



Appeal Decision

Site visit made on 17 June 2025

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2025

Appeal Ref: APP/M2270/W/24/3352738

Beacon Hotel, Tea Garden Lane, Royal Tunbridge Wells, Kent TN3 9JH

- 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 & Mrs P Cornwell against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 22/00774/FULL.
 - The development proposed is 'restoration of historic cold bath, two storey guest accommodation building and two temporary 'Iglu' buildings to provide guest accommodation with associated works'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans and information were submitted during the Council's consideration of the application. Amendments included the omission from the proposal of an amphitheatre feature and a detached building accommodating a restored cold bath with wellness suite. The Council considered the development with reference to the amended plans and I have determined the appeal on the same basis. I have also used the revised description of development stated on the decision notice and entered on the appeal form which accurately reflects these amendments.
3. The Council's fourth reason for refusal stated that the development 'will change the character of the immediate setting of this part of Happy Valley within the conservation area'. However, the Council has confirmed that the site is adjacent to, rather than within, the Rusthall Common Conservation Area ('the CA'). I have determined the appeal accordingly.
4. I have been referred to policies within the emerging Tunbridge Wells Borough Submission Local Plan 2020-2038 ('the SLP') which is currently being examined. The SLP is at an advanced stage. However, proposed main modifications to the plan and responses to consultation are subject to consideration by the examination Inspector. I have not been provided with details of unresolved objections, and I cannot be sure that policies will be adopted unchanged. These factors moderate the weight that I can attach to policies of the SLP. That said, with the exception of Policy EN 9 in relation to Biodiversity Net Gain ('BNG'), it seems to me that the referenced policies would not significantly change the approach or relevant considerations from those that would apply under the adopted development plan such that my decision would turn on them. Neither main party has argued otherwise. On that basis, I have not found it necessary to refer to them further.
5. A revised version of the National Planning Policy Framework ('the Framework') was published in December 2024. The main parties were given the opportunity to

comment on the relevance of the Framework to this appeal, and I have had regard to the representations made.

Main Issues

6. The main issues are:

- i) whether or not the proposal would be inappropriate development in the Green Belt;
- ii) the effect of the proposal on the openness of the Green Belt;
- iii) the effect of the proposal on the 'Beacon Hotel Cold Bath and Tea Gardens' historic park and garden;
- iv) the effect of the proposal on the significance of the Rusthall Common CA;
- v) the effect of the proposal on landscape character and appearance;
- vi) the effect of the proposal on heritage assets with archaeological interest;
- vii) the effect of the proposal on ecology;
- viii) whether or not the proposal would make adequate provision for BNG;
- ix) the effect of the proposal on the living conditions of occupiers of nearby dwellings; and
- x) if the development would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

- 7. The Beacon is a bar/restaurant with guest accommodation, set within extensive grounds which include areas of garden, woodland and three ponds. The proposal includes a two-storey building (referred to as 'the Hide') within a clearing on sloping ground to the east of the existing hotel. The Hide would provide 6 en-suite guest rooms. In addition, the proposal includes two 'iglu' guest lodges on a plateau to the south of the hotel which the appellants suggest would be temporary for an initial 12 month period, and a parking area for up to 8 vehicles.
- 8. The appeal site is within the Green Belt where the Framework provides that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework identifies that development is inappropriate unless specified exceptions apply.
- 9. These include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The appellants evidence references case law confirming that an extension for the purposes of this exception can include physically detached structures. However, while the Hide and iglu lodges may be intended as an extension of the existing guest accommodation at the site, they would both be set some way apart from the building with notable intervening areas of landscaping. Given the relationship, I find as a matter of fact and degree that they would not comprise an extension for the purposes of this exception. Even if that were not the case, I have no substantive information detailing the comparative size of the extensions and original building to

be able to determine that the additions would not be disproportionate and so meet the terms of the exception.

10. The appellants' comments on the revised Framework suggest that the site exhibits 'a number of characteristics' set out within paragraphs considering Green Belt exceptions, but this is not explained further and there is no compelling evidence that any of the other exceptions specified in the Framework would apply in this case.
11. I conclude for these reasons that the proposal would be inappropriate development which is, by definition, harmful to the Green Belt.

