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## Appeal Decision

Site visit made on 22 August 2016

by **Zoe Raygen Dip URP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07 September 2016

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### Appeal Ref: **APP/D3830/W/16/3148150** **Cuckfield Road, Staplefield RH17 6ET**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mrs Caroline Birthwright against the decision of Mid Sussex District Council.
  - The application Ref DM/15/2783, dated 30 June 2015, was refused by notice dated 18 November 2015.
  - The development proposed is outline planning application for the approval of access details for a residential development consisting of up to 17 dwellings (5 detached houses, 4 semi-detached houses and 8 terraced houses in 2 blocks), associated internal access, extension to village hall car park to provide an additional 11 spaces (including 3 accessible bays) and the erection of a village shop.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The application is in outline, with all matters except for the means of access reserved for future consideration. I have used the description from the Council's decision notice, which also matches that on the appellant's appeal form, as this more accurately describes the development than that on the application form. The appellant has submitted drawings showing a layout of 17 dwellings and a sample of the designs of the proposed houses. I have therefore treated these as indicative only.
3. The appellant has submitted revised drawings as part of her appeal statement in respect of visibility splays in relation to the Council's reason for refusal regarding highway safety. These drawings have not though been the subject of consultation and therefore if I were to accept them in my determination of this appeal third parties may be prejudiced. For the avoidance of doubt therefore I have determined the appeal based on the plans considered by the Council at the time of their determination of the planning application.

### Main Issues

4. The main issues are:
    - i) whether the proposal would provide a suitable site for housing with particular regard to its location;
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- ii) the effect of the proposal on the setting of the Staplefield Conservation Area;
- iii) the effect of the proposal on the character and appearance of the High Weald Area of Outstanding Natural Beauty (the AONB);
- iv) The effect of the proposal on highway safety, and
- v) Whether or not the proposal makes acceptable provision for infrastructure.

## **Reasons**

### *Policy*

5. The appeal site is located to the south east of the village of Staplefield. Staplefield does not have a built up area boundary in either the Mid Sussex Local Plan 2004 (the Local Plan) or the Mid-Sussex District Plan 2014-2031 Pre submission draft 2015 (the District Plan) and therefore is within the open countryside.
6. However there is no dispute between the parties that the Council cannot demonstrate a five year housing land supply. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
7. The Local Plan pre-dates the Framework. Many of the policies include elements relating to the supply of housing and therefore in accordance with the Framework should not be regarded as up-to-date. In addition, some policies include elements that are not consistent with the Framework and therefore I have afforded them little weight.
8. For example Policy T4 restricts development to within development boundaries, and therefore relates to the delivery of housing and is out of date in this respect. However, the Policy's requirement for development to be located close to public transport routes and to minimise journeys by the private car generated by the development, and not cause an unacceptable impact on the local environment in terms of road safety and increased traffic is consistent with the requirements of part 4 of the Framework. Similarly Policy C1 seeks to protect the countryside for its own sake which is not in accordance with the Framework which requires flexibility to support a sustainable rural economy.
9. Policy C4 restricts development in the AONB but its overriding aim is to conserve and enhance natural beauty which is consistent with the requirements of the environmental role of sustainable development within the Framework. Policies B12 and B15 relate to the preservation and enhancement of Conservation Areas and their setting in accordance with part 12 of the Framework. Policies G3 and H4 concern the provision of infrastructure and affordable housing in accordance with paragraphs 17 and 54 of the Framework. I therefore give these policies significant weight in my decision.
10. Policy B1 relates to design for new buildings. As the proposals are in outline form only this policy has not been particularly determinative in my decision.

11. The emerging District Plan and the draft Ansty, Staplefield and Brook Street Neighbourhood Plan 2015-2031 Submission Stage Version 2016 (the Neighbourhood Plan) have not yet been examined. The appellant has commented in some detail regarding the lack of allocated sites within Staplefield within the Neighbourhood Plan. I have also had regard to the comments of the Parish Council in this matter. However, I have considered the housing and countryside policies in the light of paragraphs 14 and 49 of the Framework as above. Furthermore, given their stage in the progress towards adoption I have accorded the policies in both documents only limited weight in accordance with paragraph 216 of the Framework.

