



Appeal Decisions

Site visit made on 10 April, 2018

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

an Inspector appointed by the Secretary of State

Decision date: 8th May, 2018

Appeal A Ref: APP/D3830/W/17/3191742

Hurst Wickham Barn, College Lane, Hurstpierpoint, BN6 9AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Chris Kraft of Baobab Developments against the decision of Mid Sussex District Council.
 - The application Ref: DM/17/0992 dated 2 March, 2017 was refused by notice dated 13 October, 2017.
 - The development proposed is erection of 10 new-build dwelling/houses with associated gardens and parking, served by a new access road onto college lane.
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Appeal B Ref: APP/D3830/W/18/3194173

Hurst Wickham Barn, College Lane, Hurstpierpoint, BN6 9AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Chris Kraft of Baobab Developments against Mid Sussex District Council.
 - The application Ref: DM/17/4601 is dated 9 November, 2017.
 - The development proposed is erection of 6 No. new-build dwelling/houses (C3) and associated works.
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Decision Appeal A

1. The appeal is dismissed.

Decision Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. Since the planning application was determined, the Council has adopted a new development plan. Accordingly, following the requirements of section 38(6) of the Planning and Compulsory Purchase Act 2004, have had regard to the policies of this plan in reaching my decisions.
 4. A signed and dated planning obligation has been submitted. I return to consideration of this below.
 5. The description of Appeal A differs from that given in the original application. I have used the description given by the Council in its decision notice, as it more fully describes the application, omitting references to matters which do not comprise development.
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Main Issues

6. The main issues are:-

- in respect of both appeals, the effect of the development on the character and appearance of the area, and in particular the effect on the setting of the Hurst Wickham Conservation Area;
- in respect of Appeal B only, whether, in the light of local and national planning policy, the development would be an appropriate one in a rural location; and
- in respect of both appeals, whether the proposal makes adequate provision for infrastructure.

Reasons

Character and Appearance

7. The appeal site is located to the south of Hurst Wickham, originally a small, linear rural settlement, and now adjoining the larger settlement of Hurstpierpoint at its south-western corner. However, on its other sides it is surrounded by open countryside.
8. The site is an area of pasture containing a band of immature woodland at its eastern edge which backs onto more mature woodland beyond. It sits outside a clear southern edge to the developed part of Hurst Wickham created by Hurst Wickham Barn and the houses around it, with rolling fields to the south forming a clear separation with development along Wickham Hill.
9. Facing the site across College Lane are regularly laid out, detached houses in large garden spaces, forming a suburban outlier of Hurstpierpoint, while other houses in the vicinity, on the east side of College Lane, are generally large detached dwellings, in spacious but irregular plots on the edge of Hurst Wickham Village. College Lane itself is, in the vicinity of the appeal site, lined with well-established natural hedgerows and planted vegetation, and semi-rural in character.
10. Hurst Wickham was a small hamlet originally focused on Hurst Wickham Farm and a small number of other early properties located around a pronounced bend in College Lane to the north. It was extended in the late nineteenth century with the very modest detached and semi-detached cottages lining College Lane to the north. The conservation area includes the northern area of cottages and runs south to stop short of Hurst Wickham Barn and the suburban outlier of Hurstpierpoint. The very distinctive streetscape created by the cottages, with their front retaining walls in flint and brick and raised front gardens forming a strong sense of enclosure to College Lane, is an important element of the conservation area. In addition, I consider that the surviving rural setting of the settlement also makes a positive contribution to its character and significance as a remnant of its early development and history as a separate hamlet.
11. Notwithstanding the denser townscape in the northern part of the conservation area, this rural setting can be appreciated looking into and out of the area, including glimpses between houses in its more open southern part, and, because of the long approach north along College Lane, open on its east side, is particularly evident when approaching the settlement from the south and