Openness

12. The Hide would be two-storey with an irregular but relatively generous footprint. It would be built partly into a sloping bank. However, the first-floor level and a significant proportion of the ground-floor level would still be discernible projecting above the adjacent ground. The roof to the central section would further slope up to reach significant height above the ground at the south-east side of the building. In my assessment, it would be appreciated as a fairly large building and its resulting scale and form would have a clear physical presence on the site. It would also be set some way to the east of The Beacon building and other development close to Tea Garden Lane, beyond a patch of dense woodland on Rusthall Common. In combination, the scale and physical presence of the building and the spread of built development further from Tea Garden Lane would have a marked impact on the openness of Green Belt in spatial terms.
13. The surrounding topography and tree cover means that views of the building would be likely to be limited and predominantly from within the appeal site. However, I observed some glimpses into this part of the site from paths within Rusthall Common, even during a period of thick vegetation cover. The development would be likely to be appreciable in these views and while the indicated materials of stone, timber cladding and a sedum roof would help to soften its appearance, its presence would still have some adverse visual impact on openness from points outside of the site. Where the building's southern elevation would be seen, the extensive glazing would further be striking against the natural quality of the surroundings, drawing the eye and exacerbating the visual impact of the development, albeit that I acknowledge this would generally be restricted to viewpoints within the site.
14. Given the nature of the accommodation as part of a hotel, I consider that paraphernalia outside of the building would be unlikely and could reasonably be managed as part of the hotel operation and through landscaping, controlled through a planning condition. However, there would be new activity and comings and goings occurring on this part of the site and the greater intensity of use would additionally be detrimental to the existing impression of openness.
15. Taken cumulatively, these effects of the Hide would cause significant harm to the openness of this part of the Green Belt, albeit that effects would be localised and there would remain a considerable impression of openness on the wider site.
16. The proposed iglu lodges would be single-storey and of more modest scale than the Hide, but they would nevertheless each have a clear physical presence. They would also result in further spread of built development and associated activity

across the appeal site onto an area that is currently undeveloped grassland amongst trees. As a result, there would be a loss of openness in spatial terms.

17. The lodges would sit on a plateau beneath higher ground which would restrict views and while some nearby trees are indicated to be removed, retained and proposed new planting could provide screening. Their visual impact and views from outside of the site would therefore be likely to be limited, but the appellants' Archaeological Desk Based Assessment and Heritage Statement ('DBAHS') indicates potential for visibility from outside of the site, and while limited, there would be a resulting loss of openness in visual terms.
18. The suggested temporary nature of the lodges for an initial 12 month period could limit the duration of the harm that would occur. Nevertheless, for the period that the lodges were in place, I consider that they would have some adverse impact on the openness of the Green Belt.
19. The Council considers that the proposed parking would be acceptable provided that surfacing was grasscrete or similar and this could be secured by a planning condition. Be that as it may, I conclude for the reasons above that the Hide and iglu lodges would cause harm to the openness of the Green Belt.

Historic Park and Garden

20. The appeal site makes up the majority of the Beacon Hotel Cold Bath and Tea Gardens Historic Park and Garden ('HPG') which I have considered as a non-designated heritage asset ('NDHA'). The Kent Compendium of Historic Parks and Gardens for Tunbridge Wells summarises the historic interest of the HPG, noting it as an early 18th century pleasure garden, including a spring-fed cold bath and a series of three descending ponds, set in a wooded valley. The cold bath and gardens were established in 1708 providing a diversion for visitors to the area when they were not taking the water at the Wells, but by 1780, the cold bath was no longer in use. Surviving features were incorporated into a tea garden in the early 19th century and subsequently into the private garden of an 1894 house where ornamental gardens incorporating the woodland and pleasure gardens were formed.
21. Remains of structures around the cold bath are fragmentary, but the spring and pool are extant and I agree with the DBAHS that the cold bath feature has high heritage value as a representative example of attractions in early pleasure gardens and the brief period where cold bathing was being developed in Tunbridge Wells. The enhanced landscape and gardens around the cold bath have evolved over time, and little of the historic garden designs remain. However, some features such as the terraced landform survive. From the information before me, the natural landscape within and surrounding the site was an important part of the aesthetic value of the garden and its development, and whether or not the landscape and views were incidental to the cold bath and gardens, I find that the HPG derives some significance from these elements.
22. The Hide would be positioned towards the head of the valley floor above the cold bath and ponds. The DBAHS notes that there have historically been buildings on the valley floor including farm buildings at the head of the valley. Be that as it may, I saw that the remains of buildings have largely blended into the landscape on this part of the site. It is also unclear that they were of comparable scale to the Hide which I have noted above would be a relatively large two-storey building. Despite the materials of timber and stone, the height and scale of the building would in my view form an

intrusive feature within this part of the landscape. When seen from within much of the HPG, the extensive glazing to the southern elevation would result in striking contrast with the sylvan quality of its surroundings, further exacerbating the visual impact of the building. I acknowledge that it may not be visible in key views from The Beacon, but I find for these reasons that the Hide would erode the contribution that the natural landscape currently makes to the significance of the HPG.

