



Appeal Decision

Hearing held on 7 August 2024

Site visit made on 7 August 2024

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/C1435/W/24/3341984

Erleigh, West Street, Mayfield, East Sussex TN20 6DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs R Harvey against the decision of Wealden District Council.
 - The application Ref is WD/2022/2684/F.
 - The development proposed is erection of 4.No dwellings, upgrading of existing vehicular access, landscaping and other associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 4.No dwellings, upgrading of existing vehicular access, landscaping and other associated infrastructure at Erleigh, West Street, Mayfield, East Sussex TN20 6DR in accordance with the terms of the application, Ref WD/2022/2684/F, subject to the conditions in the attached schedule.

Applications for costs

2. Applications for costs were made by Mr and Mrs R Harvey against Wealden District Council, and by Wealden District Council against Mr and Mrs R Harvey. These applications are the subject of separate decisions.

Preliminary Matters

3. The Council have confirmed that the reference to Wealden District Core Strategy Local Plan 2013 (CS) Policy WCS13 was erroneous and should have referred to CS Objective SPO13. I have considered the appeal on this basis.
4. At the hearing, the Council confirmed they were satisfied that the correct ownership certificates had been submitted with the application. I have no reason to consider otherwise.
5. Development within the administrative area of Wealden District Council has, relevant to this appeal, the potential to affect the Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA) which are habitats sites under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). Although not included as a reason for refusal by the Council, as the competent authority I must consider whether the proposal would be likely to have a significant effect on the integrity of the SAC and SPA. I have therefore considered this matter as a main issue.

6. The reason for refusal refers to Wealden Local Plan (1998) (LP) Saved Policy EN1 which sets out a commitment to pursuing sustainable development, having regard to the principles in Government guidance. The reason for refusal also refers to CS Policy WCS14 which contains wording similar to that of the National Planning Policy Framework (the Framework) and a previous iteration thereof. I have therefore taken these policies into account in my planning balance where I consider the proposal in light of the advice in paragraph 11 of the Framework.
7. A number of the documents before me referred to the Framework of September 2023. It was confirmed at the hearing that changes in the Framework published in December 2023 would relate to paragraph numbers only. I have used the paragraph numbers from the December 2023 Framework in this decision.
8. On 22 November 2023 all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became National Landscapes (NLs). For the avoidance of doubt, while the legal designation and policy status of AONBs are unchanged, I have only used the term NL in this decision.

Main Issues

9. The main issues are:
 - whether the site is a suitable location for development with regard to the locational policies of the development plan;
 - the effect of the proposed development on the landscape character of the area with particular regard to whether the proposal would conserve and enhance the natural beauty of the High Weald NL;
 - the effect of the proposed development on the significance of designated and non-designated heritage assets;
 - the effect of the proposed development on the character and appearance of the area with particular regard to the design of the proposed dwellings; and
 - the effect of the proposed development on the integrity of the Ashdown Forest SAC and SPA.

Reasons

Suitable Location

10. Mayfield is the ninth largest settlement in Wealden district, with a population of approximately 2,600 people. The appeal site lies immediately adjacent to the settlement and it is not in dispute that the site lies in the countryside for the purposes of LP Saved Policies GD2 and DC17. These both seek to restrict residential development outside of defined settlement boundaries. The proposal is therefore contrary to these policies.

High Weald National Landscape

11. The High Weald NL is designated for the purposes of conserving and enhancing natural beauty and section 85(1) of the Countryside and Rights of Way Act 2000 (CRoW) places a duty on me to seek to further these purposes. LP Saved Policy EN6 only permits development where it conserves or enhances the

natural beauty and character of the landscape and sets out a number of considerations in carrying out this assessment. Paragraph 182 of the Framework confirms that great weight should be given to conserving and enhancing the landscape and scenic beauty of the NL, and that the scale and extent of development should be limited. The quality of the built and natural environment in Wealden is recognised through other strategies produced by the Council, as well as in the High Weald NL Management Plan for the AONB.