- looking into the conservation area along College Lane. While Hurst Wickham Barn is not within the conservation area, it forms a positive part of its setting, and is an important relict of its agricultural history.
12. Appeal A would involve the development of ten detached dwellings in a modern style including attached garage space. They would be set around a central, hard-surfaced courtyard area, with gardens to the rear. They would be accessed by a long narrow drive from College Lane, the southern boundary of which would be planted to allow views to and from the open fields to the south.
 13. Appeal B would entail the creation of six detached dwellings in a similar design and arrangement, but less closely spaced, with a more open grain to the site.
 14. Nonetheless, both developments, due to the proportion of building to open space and their layout would be of a relatively dense and suburban character, located to the east and south of Hurst Wickham Barn in an area which was formerly open field. Although set back from College Lane they would include removal of some of the hedgerow currently framing views into the conservation area, and by the urbanisation of part of its open setting would diminish that setting, both of which would be harmful to the character and appearance of the conservation area and to its significance. The use of the access drive and views across it of the flank of the adjacent building and a long stretch of private boundary wall would exacerbate the effect of a higher density development in an uncharacteristic backland form on the village edge.
 15. These effects would also, by intruding into open land, erode the clear edge to Hurst Wickham at this point, and, by introducing a relatively dense development in the context of the more open townscape in the immediate vicinity, be harmful to the character and appearance of the area.
 16. Although the arrangement has been likened by the appellant to that of a traditional farm yard, on account of the design, number, scale and massing and siting of the buildings, I fail to be convinced that this would be the case, particularly when viewed in the context of the adjacent remnant of Hurst Wickham Farmyard.
 17. The developments associated with Appeal A and Appeal B would therefore conflict with policy DP35 of the Mid-Sussex District Plan 2014 – 2031, 2018 (the DP), which seeks development which conserves or enhances the special character and appearance of conservation areas. They would also conflict with policy C4 of the Hurspierpoint and Sayers Common Neighbourhood Plan (the HSCNP) which seeks development where the settings of conservation areas are conserved or enhanced.
 18. The developments associated with both appeals would also conflict with policy C1 of the HSCNP, which seeks development in the countryside which maintains or where possible enhances the quality of the rural and landscape character and with the requirements of policies H1 and H5 of the HSCNP in respect of seeking housing development which would enhance the existing settlement pattern and respond to the village character of the area.

19. The Council has stated that, had it determined the application relating to Appeal B it would also have refused it for the following reason [the policy within square brackets reflects the re-numbering within the adopted DP]:

"The site lies within a rural location outside of the defined built up area boundaries and is not necessary for the purposes of agriculture and unnecessary for the supply of housing in Mid Sussex and is therefore contrary to policies DP6 [and DP12] of the District Plan, Policies C1 and H1 of the Hurspierpoint and Sayers Common Neighbourhood Plan and Policy C1 of the Mid Sussex Local Plan and the contents of the NPPF."

20. While the appeal site partly abuts the built up area boundary, is mostly separated from it by other properties and plots, forming visual and formal buffers between the two. It is therefore rural land in the countryside.
21. Policy C1 of the Local Plan has now been superseded. The development associated with Appeal B would conflict with policy DP6 of the DP, which seeks to direct development to within built-up area boundaries, while seeking development outside these boundaries where it is contiguous with the built-up area.
22. Policy DP12 of the DP seeks to protect the countryside in recognition of its intrinsic character and beauty, and seeks development within the countryside where it maintains or where possible enhances the quality of the rural and landscape character of the District and is necessary for the purposes of agriculture or is supported by a specific policy reference elsewhere in the development plan. As the development would not be necessary for the purposes of agriculture, and as no convincing argument of support by any other specific policy has been put before me in this context, I conclude that it would fail to comply with this policy.
23. As I have concluded above, the development would not enhance the existing settlement pattern of the village, and would not therefore comply with policy H1 of the HSCNP, and as it would not comprise an appropriate countryside use, would not comply with policy C1 of the HSCNP.