23. The proposal also includes surfaced paths and timber walkways to provide access to the Hide and around the ponds. The introduction of these additional formal elements within the wooded valley would further diminish the more natural quality of this part of the site.
24. The iglu lodges would be set amongst trees within an area that mapping seems to suggest has historically been at least partly woodland. Given the topography and their modest height, they would be unlikely to be prominent in views from The Beacon. However, there would be opportunities to appreciate them from within the grounds, and the DBAHS indicates potential visibility from outside of the site, albeit limited. In these views, the appellants have not disputed the Council's comments that the lodges' form and shape would be alien and I consider that they would stand out somewhat as incongruous, unnatural elements within the landscape of the HPG. The visual impact would be modest, but I find as a consequence that the iglu lodges would further detract from the natural landscape with detriment to the significance of the HPG, albeit that the temporary nature of the lodges could limit the duration of the harm that would occur.
25. The DBAHS suggests that the proposal provides an opportunity to improve the interface between the site and the '101 Steps' to the north which historically provided a link between the cold bath and Rusthall Common. However, there are no firm details of any improved boundary treatment or the interpretation panel that are mentioned, limiting the weight that I can afford to this factor as a potential benefit to the significance of the HPG.
26. I consider effects of the suggested restoration of the cold bath in more detail under the sixth main issue. However, the details of what restoration would entail are currently limited, and would depend on further investigation. Indeed, the Draft Cold Bath Complex Archaeological Mitigation Strategy ('dCBAMS') notes that it may be necessary to cover structures to prevent deterioration. There are also very limited details of the extent of suggested public access to the cold bath or details of how this would be formally secured. Given these factors, I can have limited confidence that the purported restoration would offer meaningful benefit to the legibility of the cold bath and the significance of the HPG.
27. In this context, I find that the potential benefits of the proposal to the significance of the HPG would be far outweighed by the adverse effects of the Hide, pathways and iglu lodges. Even if I were satisfied that the cold bath itself would be appropriately preserved, I conclude that the cumulative adverse effects of the proposal would cause harm to the significance of the HPG as an NDHA overall. In my assessment, the harm would be modest, but greater than the negligible level of harm that the DBAHS identifies.
28. Saved Policy EN11 of the Local Plan 2006 ('the LP') states that proposals likely to affect a historic park or garden will only be permitted where no significant harm would be caused to its character, amenities or setting. The harm that I have

identified in this case would not be significant, but would conflict with Core Policy 4 of the Core Strategy 2010 ('the CS') which includes a requirement for heritage assets including Historic Parks and Gardens to be conserved and enhanced. However, the Framework advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. I return to this matter in my planning balance below.

Conservation Area

29. The appeal site adjoins the boundary of the Rusthall CA which is focused on Rusthall Common and development around its fringes. The Royal Tunbridge Wells and Rusthall Conservation Areas Appraisal 2000 notes that a central element of the southern part of the CA is the 101 Steps linking the cold bath on the valley floor to the Common. It also highlights spectacular views out towards Ashdown Forest and the High Weald from the exposed high rock escarpment above Happy Valley.
30. The appeal site is located within the foreground of these long-distance views. Significant vegetation coverage at the time of my visit limited clear views into the site from the escarpment. However, the DBAHS indicates that glimpses of buildings at The Beacon may be possible at other times. I also noted partial views into the site from points closer to the site boundary, including from the trail near to the base of the 101 Steps.
31. Insofar as it relates to this appeal, the historic landscape within the appeal site provides for attractive, verdant surroundings which complement the Common and views out from Happy Valley, and I find that the site contributes to the significance of the CA as part of its setting.
32. The DBAHS asserts that the Hide would be screened from the key viewpoint of the 101 Steps but from my observations, some views would be likely to be possible from the trail near to the base of the feature. The DBAHS also notes that there could be glimpsed views of the Hide from the eastern end of the escarpment. Although built partly into the ground, there would be likely to be some appreciation in these views of the significant scale of the above ground part of the Hide. The limited glazing, materials of timber and stone and the sedum roof to the parts of the building that could be visible from within the CA would help to soften its visual impact and it would not be prominent. Nevertheless, the presence of the building and associated activity would still diminish the landscaped setting to this part of the CA. Surfacing of pathways would further diminish the natural quality of the site. Some views of the iglu lodges may also be possible from within the CA, and while these would be of modest scale, I have already noted that they would stand out as incongruous, unnatural elements within the landscape.
33. Given the scale and visibility of the proposal, effects would be very limited and localised and I agree with the DBAHS that harm to the significance of the CA as a whole would be negligible and 'less than substantial' in the terms of the Framework. The harm arising from the iglu lodges could further be limited in duration.
34. Nevertheless, there would be harm. In this respect, the proposal would be contrary to Core Policy 4 of the CS which includes a requirement for heritage assets including conservation areas to be conserved and enhanced. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal and I return to this matter in my planning balance below.