*Location*

12. The Mid Sussex District Council Settlement Sustainability Review 2015 states that Staplefield has a number of services including a convenience store, playing fields, play area, public houses, primary school, mobile dispensary service, health centre/doctors facility, library and churches. Therefore, residents of Staplefield have access to a fairly wide range of local services and facilities. Furthermore the services and facilities would be within walking distance of the appeal site.
13. The proposed access to the north of the site would lead directly to a footway along the road which extends into the village. The footway would also give convenient access to the nearest bus stop. Although the service is limited to one bus every two hours Monday to Saturday given the reasonable level of facilities within the rural village it would not be essential for future occupiers to use the bus service on a daily basis. Furthermore, more facilities are available in the village of Handcross which is located about 1.5 miles to the north west of the appeal site.
14. I note that the road to Handcross is narrow, unlit and uphill with no footway or cycle path. It is unlikely therefore that residents would walk or cycle to Handcross particularly in the winter or in inclement weather. However, I am mindful that the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The proximity of Staplefield to Handcross together with the range of facilities in Staplefield and a bus service available within a safe walking distance of the appeal site means that the length and frequency of car trips would be minimised. While therefore it is likely that future occupiers would have access to a car there would be sufficient alternatives available in this rural location to ensure that they would not be dependent on it.
15. I have not had sight of the appeal decision APP/D3830/W/16/3142549 referred to by the appellant. However, from the submitted comments regarding the decision there is nothing in my findings that would lead me to disagree with the conclusions of the Inspector on appeal reference regarding the locational sustainability of Staplefield.
16. For the reasons above I conclude that the proposal would provide a suitable site for housing with particular regard to its location. In this respect therefore it would be in accordance with saved Policy T4 of the Local Plan, paragraphs 7 and 17 of the Framework and emerging Policy DP19 of the District Plan which, amongst other things, seek to minimise trips by the private car and have accessible local services.

17. The Council have also referred to paragraph 14 of the Framework within their decision notice. However, the presumption in favour of sustainable development relates to the three dimensions of sustainable development and I return to this matter below in my conclusion.

*Character and appearance including the AONB and the setting of the Conservation Area*

18. The village of Staplefield is located within the AONB and most is covered by the Conservation area designation. It is characterised by low density mainly detached and semi-detached houses sited in sporadic groups within a number of areas of large open spaces. The presence of mature trees and shrubs gives an attractive verdant appearance to the area. The village therefore has a spacious open character and as a whole sits within a setting of rural landscape of undeveloped fields in open countryside.
19. The appeal site forms an area of open land with a small building, surrounded by trees and hedges on three sides with the remaining boundary to the car park to the adjacent village hall being relatively open. Therefore, it is essentially rural in character contributing to the setting of Staplefield within the AONB and the setting of the Conservation Area on a main access into the village.
20. The introduction of 17 dwellings on the appeal site, would have a considerable visual impact in the countryside location and creating a more continuous and intensive area of development which would encroach further into the rural area reducing the openness. This would be reinforced through the introduction of associated residential paraphernalia such as washing lines, car parking and refuse bins and be accompanied by further traffic generation and more intensive domestic activity in and around the buildings all of which would detract from the rural character of the area.
21. I appreciate that the site would be adjacent to the village hall and a short row of dwellings, but by extending the built up environment into the appeal site it would reduce the physical distance between the village hall and the small group of industrial buildings to the south east of the site. As a result, because of the form and shape of the appeal site and the need to fit up to 17 dwellings into it, a continuous row of built development would be created of a size that would not be characteristic of the majority of the village. Consequently the sporadic nature of development along Cuckfield Road would be lost in this location.
22. I saw that the dwellings would be visible from Cuckfield Road through the car park to the village hall. It is also likely that the houses would be evident through the widened vehicle access from Cuckfield Road. Moreover, the majority of the trees around the site are deciduous in nature and therefore in the late autumn and winter months the site would be very visible from the surrounding countryside. As a result, the large extent of the built development would be particularly obtrusive and dominant and have a significant impact on the views from the surrounding area. Accordingly the landscape character of the field and its relationship to the surrounding open countryside would be lost, considerably impacting on the setting of the Conservation Area and Staplefield within the AONB.