12. The NL is characterised by a generally irregular field pattern with sinuous edges with wooded hedges. Areas of ancient woodland are often found in the landscape. Settlements are historic, dispersed and tend to be located at historic focal points or along ridge top roads. Mayfield is typical of this: a predominantly linear settlement, sited along a ridge top, surrounded by a patchwork of undulating fields with landscaped boundaries.
13. The appeal site is a pasture, used some time ago for grazing and currently turned over to grass. It is part of a larger, irregularly-shaped field with landscaped boundaries. Its highest point is at the access taken from West Street, and it slopes downwards into the wider countryside. It is typical of the landscape character of the High Weald. It is not open heathland, or an area of unspoilt or remote character.
14. The proposal would introduce built development into this currently open area of land. Its character would inevitably change from open countryside to forming part of the urbanised area of the settlement. However, the site is in proximity to the dwellings accessed via St Mary in the Street and a private drive off West Street. These form part of a relatively tightly nucleated area of residential development. The proposal would see the settlement edge extend slightly further to the south, however it would become contiguous with the boundary to Erleigh and would not be perceived as spilling down the hill. The transitional role the site plays in moving from the built up area of Erleigh to the surrounding countryside would be performed by the remaining land to the south.
15. From Erleigh and continuing to the west, dwellings tend to be much larger and set in commensurately larger plots. There are also other examples of dwellings being accessed from drives taken from West Street. These have not diluted the linear form of Mayfield. The proposed dwellings would therefore not appear inherently incongruous with the traditional settlement pattern in Mayfield, which would retain its appearance as a prominent ridgeline settlement.
16. The appellant submitted a Landscape and Visual Impact Assessment (LVIA) which assessed the proposal from a number of viewpoints. These were accepted by the Council as being appropriate for assessment. The LVIA identified a number of low level adverse effects on landscape character. I have no reason to disagree with these findings. The proposal would occupy a small area of land and would be largely visually contained due to the topography of the site and the nature of the surrounding field hedges. However, it would be the case that there would be a low to minor adverse landscape impact.
17. Visually, there would be a minor adverse effect on users of the Mayfield and Five Ashes Footpath 12b (PROW). At my site visit, I observed that views from the PROW looking toward Mayfield were dominated by the existing dwellings at Richmead Gardens. Not all dwellings along this boundary are single storey. Consequently, the addition of four dwellings, further away from the PROW and

screened to a considerable degree by the existing landscaping, would have at worst, a minor adverse impact at completion. Views from users of more distant footpaths and locations would be very limited and there would not be an adverse visual effect.

18. The Council expressed concern that a number of these conclusions were based on the assumption of the site being landscaped when no specific landscaping scheme was put forward as part of the proposal. This is a reasonable concern. However, the natural beauty and character of the NL is derived in no small part from the irregular field pattern and natural boundaries. An arboricultural report was submitted with the appeal indicating the trees to be retained. There is no reason to think that an appropriate landscaping scheme could not be secured by condition which would integrate the development into the landscape.
19. The site, other than the access, is not readily visible from the street. The access point, relatively narrow and sitting between dwellings, does not perform the function of a locally important gap. It does not provide an important view through to the NL. Given the proximity of the site to the existing settlement, there would not be a noticeable effect on the dark skies within the NL. Although some levelling works would be required, there is no reason to think that this would have a material adverse effect on the natural systems and soils of the NL.
20. The proposal would have an adverse effect on the landscape character and natural beauty of the NL arising from the loss of an undeveloped area of land and the adverse landscape and visual impacts. While these effects would be limited, they would nonetheless be adverse. The proposed development would therefore be contrary to LP Saved Policy EN6. It would also be contrary to paragraphs 180 and 182 of the Framework which require planning decisions to protect and enhance valued landscapes and attach great weight to conserving and enhancing landscape and scenic beauty in NLs.

Heritage Assets

21. The access to the appeal site lies within the Mayfield and Coggins Mill Conservation Area (MCMCA) where s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. The parties were in agreement that the significance of the MCMCA lies in the mostly linear arrangement of the historic village along a ridge and development representing the village's medieval origins and evolution through the early-mid 20th century. Its special interest derives from its historic form and grain, as well as the inherent architectural and historic qualities of its buildings and spaces. I agree with this assessment.
22. The access is gated and gravelled until it reaches the pasture. It is a neutral feature in the MCMCA. While use of the access would likely increase were the appeal to be allowed, this would be limited by the small scale of the proposal and would be consistent with the vehicular movements expected of a residential development. There is no substantive evidence that the proposal would affect car parking within the Conservation Area as the existing spaces would not be removed and parking would be provided within the appeal site to serve the dwellings. The proposal would therefore preserve the character and appearance of the MCMCA.