Landscape Character and Appearance

35. The appellants' Landscape Design Strategy ('LDS') indicates that the site is within the Kent Special Landscape Area and that it is part of Landscape Character Area ('LCA') 5 – Speldhurst Wooded Farmland as identified in the Tunbridge Wells Borough Landscape Character Assessment 2017. Key characteristics of the LCA particularly relevant to the appeal site and surroundings include ornamental designed parklands, with the Beacon Hotel Cold Bath and Tea Gardens highlighted, extensive panoramic views across surrounding countryside and open hilltops and a relatively rural character.
36. For the reasons noted above, the proposal would detract from the landscaped quality of the appeal site. However, new native planting would offer some enhancement which would help to offset overall effects on the local landscape character. In addition, the LDS indicates limited visibility from beyond the site boundary, with no or negligible change in the appreciation of visual amenity from identified viewpoints. The Council has provided no firm evidence to the contrary and from my observations, I consider the appellants' assessment to be reasonable.
37. Although there would be some change to the character of this part of the landscape, effects would be very localised and having regard to the limited visual impact of development, I conclude that there would be no more than negligible harm to landscape character and appearance. However, the proposal would not strictly accord with Core Policy 4 of the CS insofar as it includes a requirement for rural landscapes to be conserved and enhanced.

Heritage Assets with Archaeological Interest

38. In addition to being a key element of the HPG, the evidence before me highlights clear archaeological interest associated with the cold bath complex¹ on the appeal site which warrants its assessment as an NDHA in its own right. Some structural remains of the cold bath pool and spring are extant on the site, and at the time of my visit, vegetation had been recently cleared so that the base of a stone building alongside was partly revealed. However, the DBAHS notes that other features in the area may also survive as below ground archaeological remains.
39. The Council's fourth reason for refusal includes a statement that it 'is likely that the proposed cold bath structure will destroy or damage the remains of the early 18th century cold bath'. However, the initially proposed cold bath structure is no longer part of the appeal proposal.
40. Nevertheless, the development description does include 'restoration of historic cold bath'. The dCBAMS sets out that the key principle will be to conserve the cold bath complex and not allow these heritage assets to deteriorate as part of the development. It outlines stage 1 works involving sensitive clearance of scrub vegetation from extant structures and subsequently their recording to inform their appropriate conservation and long term management. No excavation is proposed other than removal of loose debris. Following the stage 1 works, requirements for

¹ Including the spring and cold bath itself and associated structures shown on historic mapping including a carriage driveway to a small building by the entrance to the cold bath which may have been an entrance kiosk, and a more substantial building to the east of the cold bath which the DBAHS suggests may have been a dressing room or the equivalent of the coffee house for ladies and pipe house for gentlemen at the springs in Tunbridge Wells. The DBAHS also notes that some yews nearby may be those mentioned in early 19th century documents as being on the boundaries.

stabilisation/consolidation will be established and proposals set out in a more detailed methodology statement.