Infrastructure

24. The absence of a planning obligation in respect of affordable housing and contributions towards the provision of infrastructure would have been a reason for refusal for Appeal B, and given that one had not been submitted at the deadline for the submission of appeal statements, the Council requested that it also be considered a reason for refusal in respect of Appeal A. I am satisfied that this reason would also be applicable to Appeal A.
25. Policy DP20 of the DP states that the Council will expect developers to provide for, or contribute towards, the infrastructure and mitigation measures made necessary by their development through appropriate on-site mitigation and infrastructure provision and the use of planning obligations to secure financial contributions, which would not be pooled if five or more such obligations had already been entered into or if it is a type of infrastructure that would be funded by the Community Infrastructure Levy, when it is in place.
26. Policy DP24 of the DP seeks planning obligations to secure new or enhanced leisure and cultural activities and facilities, including play areas and sports facilities. Policy DP31 seeks the provision of a minimum of 30% on-site

affordable housing for all residential development providing 11 dwellings or more.

27. A signed and Planning Obligation has been provided in respect of Appeal A, in which the appellant covenants to make financial contributions to the Council in respect of community buildings, sports facilities, cycle paths and play facilities, and to the County Council contributions in respect of primary and secondary education. It also covenants to make on-site provision of affordable housing, notwithstanding the number of dwellings to be provided.
28. A signed and Planning Obligation has been provided in respect of Appeal B, in which the appellant covenants to make financial contributions to the Council in respect of community buildings, sports facilities, cycle paths and play facilities, and to the County Council contributions in respect of primary and secondary education.
29. I conclude that these obligations would meet the policy requirements of the development plan set out above, and would be necessary to make the developments acceptable in planning terms, in respect of community and leisure facilities and education, and, by making a contribution to facilities within a reasonable distance of the development site, directly related to the developments, and fairly and reasonably related in scale and kind to the developments. They would therefore meet the tests set out in paragraph 204 of the Framework.
30. While the planning obligations would be necessary to make the developments acceptable in other respects, that relating to Appeal A would also be provide a benefit in the form of affordable housing. However, since the development is for fewer houses than required by policy DP31, this obligation is not necessary in order to make the development acceptable. The obligation therefore fails the tests in this respect, and I do not consider that it would be lawful to take it into account as a reason for granting planning permission.

Other Matters

31. I have had regard to the effect on the development on Wickham Farmhouse, a grade II listed building, but as this is removed and screened from the appeal site, I conclude that it would have no effect and would therefore preserve the special interest and significance of the designated heritage asset.
32. Ashdown Forest is both a Special Protection Area (SPA) and Special Area of Conservation (SAC). There is potential for harm to arise from cumulative effects of individual, small scale developments within the area around it in respect of both international designations. The appeal site is outside the 7 km zone of influence drawn in relation to the SPA, and is not likely to have a significant effect on that area, and mitigation is not therefore required. The development has also been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as windfall development, and as there is sufficient windfall capacity within the area, I conclude that in this case there is not likely to be a likely significant effect on the SAC, including in combination with other plans and projects, and that an appropriate assessment is not therefore required.

Planning Balance and Conclusion

33. Paragraph 132 of the National Planning Policy Framework (the Framework) is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I conclude that, as the effect of the proposed developments would be localised, that for the purposes of this paragraph the harm would be less than substantial. Nonetheless, in discharging the legal duty set out in S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having found harm I give that harm considerable importance and weight. Paragraph 134 of the Framework advises that less than substantial harm should be weighed against the public benefits of the proposal.
34. It is not disputed between the parties that the Council is now able to demonstrate a five year Housing Land Supply, while the recent determination of a number of recovered and called in appeals has the potential significantly boosted this. In the light of this, neither appeal development, which are both for relatively small numbers of houses, would make a significant contribution to housing land supply, and I thus accord them very minor weight on that account.
35. Both developments would support the vitality of Hurstpierpoint, and would provide short term economic benefits during construction, although, given the scale of either development, the contribution would be minor.
36. While the quality of the proposed design in both developments would be high, and provision would be made in the scheme for ecological improvements, given that I have found that the developments would be in an inappropriate location in terms of its effect on the character and appearance of its rural location, I can accord these environmental benefits little weight.
37. I have not identified benefits that would in total outweigh the harm that I have identified to the conservation area, nor, any material consideration sufficient to outweigh the conflict with development plan policy that I have identified. For these reasons, therefore, I conclude that both appeals should be dismissed.

S J Buckingham

INSPECTOR