23. The majority of the appeal site lies immediately adjacent to the MCMCA. Paragraphs 200 and 206 of the Framework confirm that the setting of a heritage asset can contribute to its significance. The Mayfield and Coggins Mill Conservation Area Appraisal Consultation Draft 2020 identifies the historic settlement setting of Mayfield as including ancient landscapes with extensive areas of regular piecemeal enclosure. Insofar as it relates to this proposal, the site forms part of the patchwork of irregularly shaped fields that defines the High Weald landscape more generally. Although the site is small in the context of the expansive setting of the MCMCA, it does nonetheless make a positive contribution to its significance as part of this historic patchwork.
24. The proposal would result in the loss of part of this field pattern to development. It would affect a small area, and the effect could be mitigated by the use of planting to retain elements of the irregular field pattern. However, it would nonetheless result in harm to the rural setting, and therefore to the significance of the MCMCA. This harm would be less than substantial. Paragraph 208 of the Framework identifies that in such circumstances, this harm should be weighed against the public benefits of the proposal.
25. The delivery of an additional four dwellings in an area with a long-standing shortfall in both housing land supply and delivery would be a substantial benefit. The proposed dwellings would be in a sustainable location given the rural character of Wealden District and would be constructed to a greater standard of energy efficiency than would normally be required. In these circumstances, I consider the public benefits would outweigh the limited harm to the setting of the MCMCA, notwithstanding that I have attached great weight to this harm.
26. It is common ground that Erleigh is a non-designated heritage asset (NDHA). From the written evidence before me, the comments of the parties at the hearing and my observations at my site visit, its significance is derived from its architectural and historic interest as an Arts and Crafts inspired dwelling constructed for a prominent member of the community. The large garden, intimately linked to the domestic scale of the NDHA, forms its setting. While Erleigh sits in proximity to the surrounding countryside, this does not inform its architectural and historic significance. For the same reasons, I do not consider the views from Erleigh to be fundamental to its setting. As such, I consider that the proposal, adjacent to but not within the grounds of Erleigh, would have a neutral effect on its significance. Consequently, there would not be harm to the NDHA.
27. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. Westwood St Dunstan¹ lies to the west of the appeal site. Its significance is derived from its architectural and historic interest associated with the historic development of Mayfield, its design and occupation by the society architect W H Romaine-Walker and later occupation by General Glubb. The appeal site has a neutral effect on its setting given the expansive garden of Erleigh separating the listed

¹ List Entry 1027959

building from the site, the undulating topography and intervening landscaping. Its special architectural and historic interest would therefore be preserved.

28. Along the elevated section of West Street lie two listed buildings² which comprise five separate addresses. The significance of these is derived from their historic and architectural interest associated with the development of Mayfield. There would be no material change to the access beyond the minor alterations to allow improved visibility. The limited extent of these changes and the presence of intervening development between the listed buildings and the site mean that there would be no effect on the setting and consequently the significance of any of the listed buildings.
29. There is dispute between the parties as to the applicability of paragraph 212 of the Framework to the proposed development. The first sentence of the paragraph places a requirement on local planning authorities to look for opportunities to enhance or better reveal significance. It does not impose any such duty on appellants. Paragraph 212 also does not require development proposals to preserve the elements of the setting that make a positive contribution to, or better reveal the significance of, any heritage asset. Rather it requires such proposals to be treated favourably. As I have not found that the proposal would achieve either of those aims, paragraph 212 would not be of direct relevance to my decision.
30. It is long established that there should be consistency in decision making. However, the fact the Council has proffered differing advice with respect to heritage over the history of the site does not affect the conclusions I have reached with respect to heritage assets.
31. The proposed development would be in accordance with LP Saved Policy EN19 insofar as it relates to the land within the MCMCA as the existing character, scale and visual amenity would be preserved. It would also be in accordance with the advice in paragraphs 208 and 209 of the Framework which require the public benefits of a proposal to outweigh any less than substantial harm to a designated heritage asset and for the effect of an application on the significance of a non-designated heritage asset to be taken into account.

Design

32. At my site visit, I did not discern a strong pattern or style of development that could be considered to characterise Mayfield. Dwellings were in a range of sizes, styles and materials. Notwithstanding, the quality of the built form was generally high, making Mayfield an attractive settlement.
33. As previously set out, development to the east and the west of the appeal site markedly varies in terms of the scale of the dwellings and the overall plot sizes. The site would only be visible from limited public areas, mostly along the PROW. In this context, of limited glimpsed views, the site would be viewed against the more modern development at Richmead Gardens and to a lesser extent the dwellings along the private road from West Street and St Marys in the Field. The development at Richmead Gardens is considerable in scale, with some dwellings appearing three storey. Although those in closer proximity to the appeal site are generally single storey, the lack of clear vantage points and generally two storey nature of the surrounding development means that the

² Little Shirley Pilgrims Way List Entry 1193766 and Guppy's Tewcot Wychwood Cottage List Entry 1027972

proposed dwellings would not appear unduly tall or prominent. While the Council argue that the Richmead Gardens development is of its time and would not justify further development of that nature, it nonetheless exists.