41. The dCBAMS comments that it is hoped that the historic structures can be retained as visible 'ruins' with suitable measures in place to raise awareness, understanding and enjoyment. However, it acknowledges that there is potential for the stage 1 works to highlight vulnerabilities to weathering or other threats which mean that it may be necessary to cover the structures to prevent deterioration.
42. At the current time, it is therefore uncertain what restoration of the cold bath might entail. The dCBAMS, Draft Cold Bath Complex Archaeological Management Plan (Long Term) ('dCBAMP') and Archaeological Monitoring Written Scheme of Investigation (Method Statement) for the cold bath complex identify some broad principles, but details of potential repair and conservation, on-going protection and maintenance and long-term management measures which are dependent on the stage 1 works are also unclear. The current lack of clarity means that my confidence that the cold bath complex could be appropriately safeguarded is somewhat limited, and I cannot be sure that the proposal would benefit the significance of the complex as the appellants assert.
43. The appellants suggest that planning conditions could control further details. However, their appeal statement accepts elements of the proposal could only be properly assessed once some form of excavation has taken place. It further presents no compelling argument that the additional information that the Council and County Archaeologist identify as required in order to properly consider the effects of the proposal would be unwarranted or could not be provided prior to determination. As a result and given the uncertainty noted above around whether the asset could be safeguarded, I am not satisfied that it would be appropriate to defer this matter to planning conditions.
44. Details of suggested public access to the cold bath and an interpretation scheme would not go to the heart of whether or not the asset would be adequately safeguarded. I am accordingly satisfied that this could be controlled by a planning condition. Given however the current uncertainty as to what restoration may entail and that it may require structures to be covered for example, the scope for meaningful appreciation of the feature by the public is unclear. In addition, the appellants refer to regular open days and potential for educational events, but the dCBAMP comments that access will be largely limited to occupants and patrons of The Beacon with public access permitted at appropriate times, for example as part of annual Heritage Open Days Festival or school visits. Without detail indicating how often public access or education visits would be accommodated and on what basis, I can draw no firm conclusions as to how significant any benefit would be. These factors limit the weight that I afford to this as a potential benefit of the proposal.
45. Beyond the cold bath complex, the evidence before me indicates that there could be potential for multi-period archaeological remains on the site. However, the Council has suggested a condition to require evaluation works in accordance with a written scheme of investigation and, if necessary, further archaeological investigation, recording and reporting. I have no firm reason to find that this would fail to appropriately safeguard heritage assets of archaeological interest on the wider site.

46. Be that as it may, I find for the reasons above that there is insufficient information to demonstrate that the cold bath complex would be adequately safeguarded. I am accordingly unable to conclude that there would not be harm to heritage assets with archaeological interest. In this respect, the proposal would be contrary to Core Policy 4 of the CS which includes a requirement for heritage assets including archaeological sites to be conserved and enhanced. Saved Policy EN10 of the LP sets out that proposals for development affecting sites of archaeological interest will be determined having regard to the desirability of preserving archaeological remains and criteria including the potential benefits of the proposal. I return to this in my planning balance below.

Ecology

47. As part of the application, the appellants provided an Ecological Impact Assessment ('EclA') which was updated prior to the Council's decision. This concludes that with avoidance and mitigation measures, the impacts of development on biodiversity will be negligible and non-significant.
48. However, the EclA suggests that a full data search was not considered proportionate. Notwithstanding the scale of the proposal, the appeal site contains priority habitat and is next to the Common. Given this context, I agree with the Council that it would seem reasonable to expect the Biological Records Centre to be consulted for records of protected and notable species, and the appellants have offered no compelling argument to the contrary. I cannot therefore be sure that the EclA has fully and adequately considered the existing baseline conditions.
49. The Council's report on the application also highlighted that a bat transect survey referenced in the EclA had not been provided. This matter has not been addressed by the appellants and in the absence of the survey, neither I nor the Council have been able to review or consider the results in any detail. My confidence in the conclusions drawn by the EclA in respect of effects on bats is therefore somewhat limited.
50. In addition, the EclA identifies that ponds on the site are of excellent suitability for great crested newt ('GCN'), that the damp underfoot conditions and long sward height of the majority of the onsite vegetation offers suitable potential commuting routes and foraging habitat and that the scattered scrub provides cover and areas in which amphibians could hibernate. It comments that eDNA surveys carried out in 2018 showed no presence of GCN in the ponds and suggests that there is a low potential that they have moved into the area. However, I am mindful that significant time has passed since the eDNA survey was carried out and in the absence of any substantive evidence to challenge the Council's position that the survey should be updated given the high suitability score, I am not persuaded that the 2018 eDNA survey can appropriately still be relied upon. I cannot therefore be sure that GCN would not be present or affected by the proposal.
51. Moreover, the EclA does not include reference to the cold bath in the description of the development proposals that have been assessed. I have already noted that the nature and extent of restoration works to the cold bath are currently unclear, but given that they could affect the spring and watercourse, I am concerned that potential for effects on amphibians and invertebrates and scope for mitigation have not been adequately considered.

52. Circular 06/2005² sets out that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by proposed development is established before planning permission is granted. Given the above, I conclude that there is insufficient evidence to determine that there would not be adverse effects on ecology and protected species. I further cannot be confident that any necessary mitigation or compensation measures to address effects of the proposal could be properly secured and would be effective. In view of the uncertainty and the evidence before me, I find that these matters could not appropriately be deferred to a planning condition.
53. Accordingly, the proposal would be contrary to Core Policy 4 of the CS which seeks to conserve and enhance biodiversity, as well as the Framework which includes requirements to protect and enhance sites of biodiversity value.

