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## Appeal Decision

Site visit made on 3 January 2017

by **P W Clark MA MRTPI MCI**

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

Decision date: 12 January 2017

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**Appeal Ref: APP/D3830/W/16/3156544**

**Land at Gibbshaven Farm, Felbridge, Mid Sussex RH19**

- 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 Acorn Property Group against the decision of Mid Sussex District Council.
  - The application Ref DM/15/5048, dated 18 December 2015, was refused by notice dated 6 July 2016.
  - The development proposed is residential development of up to 30 dwellings, public open space and ancillary works.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The application is made in outline with all matters of detail reserved for later consideration. Only three main issues of principle for consideration now arise from the Council's reasons for refusal but the appellant raises a fourth and third parties raise another.
3. They are the effects of the proposal on;
  - Local landscape character
  - Settlement pattern
  - The supply of and demand for local infrastructure
  - The need to travel and the demands on and the capacity of the local highway network and
  - Housing Land supply

### Reasons

#### *Character*

4. The proposal comprises two of a larger number of flat, pastoral fields divided by hedgerows and drainage ditches. Several others are also in the appellant's ownership. The northern field, indicated to be used for public open space, contains a number of specimen trees. They are located between the developed areas of Felbridge to the east, beyond the County boundary, and Furnace Wood, hidden within the trees implicit in its name, to the west. The fields
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beyond the County boundary are contained within the Surrey Green Belt. The others, including the appeal site, are part of a Strategic Gap designated in the Mid Sussex Local Plan adopted in May 2004.

5. With the application, the appellant provided a Landscape Visual Statement and, with the appeal, a Landscape and Visual Impact Assessment. I do not demur from the summary of these which appears in paragraph 7.30 of the appellant's appeal statement. Essentially, the site does not benefit from any specific landscape designation, there is no suggestion that it is a "valued landscape" in the terms of paragraph 109 of the government's National Planning Policy Framework (NPPF) and the effects of the proposal on landscape character would be limited and very localised.
6. For this reason, although the proposal would lie in open countryside, outside a built up area and so would be contrary to Local Plan policy C1 which seeks to protect the countryside for its own sake, taking into account the fifth bullet point of paragraph 17 of the NPPF which recognises the intrinsic character and beauty of the countryside but stops short of protecting it for its own sake, I conclude that the harm to landscape character would be limited and localised.

*Settlement pattern*

7. However, as recognised in the appellant's final comments and as paragraph 2.3 of the Mid-Sussex Local Plan Technical Report 8, Strategic Gap Boundaries and paragraph 3.28 of the Local Plan point out, Strategic Gaps, applied by Local Plan policy C2 and by policy CDNP08 of the Crawley Down Neighbourhood Plan 2014 – 2031 made in January 2016, are not defined for the express purpose of protecting the landscape or countryside but rather to prevent the coalescence of developments and retain the separate identity of settlements. As paragraph 58 of the NPPF advises, planning policies and decisions should aim to ensure that developments establish a strong sense of place. That is an objective quite distinct from considerations of the intrinsic character and beauty of the countryside.
8. The East Grinstead and Crawley Strategic Gap covers such an extensive tract of land (over twelve miles wide according to the appellant's final comments) that the development of this appeal site might be thought to pose little threat to its integrity but, as paragraphs 8.1 and 8.5 of Technical Report 8 point out, it contains some areas of more intensive built development at Copthorne, Crawley Down and Turner's Hill and small areas of low density development such as that at Cuttinglye Wood and Furnace Wood. These approach close to the site. The appellant points out that intervisibility is normally a characteristic of land significant to a Strategic Gap. From the appeal site, Felbridge can be seen to the east and the woods from which Furnace Wood takes its name can be seen to the west.
9. Technical Report 8 suggests that travellers (by all forms of transport) should be aware of a clear visual break when passing between settlements, providing them with a sense that they have left one settlement before they enter the next. But in fact, when passing between Crawley Down and Felbridge, there are sporadic groups of isolated buildings at frequent intervals. There is a smattering of commercial premises just north-east of Crawley Down itself, two clusters of properties on Hophurst Hill at the entrance to Oakfields Farm and at Cuttinglye Road, the western group of five houses (Thicket Rise) on the former Felbridge Nurseries reinforcing the existing group of three dwellings comprising

Hoadlye, the Croft and Gibbshaven Farm, separated by a green from the eastern group (Coppice Vale) which reinforces another existing group around Reddick Forge and Llanberis Farm. One final undeveloped interlude separates this group from Felbridge itself.