34. Many of the closest dwellings to the appeal site are set within spacious plots. However there is considerable variation in the vicinity of the appeal site. The width of the dwellings relative to plot is not a consistent feature within Mayfield. Although the new plots would be more compact than many of the surrounding plots, they remain spacious. Plot sizes vary considerably within the vicinity of the site and the size of the proposed dwellings would be commensurate with the plots on which they would be sited. The dwellings would not appear unduly cramped. Nor would they appear at odds with the prevailing pattern of development due to the notable variations within it.
35. The proposed dwellings would incorporate a range of design features which relate to design features that can be discerned within Mayfield. There would also be commonalities to link the design features of the dwellings. This could include through the approval of materials which could be secured by condition.
36. Given the above, I conclude that the design of the proposed dwellings would respect the character and appearance of the area, in accordance with LP Saved Policy EN27 and CS Spatial Planning Objective SPO13. Taken together and insofar as they relate to this main issue, these require the design of development to respect the character of adjoining development and promote local distinctiveness. It would also be in accordance with the objectives of the Framework in Section 12 which requires development to be well designed and sympathetic to local character.

Ashdown Forest SAC and SPA

37. The conservation objectives for the SAC seek to ensure the favourable conservation status of its qualifying features by, amongst other things, maintaining qualifying habitats. The qualifying features of the SAC are European dry heath, North Atlantic wet heath and great crested newts. The heathland habitat contains plants, mosses and lichens which are adapted to nutrient poor conditions. Increases in nitrogen deposition could result in changes to the chemical substrate, causing accelerated or damaging plant growth, altered vegetation structure and composition. This could disadvantage the characteristic species in favour of those with a greater tolerance for higher nitrogen levels. Consequently, there is the potential for the proposed development, in combination with other development, to result in a likely significant effect on the integrity of the SAC.
38. The SPA is vulnerable to the effects of recreational disturbance. Evidence shows this occurs from residents who live within 7km. As the appeal site is beyond this distance, there would not be a pathway for recreational disturbance, either alone or in combination with other development, to affect the SPA.
39. Assessments carried out for the now withdrawn Local Plan established that the development of 14,228 dwellings and 22,500 square metres of business floorspace within Wealden District could be carried out without an adverse effect on the integrity of the SAC in respect of the effects of changes in air quality. Development in the district is below this quantum. I am therefore satisfied that the proposed development, alone or in combination with other

development, would not have a likely significant effect on the SAC due to air quality impacts.

40. Natural England, in its role as the Statutory Nature Conservation Body, has confirmed that the proposal would not have a likely significant effect on the SPA from recreational disturbance or the SAC from air quality impacts.
41. Accordingly, I find that the proposed development, alone or in combination with other development, would not give rise to a likely significant effect on the integrity of the SAC or SPA. The development would therefore comply with the Habitats Regulations.

Other Matters

42. The proposal is for four dwellings, which would add only a limited number of additional vehicles onto the surrounding highway network during peak hours. While it is likely there would be a reliance on the private car for some journeys, the site is well located for the services and facilities in Mayfield, which include public transport. The Framework acknowledges at paragraph 109 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Given the rural nature of much of Wealden District, I am satisfied that this site would maximise such opportunities.
43. I have no reason to consider that the 4.8m wide access could not be provided. This width of road would normally allow for a car and large vehicle to pass. While the access is not straight, and would be a shared surface, it would also only be serving a small number of properties. The potential for conflict would be limited where drivers exercise due care and attention, and there would be no reason that drivers could not reverse back into the site to avoid conflict rather than reverse onto West Street. The gradient change along the access road would not make these manoeuvres significantly more challenging.
44. At my site visit, I observed that the roads in Mayfield were quite narrow, with considerable on-street parking and relatively narrow junctions. This can make it challenging for larger vehicles to pass and I do not doubt this sometimes results in conflict. However, delays as a result of servicing such as by bin lorries are common place and of very limited duration. The limited number of additional trips generated by the proposal, even if adult children were to reside in the family home, would not materially alter the levels of traffic on the surrounding highway network or the potential for conflict between drivers of different vehicles. Nor would this materially increase the risk of accidents.
45. Visibility splays shorter than those typically sought by Manual for Streets are proposed. The Transport Statement provided in support of the proposal sets out the justification for this based on speed surveys. I have no reason to consider that the speed surveys are not accurate. Days were discounted due to weather conditions and the majority of monitoring days had sufficient traffic movements to be considered robust, notwithstanding any short term fuel supply issues at the time. The comments from the local highway authority specifically address the changes in levels and car parking within the visibility splay, noting that the parked cars would provide an additional degree of protection to emerging cars. This is a reasonable exercise of professional judgement by the highways officer. There is no suggestion any of the existing parking spaces would be lost. I have no reason to reach a different conclusion