Biodiversity Net Gain

54. The appeal application pre-dates mandatory requirements for BNG under the Town and Country Planning Act 1990 (as amended) coming into force, and transitional provisions mean that it would not be subject to the requirement. However, there is an emerging requirement under Policy EN 9 of the SLP for development to demonstrate a minimum 10% BNG through application of the Defra Biodiversity Metric. This is not yet an adopted requirement, but the Framework does require provision of net gains for biodiversity, and Core Policy 4 of the CS also seeks opportunities for biodiversity enhancements.
55. The appellants have asserted that the proposal can secure measurable BNG. No metric or other substantive evidence has been provided to demonstrate this. However, while I acknowledge that there would be some removal of trees and loss of existing habitat, the EcIA outlines potential ecological enhancements and I consider having regard to the extent of the appeal site that there is a reasonable prospect that BNG could be achieved. The Council has provided no firm evidence to the contrary. In these circumstances, I am satisfied that a planning condition could reasonably require further details of how BNG would be achieved prior to development commencing, and would offer adequate certainty of delivery before development could take place.
56. The proposal would not strictly accord with Policy EN 9 of the SLP insofar as it requires application of the Defra Biodiversity Metric to demonstrate BNG. However, the weight that I afford to the conflict is limited given that I cannot be sure the requirements as currently outlined will become adopted. Moreover, I conclude that with the imposition of a planning condition, the proposal would make adequate provision for BNG and biodiversity enhancements as sought by Core Policy 4 of the CS and the Framework.

Living Conditions

57. Residential properties on Tea Garden Lane and The Midway adjoin the appeal site, and there are further properties beyond the Midway at Nevill Park. However, the Hide and iglu lodges would be set in from the site boundaries and while there may be some views of them from neighbouring properties, the significant separation would ensure they would not be unduly overbearing. Details of any external lighting could be secured by a planning condition and I am satisfied having regard to the

² Biodiversity and geological conservation – statutory obligations and their impact within the planning system

relationship of the site with neighbouring dwellings that lighting would not cause undue disturbance to neighbouring occupiers.

58. The Hide and iglu lodges would be set apart from the main hotel building. They would be likely to introduce activity, comings and goings on parts of the site that are currently undeveloped and where there was little other background noise at the time of my visit. This would be likely to include during late evenings as guests return to accommodation, either from The Beacon where I note weddings are hosted and the Council's evidence indicates that late-night activities are permitted under the premises licence, or destinations further afield. However, the number of guest rooms would be limited. The proposed overspill parking would similarly be of modest scale providing eight spaces, and while interested parties and the Environmental Protection Officer's initial comments had referred to noise in relation to the amphitheatre and marquees, these are not part of the appeal development.
59. I acknowledge the position of the development within a valley. However, neighbouring dwellings are generally set away from the boundary within generous plots and I consider that the provision of overnight accommodation and parking of the scale proposed here would be unlikely to generate significant levels of noise or disturbance that would be detrimental to neighbouring occupiers' quality of life. I further see no firm reason why a management plan to include measures to effectively manage potential for noise within the site could not be secured by planning condition.
60. I therefore conclude that subject to planning conditions, the proposal would not cause unacceptable harm to the living conditions of occupiers of nearby dwellings and I do not identify conflict with saved Policies EN1 or EN8 of the LP. These policies broadly seek appropriate lighting and development that would be compatible with neighbouring uses and that would not cause significant harm to the residential amenities of adjoining occupiers.

Other Considerations

61. The Framework supports sustainable growth and expansion of businesses in rural areas and rural tourism developments which respect the character of the countryside. The proposal could support the existing enterprise on the appeal site which is operating as a business in the rural area.
62. In this respect, the appellants assert that the current number of rooms is unviable and highlight rising costs and the pandemic as contributing to tough trading conditions. However, while the 'Very Special Circumstances' ('VSC') document includes some figures, the 2023 forecasts appear to present scenarios with or without rooms and weddings combined. This makes it difficult to discern the degree of contribution likely from the proposal. There is also limited supporting evidence to explain the inputs and present a compelling case that the business would be unable to continue in the absence of the proposal. In addition, the VSC document suggests construction costs of £1.3m and that additional jobs would be created, but from the limited information presented, it is unclear to me if these are accounted for in the forecasts which raises some uncertainty in my mind that the business could sustain the investment required and viably continue. I am further unsure how the iglu lodges which are suggested for a temporary period have been accounted for in forecasts and their role in offering long-term support for the business.