10. The recent Linden Homes development on the former Felbridge Nurseries site reinforces this pattern by being laid out in two distinct parts. Much of this sporadic frontage development is hidden in woodland which, as Technical Report 8 points out, dominates the character of the Strategic Gap. The consequence of this sporadic frontage development lining the road between Felbridge and Crawley Down is to enhance the significance to the Strategic Gap of such open undeveloped land as there is.
11. The appeal site would stand out in contrast both by development in depth and by its position in the centre of a continuous area of open pastureland separating Felbridge and Furnace Wood. To its east behind the sporadic frontage development would be several fields (partly in Surrey and designated Green Belt) which would separate it from Felbridge. To its west would be several fields separating it from Furnace Wood. To its north are several fields which separate it from the northern extension of Felbridge along the A264. To its south it would face opposite the green which presently separates the two parts of the development on the former Felbridge Nurseries. It would coalesce these last into a larger single group.
12. I conclude that it would be harmful to the settlement pattern which the Strategic Gap is seeking to retain. Because of its position and its development in depth it would not only be contrary to policies C2 and CDNP08 but would have a harmful effect on the openness of the Strategic Gap quite disproportionate to its modest size which would otherwise comply with the 30 dwelling limit of the Neighbourhood Plan policy CDNP05(b).

#### *Social Infrastructure*

13. A planning obligation dated 20 December 2016 is submitted making provision for 30% of the number of dwellings to be provided in the form of 1 or 2 bedroomed affordable units and for financial contributions towards the improvement of car parking at Crawley Down village hall, pitch drainage works to the junior playing pitch at the Haven Centre in Crawley Down, the reconfiguration of the first floor of East Grinstead Library, additional allotments at Copthorne and additional facilities at Crawley Down Church of England School and Sackville Secondary School. On this basis, the Council confirms that it does not wish to pursue the second reason for refusal. Both the County and District Councils confirm that these provisions meet the CIL regulations and I have no reason to disagree.
14. The s106 agreement makes no particular provision for local facilities within Felbridge itself, though, because of administrative boundaries, the development would be served by those facilities listed in Crawley Down, Copthorne and East Grinstead. Local residents assert that health facilities are overloaded but there are no representations from the local health authority to that effect. No provision is made within the planning obligation to secure the development and future maintenance of the public open space which forms part of the planning application and which would serve both Felbridge (at a little distance) and the development itself but I can envisage that a condition

would secure its provision at least, although no such condition is suggested by any party.

15. I conclude that the proposal would make adequate provision for local social infrastructure and affordable housing and so to that extent would accord with Local Plan policies G3, R4 and H4 and Crawley Down Neighbourhood Plan policy CDNP01. These require 30% affordable housing to be provided and necessary infrastructure to exist or be provided and for outdoor playing space to be provided on site or elsewhere through a planning obligation. I consider the effect of the proposal on transport infrastructure in the following section of this decision.

*The need to travel*

16. Felbridge Parish Council and at least one other correspondent writing to the Inspectorate question the sustainability of the location of the appeal. The penultimate of the government's twelve planning principles set out in paragraph 17 of the NPPF is that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are, or can be made sustainable. This is elaborated in section 4 of the NPPF, in which paragraphs 34 and 38 advise that developments which generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised and that, where practical, key facilities such as primary schools and local shops should be located within walking distance of most properties.
17. In an Interim Residential Travel Plan and in a Transport Assessment, the appellant has usefully tabulated distances from the centre of the site to local facilities. Although the accompanying text asserts that a range of services are within the recommended distance (up to 800m) that the government's Manual for Streets (MfS) states is "walkable", the table itself demonstrates that all but three out of fifteen facilities are beyond that distance; in eight cases, more than twice that distance, let alone the much lesser distance recommended to encourage walking in other commonly referenced authorities such as that of the Institute of Highways and Transportation.
18. Distances and times by bicycle are within acceptable ranges for that mode of transport but, not all find it conducive to use and, as local residents point out, conditions on local roads are not all encouraging. A bus service of a frequency and duration which is good for a rural area passes the site and provides links to rail stations at Three Bridges and East Grinstead.
19. So, taking account of the locally available facilities, I find that for most daily needs; employment, schooling and food shopping, there would be a need to travel beyond easy walking distance. The use of sustainable modes of transport such as cycling and public transport would be feasible for many purposes and encouraged by the Travel Plan but, even so there is likely to be a considerable dependence on car use.
20. Despite some exaggerated speculation, there is no expert evidence to contradict the advice of the appellant's transport consultants that the traffic generated by the development itself would be unlikely to have a significant or severe effect (in the terms used by the NPPF) on the operation or functionality of the local highway network. In particular, they advise that the proposed

development traffic would result in a marginal percentage increase in traffic using the A22 corridor when compared to background traffic levels. Although Tandridge District Council had concerns about the impact of traffic and Surrey County Council initially sought a contribution to a scheme intended to ameliorate conditions at the A22/A264 junction, that was not pursued and Surrey County Council did not seek to have the application refused because the congestion is an existing problem not one caused (although further contributed to) by the proposal.