- and I am satisfied that there would be acceptable visibility for drivers emerging from the appeal site.
46. There would inevitably be construction traffic associated with the proposed development. However any disruption as a result of this would be for a limited time. The proposal is of a limited size so a private road would be an acceptable access option. Separate legislation could address any concerns about the ability of the road surface to accommodate the weight of refuse vehicles.
47. At my site visit I observed West Street was well used by pedestrians, as were other narrow streets within Mayfield. It has also been highlighted that horse riders also use West Street. Drivers exercising due care and attention would be alert to pedestrians and other more vulnerable road users. While West Street does incline towards High Street, this is not to an extent that would deter the majority of people from walking.
48. Given the above, the proposal would not create or perpetuate unacceptable traffic conditions in the locality. A safe and suitable access for all users would be provided in accordance with the requirements of paragraphs 114 and 115 of the Framework.
49. The Framework does confirm at paragraph 182 that the conservation and enhancement of wildlife is an important consideration within the NL, alongside the requirement in paragraph 180 that impacts on biodiversity should be minimised. The proposal was accompanied by an Ecological Assessment (EA) which was subsequently updated in January 2023. I have been provided with an unredacted copy of the survey, and it is not unusual for redacted versions of such surveys to be placed online. The EA was carried out by an appropriately qualified person.
50. The Council's ecological consultee does not raise any concerns with respect to the EA. I have no reason to doubt its findings. Details of mitigation and enhancements are set out in the EA, and the appellant confirmed at the hearing that the translocation of reptiles would be to other land within the appellant's control. Compliance with the mitigation and enhancement measures can be secured by condition. The application was submitted prior to the requirements for biodiversity net gain becoming mandatory therefore there is no requirement to mandate a particular level of gain.
51. The PPG³ confirms that where there are concerns about the capacity of wastewater infrastructure, further information can be sought. There is no substantive evidence before me of capacity concerns and there is a public sewer in the vicinity of the site. The PPG goes on to confirm that there are other mechanisms through which wastewater can be addressed other than by connection into the public sewer. There is no substantive reason to think the existing infrastructure could not manage the wastewater generated by the proposal or that it would result in pollution of surrounding watercourses. This is a matter where controls exist through other legislation. There is no substantive evidence before me that the site is at risk of groundwater flooding.
52. While the site is on an incline, there is no reason that a suitable surface water drainage system could not be designed which would provide for drainage and land stability. This matter can be controlled by condition, which would allow

³ Water supply, wastewater and water quality Paragraph: 020 Reference ID: 34-020-20140306 Revision date: 22 07 2019

any potential effect on the Cransden Gill Local Wildlife Site to be considered. The proposed dwellings would be designed to promote a higher standard of energy efficiency than that required by the current Building Regulations.

53. While there would be inevitable noise and disturbance during the construction period, this could be mitigated by condition. There is no reason to consider that the proposal would give rise to noise above that which would arise from the normal domestic occupation of four dwellings. Given the levels of development in the surrounding area, layout of the proposed dwellings and their distance from the neighbouring properties, there would not be a loss of privacy or material increase in the sense of overlooking to neighbouring properties. The proposed dwellings would not result in an undue increase in the sense of enclosure to those properties given the plots in which those dwellings sit and the layout of the proposed development. Nor would the layout and design of the dwellings give rise to an unacceptable loss of outlook. The proposed development would not cause unacceptable harm to the living conditions of neighbouring occupiers.
54. At the hearing, I was provided with a copy of the Parish Council Strategy incorporating the Local Plan 2020-2026 prepared on behalf of Mayfield and Five Ashes Parish Council. It does not form part of the development plan. This sets out a number of goals and action plans with the goal of maximising the quality of life for all who visit, live and/or work in the parish. This accepts that the development limit for Mayfield will need to be altered and sets out that future residential development should be directed to the west of the village. It highlights concerns with development to the south of Mayfield in relation to the NL which I have considered above. However, given this is not part of the development plan, and I cannot be certain of how the Strategy was formulated, I attach very limited weight to it.
55. There have been two previous planning applications involving the site – one as part of a larger scheme and another withdrawn scheme on the same site. As this proposal is materially different from the refused scheme, and the other proposal was withdrawn prior to a decision being reached, I attach no weight to these outcomes. Neither do I attach any weight to the potential for this decision to set a precedent, as each proposal must be determined on its own merits, and it is unlikely that the precise relationship of this site to the settlement, neighbouring properties, heritage assets and the NL amongst other factors, would be replicated elsewhere.
56. The site is below the threshold for which affordable housing would be required. No substantive evidence has been placed before me that the proposal would have an adverse effect on the operation of existing services within Mayfield, or that planning contributions should be sought. The planning status of the access at present and the boundary wall is a matter for the Council and not before me as part of this appeal. The current use of the site is a matter for the landowner, irrespective of any local demand for paddocks. There is no substantive evidence before me as to whether it would be realistic for the site to be used for food production. The PPG⁴ confirms that the protection of purely private interests such as the impact on the value of a neighbouring property could not be a material consideration.

⁴ Determining a planning application Paragraph: 008 Reference ID: 21b-008-20140306 Revision date: 06 03 2014

57. I have been directed to other appeal decisions, and a very recent decision⁵ elsewhere in Mayfield. I do not have full details of these proposals, however it is unlikely that the exact circumstances of this appeal site would have been replicated in those other proposals. I therefore attach very limited weight to those other findings.
58. The site was put forward for consideration in the Council's Strategic Housing and Economic Land Availability Assessment. However that assessed a wider site. I therefore attach limited weight to its findings. I note the site was not proposed for allocation in the now withdrawn Local Plan, however I attach no weight to this given that plan was withdrawn.
59. There is no reason that applications cannot be made speculatively. It is not necessary for the appellant to have a track record of delivering housing for planning permission to be granted. Concerns with respect to how the Council and other consultees interacted with interested parties do not fall within the remit of this appeal. Other errors in the supporting documentation would not change my assessment of the proposal on its planning merits. Government policy with respect to planning matters is as expressed in the Framework and PPG, with clarification provided by Ministerial Statements. Statements by the then Prime Minister, White Papers such as Planning for the Future 2020 and the consultation draft of the Framework are capable of being material considerations. However, none of these would provide a compelling reason to change my overall conclusions on the main issues.

Planning Balance

60. The proposed development would be contrary to the locational strategy of the development plan. I have also found harm with respect to the effect of the proposed development on the natural beauty of the NL and less than substantial harm to the setting of the MCMCA. The proposal would conflict with the policies of the development plan identified above in this regard.
61. It is not in dispute that the Council cannot demonstrate a five year supply of housing land, and that it has not met the requirements of the most recent Housing Delivery Test (HDT). A current supply of 3.83 years has been identified, and it is not in dispute that this is a longstanding shortfall which has not been addressed by the action plans required in response to the HDT results. There is no evidence before me to suggest that there is likely to be a change in the housing land supply position in the short term, nor is there evidence to say that the issue has been caused or exacerbated by a failure to implement permissions.
62. On this basis, Paragraph 11d) of the Framework sets out that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, that planning permission should be granted unless one of two scenarios applies.
63. In respect of Paragraph 11d)I, the less than substantial harm that I have identified to the significance of the MCMCA as a designed heritage asset is outweighed by the public benefits of the proposal. In this regard, the application of the policies in the Framework that protect areas or assets of

⁵ APP/C1435/W/23/3333025 allowed 15 July 2024

particular importance does not provide a clear reason for refusing the development proposed.

64. Furthermore, the scale and extent of the proposal would be limited and the harm to the NL, for the reasons set out, would not be significantly adverse. I find that the level of harm I have identified would, with the application of the policies in the Framework, also not provide a clear reason for refusing the development proposed.
65. In terms of paragraph 11d)ii of the Framework, the site lies outwith the development limit for Mayfield and is therefore contrary to WLP Policies GD2 and DC17. However, the site is in a sustainable location, within walking distance of the services and facilities within Mayfield which include public transport links to other parts of the district. This is a good standard of accessibility in a predominantly rural area and I therefore attach only limited weight to this conflict.
66. The proposal would result in limited harm to the landscape and natural beauty of the High Weald NL. I attach great weight to this harm in accordance with the advice of paragraph 182 of the Framework and the duty placed on me by the CRoW. It would also result in limited harm to the setting of the MCMCA. I attach great weight to the preservation of the MCMCA in accordance with paragraph 205 of the Framework.
67. The proposal would contribute four dwellings to the supply of housing in the district in a sustainable location. While this would only be a small contribution, I nonetheless attach substantial weight to this as a benefit given the considerable extent of the shortfall and its longstanding nature with no foreseeable prospect of improvement.
68. The enhanced environmental performance of the proposed dwellings would also be a benefit of the proposal. However, given I cannot be certain of the nature of the efficiency, I attach only limited weight to this. I also attach limited weight to the economic benefits that would arise during the construction and occupation stages of the development given its limited scale.
69. While I attach great weight to the harms to the NL and MCMCA, the adverse effects of the proposed development would be limited due to their very localised nature. These would not significantly and demonstrably outweigh the benefits of the proposal. Accordingly, the proposal benefits from the presumption in favour of sustainable development as set out in LP Saved Policy EN1, CS Policy WCS14 and paragraph 11 of the Framework.