63. The proposal would nevertheless be likely to offer some economic and social benefits associated with employment and spend during construction and on operation, as well as support for local suppliers and contractors. However, construction-stage benefits would be temporary. In the longer-term, the VSC document indicates that the proposal would maintain 70 existing jobs on the site and create 20 additional jobs, as well as opportunities to train apprentices. However, it indicates that jobs are a mix of full and part-time, and I do not know the breakdown or how many hours the part-time roles provide. Furthermore, these figures differ from those given on the application form by some way. I consider the overall employment benefit is therefore somewhat unclear.
64. More widely, the appellants identify support for tourism. Priorities for development of hotel stock noted in the CS include support for development of boutique hotels and country house or niche hotels in rural areas. The appellants also refer to a Hotel Capacity Study 2017 which indicated a lack of choice and quality and a lack of luxury accommodation in Tunbridge Wells, but the Study is now of some age and it is unclear from the evidence if this remains the current position.
65. The proposal would nevertheless widen availability of hotel accommodation in the town and given its location in relatively close proximity to Tunbridge Wells, I consider it is reasonable to assume that at least some patrons of the site would also visit other local businesses and attractions. That said, there is little detail to indicate the likely magnitude of any contribution by visitors to the local economy or to supporting Tunbridge Wells as a leisure and tourist destination.
66. In combination, these factors mean that I afford moderate weight to the suggested economic and social benefits relating to employment, economic contributions and support for tourism and the enterprise on the rural site.
67. I have also noted the appellants' assertion that the proposal offers an opportunity to restore the cold bath which would not otherwise arise. I acknowledge comments from interested parties, including Water in the Wells groups, expressing support for restoration and that this could support the town as a visitor destination. Be that as it may, I have found above that there is insufficient information to determine that the cold bath complex would be appropriately safeguarded. It is not therefore clear that restoration of the cold bath represents a benefit.
68. Even if I were satisfied that the cold bath would be safeguarded, there is a lack of detail to indicate the extent and value of suggested public access and so this attracts no more than limited weight in favour of the proposal.
69. The Framework indicates that authorities should plan positively to enhance beneficial use of Green Belts including opportunities for outdoor sport and recreation. It also supports provision of services to address community needs. The appellants refer to treatments for stress and mental health and bringing the community together for open water swimming, sauna, yoga and forest bathing, but no firm details have been provided and it is also unclear that such activity would be dependent on the appeal proposal. I therefore afford this limited weight.
70. I have found that the proposal could secure BNG, but the extent of any gain is currently unclear. Furthermore, the appellants refer to continued management of on-site habitats, but I have found that there is insufficient information to determine that there would not be harm to protected species. In this context, I give limited weight to potential benefits to biodiversity.

71. Similarly, the grounds may be maintained, but I have found that there would be some harm to the significance of the HPG as a consequence of the proposal and I am not persuaded there would be an overall benefit to the HPG. A landscape-led approach may help to mitigate effects of development, but is not in itself a clear benefit of the proposal.

Other Matters

72. A large area to the southern part of the appeal site is designated as ancient woodland. The Council's reasons for refusal cite conflict with Saved Policy EN13 of the LP and Policies EN 12 and EN 13 of the SLP which relate to trees, woodland and ancient woodland. However, while its officer report included a comment suggesting that the proposed buildings would cause harm to adjoining ancient woodland, this is not discussed or explained further within its evidence. Similarly, the reasons for refusal cite conflict with saved Policies EN22, EN23 and EN24 of the LP and Policy EN17 of the SLP which relate to development in areas of landscape importance, important landscape approaches to settlements and arcadian areas, but the relevance of these policies and how there would be conflict is not explained. Given however that I am dismissing the appeal for other reasons and these matters could not be determinative, I have not found it necessary to consider them further.
73. The Ashdown Forest Special Area of Conservation ('SAC') and Special Protection Area ('SPA') are European Sites subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. The information before me indicates that these sites are vulnerable to recreational pressure, but given the distance of the site from the boundary and the evidence before me, I concur with the main parties that the proposal would not have a likely significant effect on the SAC or SPA requiring further assessment.
74. Interested parties raise concerns about the effects of the amphitheatre and marquees on the site including in respect of noise, as well as access for walkers on the site having been restricted. However, these elements are not part of the development that is before me in this appeal.

Planning Balance

75. I have found that the proposal could make adequate provision for BNG and would not cause unacceptable harm to living conditions for occupiers of nearby dwellings. However, the proposal would be inappropriate development in the Green Belt and would cause some harm to the openness of the Green Belt. There would be less than substantial harm to the significance of the Beacon Hotel Cold Bath and Tea Gardens HPG and the Rusthall CA as heritage assets, and it is unclear that heritage assets with archaeological interest would be adequately safeguarded. There is also insufficient evidence to determine that there would not be adverse effects on ecology and protected species. Negligible harm would additionally be caused to landscape character and appearance.