21. However, as several respondents have pointed out, advice in the NPPF is that development should only be prevented or refused on transport grounds where the residual cumulative effects of development would be severe. In this case, although the residual effects of the development by itself would not be severe, there is considerable other development also proposed in the vicinity and so, the cumulative effects also need to be considered.
22. These correspondents refer me to Surrey County Council's Tandridge District Council Local Plan Strategic Highway Assessment Report of November 2015 and the East Grinstead and Surrounds 2016 Survey and Review of Traffic Conditions by Jubb Consulting dated September 2016. These documents provide support for the argument that the residual cumulative effects of all development in the area, including the current appeal proposal, would be severe.
23. The appellant's response is to reiterate that the appeal proposal alone would add only 1% at peak hours to the already overloaded A22/A264 junction. But that does not address or excuse the unacceptable cumulative effect of adding traffic from new development in the area to this already problematic situation. It is fair to record that other appeal decisions do not regard this severity test as necessarily fatal to a proposal, it is nevertheless a consideration to be weighed in the balance, which I do in the overall concluding section of this decision.
24. In relation to this issue, I conclude that the development would give rise to a need to travel for most daily needs and that, although the impact of the development alone would be unlikely to have a significant or severe effect on the operation or functionality of the local highway network, the residual cumulative effect on highway infrastructure of this proposal in conjunction with other nearby commitments would be severe. In consequence, the proposal would be contrary to Local Plan policy G3 and Neighbourhood Plan policy CDNP01. These allow development to be permitted where infrastructure is in place or can be provided.

#### *Housing Land*

25. The Council cannot assess whether it has a five-year housing land supply, or even a three-year supply, because it has no agreed figure for its housing requirements. The currently adopted plan has a target of 600 per annum but the Council accepts that that is out of date. The most recent draft of the emerging District Plan suggests a requirement of 800 dwellings per annum but has been challenged as being too low.
26. The earlier target was only reached twice in the twelve years expiring in 2012/13. The later target has been met once in the subsequent three years. Paragraphs 28 and 29 of the Neighbourhood Plan examine the information available to set a requirement but come to the conclusion that it needs to

address this uncertainty through regular review of housing need during the plan period. It makes no allocations for housing development but does emphasise the need for the provision of smaller units within any housing development which takes place.

27. Against a target likely to be 800 dwellings or more per annum, the appeal proposal would make a limited contribution. So, its benefits cannot be adduced as great but they are present nonetheless. Without details which are not available at this stage it would not be possible to conclude that it would meet all of the requirements of Neighbourhood Plan policy CDNP05 which would grant permission for housing developments subject to certain criteria but I observe that it would comply with criterion (b) in proposing not more than 30 dwellings per site and with criterion (e) in providing for open space and with criteria (l), (m) and (n) in providing for ten smaller units as affordable housing.

### *Conclusions*

28. Because the Council cannot demonstrate even a three-year housing land supply and because the Neighbourhood Plan does not make allocations of land, it is not exempted by the recent Written Ministerial Statement from the implications of NPPF paragraph 49, which also apply to the Local Plan. This advises 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. (The recent Written Ministerial Statement reduces this to three years in the case of Neighbourhood Plans). Relevant policies for the supply of housing include those which restrict its supply, such as the Strategic Gap policies of the Local Plan and the Neighbourhood Plan.
29. Where the development plan is out of date, paragraph 14 of the NPPF advises granting permission unless there is a specific NPPF policy indicating that development should be restricted or if any adverse impact of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, taken as a whole. That does not mean that relevant policies for the supply (or restriction) of housing should be ignored; they remain part of the development plan in accordance with which decisions should be taken unless material considerations indicate otherwise. The advice of the NPPF is such a material consideration.
30. In this particular case, my attention has not been drawn to any particular NPPF policy which indicates that development should be restricted. Although the last bullet of NPPF paragraph 32 canvasses that possibility in relation to cumulative transport effects, I have concluded earlier that this is a consideration not necessarily fatal to the proposal but one to be taken into account, so a balancing exercise is necessary.
31. The appellant's final comments refer to a range of other appeal decisions within the same district in which a similar balancing exercise has been taken, including appeal reference APP/D3830/A/14/2217310 at Crawley Down itself together with five other decisions from across the nation in which the balance included a consideration of landscape harm, not a particularly weighty consideration in this case, as already noted. Each appeal is determined on its merits. In this case, the balance would be as follows.

32. As noted above and in contrast to the more substantial benefits of 210 dwellings at Penland Farm (appeal reference D3830/A/14/2218078), the benefits of a development of thirty houses are relatively small in relation to the scale of requirement anticipated. Likewise, although the public open space proposed would be a little outside the body of Felbridge and my attention has not been drawn to any identified shortfall or need other than that of the development itself, its provision must be regarded as a small benefit.
33. Harm to landscape character would be limited and localised but the harmful effect on the openness and experience of the Strategic Gap would be quite disproportionate to the development's modest size. The development would give rise to a need to travel for most daily needs and to a degree of reliance on the private car contrary to the advice of the NPPF. Although the impact of the development alone would be unlikely to have a significant or severe effect on the operation or functionality of the local highway network, the residual cumulative effect on highway infrastructure of this proposal in conjunction with other nearby commitments would be severe. Resolution of these issues would not be achieved within the terms of the proposal. They would demonstrably outweigh the limited benefits of the proposal and so the appeal is dismissed.

*P. W. Clark*

Inspector

Richborough Estates