23. The appellant has indicated that landscaping would be part of the proposals to help mitigate any impact on the AONB. Trees are an important part of the character of the area. However, planting would take some time to establish and I have seen no definite proposals which would allay my concerns regarding the effect of the development on the AONB.
24. There is development on the opposite side of the road to the appeal site, but this consists of small scale residential development set in large spacious grounds which maintains the open, verdant, sporadic character of development in the area.
25. I note that a screening opinion has been issued for the proposal which states that it would not be likely to have a significant environmental effect. However, that opinion would have been reached taking into account the criteria and scope of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. I have assessed the proposals with regard to the development plan and the Framework.
26. I have had regard to the development within the village at Tanners Mead. However I do not have full details of the circumstances that led to these proposals being acceptable and so cannot be sure that they represent a direct parallel to the appeal proposal. Nevertheless, Tanners Mead is a small development of houses set back from the road each located within large plots. The significant set-back and the area of open space to the south east of the group of houses enables the development to integrate into the street scene maintaining the open, sporadic character of the village as a whole.
27. For the reasons above the proposal would be considerably harmful to the character and appearance of the High Weald AONB and the setting of the Staplefield Conservation Area. It would therefore be contrary to saved Policies C1, C4, B12 and B15 of the Local Plan, paragraph 7 of the Framework emerging Policies DP14, DP24 and DP33 of the District Plan and Policies AS3 and AS10 of the Neighbourhood Plan. These require amongst other things that development should conserve and enhance the natural environment and the natural beauty of the AONB and, protect the setting of Conservation Areas.

*Highway safety*

28. The principal vehicular access for the new dwellings would be from the existing access to the south of the site directly onto Cuckfield Road. The access would be widened to accommodate larger vehicles entering and exiting the site.
29. The Council raised concerns regarding the lack of a safety audit, plans showing visibility splay, a capacity study and swept diagrams to show turning facilities within the site particularly with regard to refuse vehicles. Swept path diagrams were submitted and there does not appear to have been any objection from the Council to these.
30. I saw on site that the access would have good visibility and there was sufficient room to provide visibility spays of whatever size was deemed necessary due to the speed of traffic on the road. Therefore these details could be achieved through the imposition of a condition as could a detailed safety audit.
31. I observed that Cuckfield Road is a busy main road into Staplefield. The applicant has supplied no details of the likely levels of traffic generation of the development together with how that would impact on existing traffic levels on

Cuckfield Road. I have found that the proposal is located sustainably and residents would have the benefit of alternative methods of travel. Nonetheless, given that the site is within the open countryside it is still likely that future occupiers will have a car and therefore there would be the potential for the development to generate significant amounts of traffic movements.

32. Paragraph 32 of the Framework states that all proposals that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. In the absence of such evidence I am not in a position to make an assessment of the proposals and therefore cannot be sure that they would not be harmful to highway safety and consequently would accord with saved Policy T4 of the Local Plan and emerging Policy DP19 of the District Plan. These require amongst other things that development does not cause an unacceptable impact on the local environment in terms of road safety and increased traffic and does not cause a severe cumulative impact in terms of road safety and increased traffic congestion.

### *Infrastructure*

33. I have had regard to the request for contributions towards infrastructure in respect of play and sport facilities, community buildings, Local Community Infrastructure, education, libraries, fire hydrant and transport as well as the provision of five affordable housing units. Such requests for contributions are supported by saved Policy G3 of the Local Plan and emerging Policy DP18 of the District Plan which both require applicants to provide for the costs of additional infrastructure required to service their developments and mitigate their impact. Furthermore, saved Policy H4 of the Local Plan requires the provision of 30% affordable housing units in new developments of 15 or more units or where the site area exceeds 0.5ha. Emerging Policy DP29 of the District Plan seeks a 30% provision for residential developments providing a net increase of 11 dwellings and above.
34. From the information submitted by the Council I am satisfied that a planning obligation to secure contributions in relation to education, libraries, fire hydrant and transport would meet the tests set out in Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (the CIL). Furthermore, I consider the requirement for affordable housing to be achieved through a planning obligation would meet the requirements of Paragraph 204 of the Framework.
35. While I accept that the contributions in respect of play and sport facilities, community buildings and Local Community Infrastructure secured by a planning obligation would meet Regulation 122 of the CIL I have seen no evidence from the Council to suggest that they would also meet Regulation 123 of the CIL.
36. In any case, I have no obligation in front of me in order to secure the contributions and affordable housing. I note the appellant's willingness to enter into an agreement particularly in relation to affordable housing but the matter has not been progressed. The appellant indicates that it would be pursued if the appeal were allowed.
37. I also am aware that the proposal would provide a shop and extra car parking for the village hall. The appellant has indicated that they would like these community benefits to be taken into account and enter into further discussions

with the Council regarding the overall level of contribution to be provided. I understand these concerns. Nevertheless, no appraisal has been submitted to demonstrate the total level of contributions that could be made, taking into account the delivery of the shop and car parking while maintaining the viability of the proposal. Therefore, I am unable to take such matters into account.

38. Furthermore, I have seen no evidence to demonstrate that another shop would be viable in this rural area. Moreover, I have no mechanism in front of me to ensure that the shop or the car parking would be delivered at the same time as the houses, or at all.
39. Paragraph 010 of the Planning Practice Guidance advises that only in exceptional circumstances can a negatively worded condition requiring a planning obligation or other agreement be entered into before certain development can commence in more complex and strategically important development. I do not consider that the level of development proposed could be considered complex or strategically important and therefore the provision of infrastructure would need to be addressed at the outline stage of the process.
40. In the absence of a signed and sealed planning obligation delivering the required contributions, together with the community benefits offered by the proposal, and affordable housing I conclude that the proposal does not make acceptable provision for infrastructure. It would therefore be contrary to saved Policies G3 and H4 of the Local Plan, emerging Policies DP18 and DP29 of the draft District Plan, Policy AS8 of the Neighbourhood Plan and the Framework which seek to improve local infrastructure and community facilities and provide affordable housing through the use of planning obligations.

### **Balancing and Conclusion**

41. In considering the potential benefits of the proposal, I note that the new dwellings would contribute to the Council's five year housing land supply as required by the Framework. I have no doubt that these could be constructed to be energy efficient and using sustainable building methods. Furthermore the mix of housing size would accord with the Framework's requirement to deliver a wide choice of high quality homes. I therefore afford this significant benefit some weight in my decision.
42. In addition, the construction of the dwellings would derive some economic benefits but this would be for a limited time and could apply to new development anywhere. However, given that I have found that the site is in a sustainable location, the contribution to the local economy from the spending power of future occupants is also likely to be significant.
43. The range of housing provided means that it would be likely to accommodate families, couples and single people. Consequently, future occupiers of the new dwellings would require infrastructure as identified by the Council to support their health, social and cultural well-being which is not delivered by these proposals. The lack of infrastructure, contrary to the development plan and the Framework, therefore limits the weight that I can give to the economic and social benefits of the new housing.
44. The Neighbourhood Plan highlights that young people are leaving the village and the appellant suggests this could be due to a lack of suitable affordable or starter housing. While this may be the case, the absence of a planning

obligation to secure affordable housing as part of the scheme leads to it being contrary to both local and national planning policy. This also therefore limits the weight I can give to the social and economic benefits of the scheme.

45. I acknowledge that the site assessment undertaken by the Council indicates that the site could accommodate 26 dwellings. However, it also states that consideration will need to be given as to how any impact on the wider countryside including the AONB could be mitigated. Furthermore it concludes that development on the site may impact on the setting of the Conservation Area.
46. I have found that the proposal would be harmful to both the character and appearance of the AONB and the setting of the Conservation Area. The Framework states that great weight should be given to conserving the landscape and scenic beauty of AONB's and that heritage assets are an irreplaceable resource and that great weight should be given to their conservation.
47. In this instance therefore I conclude that the considerable harm I have identified would significantly and demonstrably outweigh the benefits which are limited by the lack of infrastructure and affordable housing. The proposal would conflict with the Framework and Development Plan when taken as a whole and consequently the proposal is not sustainable development for which the Framework carries a presumption in favour. For this reason, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Zoe Raygen*

INSPECTOR