Heritage Balance

76. The Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. It goes on to advise that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or

from development within its setting), should require clear and convincing justification.

77. I give considerable importance and weight to the less than substantial harm that the proposal would cause to the Rusthall CA as a designated heritage asset. Nevertheless, the degree of harm would be negligible and in my judgement, the cumulative public benefits of the proposal noted above would be sufficient to outweigh the harm to the significance of the designated heritage asset. In this respect, there would be a clear and compelling justification for the proposal.
78. In weighing applications that directly or indirectly affect NDHA, the Framework requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. I have found that the proposal would cause modest harm to the significance of the HPG as an NDHA. The Council has not disputed the appellants' evidence that the HPG is of local significance, and I consider taking a balanced judgement that the modest harm would be outweighed by the cumulative benefits of the proposal.
79. Insofar as the proposal would cause harm to the CA and HPG, it would be contrary to Core Policy 4 of the CS. Although this policy is generally consistent with the Framework in seeking broadly to conserve and enhance the historic environment, it does not reflect the Framework requirements for balancing of harm. Having found above that the harm to the CA and HPG would be outweighed, the weight that I afford to the conflict with this policy in respect of the CA and HPG is therefore limited.
80. However, the appellants' evidence highlights the importance of the cold bath complex on the site to the social and cultural history of Tunbridge Wells and from the information before me, I consider their assessment of this asset holding 'medium' significance to be reasonable. Although the proposal could offer an opportunity to enhance the asset, the submitted evidence does not satisfactorily demonstrate that it would be safeguarded, and I cannot be sure that it's significance would not be lost or undermined by works. Taking a balanced judgement, I am not persuaded that such effects would be outweighed by the cumulative benefits of the proposal.
81. The harm to heritage assets of archaeological interest would conflict with Core Policy 4 of the CS. I have noted above that this policy is not fully consistent with the Framework but given my findings that the harm would not be outweighed by the benefits of the proposal, I afford significant weight to the conflict in this respect. Furthermore, I find that the proposal would not be supported by saved Policy EN10 of the LP which sets out that proposals for development affecting sites of archaeological interest will be determined having regard to the desirability of preserving archaeological remains and criteria including the potential benefits of the proposal.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development within the Green Belt

82. In accordance with the Framework, I give substantial weight to the harm that the proposal would cause to the Green Belt by reason of inappropriateness and the harm to openness.

83. In addition, I have found that there is insufficient evidence to demonstrate that there would not be unacceptable harm to heritage assets of archaeological interest or to ecology and protected species. Noting the significance of the archaeology and the importance of protecting and enhancing biodiversity as highlighted in the Framework, I afford significant weight to this harm.
84. I have also found some harm to the character of the landscape, although this would be negligible and I afford it limited weight. Harm to the significance of the CA and HPG would be outweighed by the public benefits of the proposal, but is nevertheless harm to be weighed in the overall green belt balance.
85. Against these harms, the social and economic benefits associated with employment, economic contributions and support for tourism and the enterprise in the rural area attract moderate weight. Opportunities for public access and for outdoor sport and recreation and biodiversity enhancement attract limited weight.
86. The Framework identifies that inappropriate development should not be approved except in very special circumstances. It sets out that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, the harm to the Green Belt would be localised but I consider that the totality of the other considerations in favour of the proposal are insufficient to clearly outweigh the harm to the Green Belt when taken cumulatively with the other harm that would be caused.
87. Accordingly, very special circumstances which would be necessary to justify the development within the Green Belt do not exist. On that basis, the proposal would conflict with Core Policy 2 of the CS and saved Policy MGB1 of the LP. These policies include provisions broadly that there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt or which would conflict with the purpose of including land within it and indicate that development should accord with national planning provisions.

Overall Balance

88. I have no reason to doubt the appellants' commitment to the site. However, any permission would run with the land. The appeal proposal would cause unacceptable harm to the Green Belt and there is insufficient evidence to demonstrate that it would not cause unacceptable harm to heritage assets of archaeological interest or to ecology and protected species. There would be conflict with Core Policies 2 and 4 of the CS and saved Policies MGB1 and EN10 of the LP and I find that the proposal would conflict with the development plan when it is read as a whole. In my assessment, material considerations would not outweigh the totality of the harm that would be caused, and they do not indicate that a decision contrary to the development plan should be reached.

Conclusion

89. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR