dunn	West Sussex County Council
Roger Elkins	Ward Councillor
Dan Fagan	National Trust
Will Lefebvre	Local resident
Ed Miller	Ferring Conservation Group
Mark Turner	Ward Councillor

Documents presented at the Hearing

Signed Statement of Common Ground
Map showing part of Arun District
Marketing Brochure
Appeal Decision APP/C3810/W/22/3299514
Appeal Decision APP/C3810/W/23/3317021