Conditions

70. The Council has suggested conditions should I be minded to allow the appeal. I have had regard to these in light of the tests set out in paragraph 56 of the Framework and I have made amendments to some of them for consistency and clarity purposes. In the interests of certainty, I have imposed conditions stipulating the timescale for the commencement of works and the approved plans. A more limited time period of two years for the development to commence was agreed by the parties at the hearing. Given the pressing need for housing in the district, I consider this to be reasonable.
71. The Historic Environment Desk Based Assessment acknowledges there is the potential for as-yet unknown archaeological remains to be present on the site.

It is therefore reasonable and necessary to secure an appropriate scheme of investigation and its implementation.

72. It is reasonable and necessary for details of materials of the proposed development to be agreed in the interests of the character and appearance of the area. As the improved environmental performance of the proposed dwellings was one of the factors which weighed in support of the development, it is reasonable and necessary for those enhancements to be secured.
73. A construction traffic management plan is a reasonable and necessary requirement to ensure that during construction the effects on the surrounding highway network are minimised. However, it would not be reasonable or enforceable to control the routing of vehicles. The ability to make traffic regulation orders lies with the local highway authority. It therefore would not be reasonable for the condition to intimate this could be required as it would not be within the gift of anyone other than the local highways authority. Given the limited scale of the development, it would not be reasonable or necessary to require public engagement. I have amended the condition to remove these aspects.
74. It is reasonable and necessary to ensure that appropriate provision for surface water drainage is made and that is retained and maintained in the interests of preventing flooding and pollution. Landscaping of the site will be necessary to ensure that the development integrates appropriately into the NL. Providing planting of an appropriate height would be addressed through the discharge of the landscaping condition. It would not be reasonable to require the approved details to be retained beyond the standard five-year period in which landscaping should be maintained.
75. It is reasonable and necessary to ensure that the access and visibility splays are provided as shown on the approved plans in the interests of highway safety. I have amended the condition to remove extraneous detail that was shown on the named plan and to specify the works should be carried out prior to the occupation of any of the dwellings. Similarly, I have amended the condition requiring the provision of parking spaces to be provided to comply with the approved plans and removed references to sizes which are unnecessary.
76. Compliance with the tree protection measures set out in the arboricultural report is reasonable and necessary to protect the existing trees. This also allows for minor crown lifting works to be carried out to the trees along the access. Although not precisely defined, this is a term that would be readily understood in the context of a professional report and is sufficient to be enforceable. Protection to the retained trees is also reasonable and necessary given their importance in maintaining the natural beauty of the NL and integrating the development. I have removed the tailpiece allowing for further works to be agreed in the interests of certainty.
77. It would be reasonable and necessary to require the development to be carried out in accordance with the mitigation measures set out in the Ecological Assessment in the interests of supporting biodiversity. It would also be necessary to ensure that any external lighting was acceptable in the interests of ecology. Such a condition would be enforceable in the event of a complaint being received and as such it would meet the tests set out in the Framework.

78. Given the size of the dwellings and their plots, it is not necessary to require the cycle parking to be provided prior to occupation or to require its retention as there would be ample opportunity for cycle storage within each plot in a manner that suited the needs of future occupiers. The Local Highways Authority also recommended a condition regarding the gate presently sited over the access road. However the submitted plans and Transport Statement refers to the gates being removed. Accordingly, it would not be necessary for me to impose such a condition.

Conclusion

79. For the reasons given above, the appeal is allowed.

Jennifer Wallace

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than two years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 9080 P 04 Rev 35; 9080 P 30 Rev 06; 9080 P 31 Rev 07; 9080 P 32 Rev 04; 9080 P 50 Rev 05; 9080 P 51 Rev 05; 9080 P 53 Rev 03; 9080 P 54 Rev 03; 9080 P 56 Rev 03; 9080 P 57 Rev 04; 9080 P 58 Rev 04; 9080 P 59 Rev 03; 9080 P 60 Rev 03; 9080 P 61 Rev 05 and 9080 P 62 Rev 01.
- 3) No development hereby permitted shall commence until a Written Scheme of Investigation for archaeological works has been submitted to and approved in writing by the Local Planning Authority.
- 4) No development hereby permitted shall commence until the archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 3.
- 5) No development hereby permitted shall commence until a schedule (photographs and/or catalogue details) of the external materials to be used on the external surfaces of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule.
- 6) No development hereby permitted shall commence until details of water and energy efficiency measures, and of the promotion of renewable energy and sustainable construction as part of the development, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be carried out prior to the occupation of the development and retained as such thereafter.
- 7) No development hereby permitted shall commence until a Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved CTMP shall be implemented and adhered to in full throughout the entire construction period. The CTMP shall provide details as appropriate but not be restricted to the following matters:
 - a. the anticipated number, frequency and types of vehicles used during construction;
 - b. the method of access and egress;
 - c. the parking of vehicles by site operatives and visitors;
 - d. the loading and unloading of plant, materials and waste;
 - e. the storage of plant and materials used in the construction of the development; and
 - f. the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway.
- 8) No development hereby permitted shall commence until full details of the surface water drainage scheme have been submitted to and approved in

writing by the Local Planning Authority. The submitted details shall include the following:

- a. Detailed plans, layouts and sections of the proposed drainage system which includes pollution/silt control devices and construction details of any non-standard features;
- b. Detailed drawings and hydraulic calculations which shall take into account the connectivity of the different surface water drainage features. The calculations shall demonstrate that surface water runoff from the proposed development shall be limited to greenfield runoff rates for rainfall events, including those with a 1 in 100 (plus climate change) annual probability of occurrence; and,
- c. Maintenance and management plan for the entire surface water drainage system which shall include details of who will be responsible for managing all aspects of the surface water drainage system and evidence of how these responsibilities and arrangements will remain in place throughout the lifetime of the development.

The drainage shall be provided in accordance with the approved details, and the dwellings shall not be occupied until evidence (including as built drawings and photographs) has been submitted to and approved in writing by the Local Planning Authority showing that the drainage system has been constructed in accordance with the approved details and drainage designs. The development shall thereafter be maintained and managed in accordance with the approved details for the lifetime of the development.

- 9) No development hereby permitted shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority, which shall include full plans and specifications for all hard and soft landscape works, including hard surfacing and boundary treatments. All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the dwellings or the completion of the development, whichever is the sooner. Any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All hard landscaping comprised in the approved details of landscaping shall be carried out prior to the first occupation of the dwellings or the completion of the development, whichever is the sooner.
- 10) No dwelling hereby permitted shall be occupied until the access and visibility splays have been constructed in accordance with drawing no. 9080 P 58 Rev 04. The visibility splays shall be maintained and kept clear of obstruction in perpetuity.
- 11) No dwelling hereby permitted shall be occupied until the parking and turning areas have been provided in accordance with drawing no. 9080 P 04 Rev 35. The parking spaces shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.
- 12) The development hereby permitted shall take place in accordance with the Arboricultural Report (document ref: AR/91320) authored by The Mayhew Consultancy Ltd and dated September 2021, including the installation of tree protection barriers in the positions shown on the Tree Protection Plan contained

therein prior to the commencement of development. All works shall be carried out in accordance with the approved details and the tree protection measures shall be maintained until all external construction works are completed.

- 13) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner, other than in accordance with the approved Arboricultural Report (document ref: AR/91320) authored by The Mayhew Consultancy Ltd and dated September 2021. If any retained tree is removed, uprooted, destroyed or dies, a replacement tree shall be planted and that tree shall be of such size and species and shall be planted at such a time and in a position to be agreed with the Local Planning Authority.
- 14) The development hereby permitted shall take place in accordance with the Ecological Assessment (report ref: 8997.EcoAss.vf1) authored by Ecology Solutions and dated September 2020, including the implementation of the ecological mitigation and enhancement measures. The approved ecological enhancement measures shall be retained as such thereafter.
- 15) Prior to the installation of any external lighting to the site, details shall first be submitted to and approved in writing by the Local Planning Authority. The details should provide for lighting that is low level, hooded and directional. External lighting shall only be installed and maintained in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

Matthew Dale-Harris	Counsel, Landmark Chambers
Mark Best	Parker Dann Chartered Town Planning Consultants
Dr Nicholas Doggett	Asset Heritage
Nick Harper	Harper Landscape Architecture LLP
Mr Harvey	Appellant
Mrs Harvey	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Declan Redman	Senior Planning Officer
Heather Hall	Heritage Officer

INTERESTED PARTIES:

Andrew Ratcliffe	Mayfield and Five Ashes Planning Executive
Arnold Hamilton	
Paul Aman	
Kim Chiffey	
Ken Frost	
Patrica Sullivan	
Maureen McNair	
Bridget Frost	
John Mills	
Maureen Wooldridge	

DOCUMENTS

Document 1 – Mayfield and Five Ashes Parish Council Strategy Incorporating the Local Plan 2020-2026

PLANS

Plan 1 – Private Road Site Visit Locations