



Appeal Decisions

Site visit made on 27 November 2018

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2019

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 undated notice.
 - The development proposed is the erection of ten new-build dwellinghouses.
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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 the erection of six no. new-build dwellinghouses (C3) and associated works.
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These decisions supersede those issued on 8 May 2018. Those decisions on the appeals were quashed by order of the High Court.

Decisions

1. The appeals are dismissed.

Preliminary Matters

2. Since the previous appeal decisions were quashed the revised National Planning Policy Framework (the Framework) has been published. The Council and appellant had the opportunity to comment and I have taken its contents into account in coming to my decision.
3. The Mid Sussex District Plan (DP) was adopted in March 2018 and is now part of the development plan for these appeals. The Council and the appellant have had the opportunity to make comments in light of the DP.
4. The Council has confirmed that had it determined the planning application in Appeal B it would have been refused. The Council's concerns relate to the location of the development outside the defined built up area boundaries, the effect of the development on the setting of Hurst Wickham Conservation Area and the lack of contributions towards the infrastructure required to serve the development.

5. Legal agreements have been submitted, for both appeals, under Section 106 of the Town and Country Planning Act 1990 in the form of Unilateral Undertakings (UU). These seek to address the provision of infrastructure as required by Policy DP20 of the DP and affordable housing as required by Policy DP31 of the DP. The Council has not subsequently raised any concerns in relation to these matters. They do not need to be considered as main issues in these appeals but I will return to them in my reasoning under other matters.
6. Since the previous appeal decisions were quashed the boundaries of Hurst Wickham Conservation Area have been revised to include Hurst Wickham Barn. The appeal site adjoins the conservation area but is not included within it.

Main Issues

7. The main issues are:

- the effect of the proposed dwellings on the character and appearance of the surrounding area with particular regard to the setting of Hurst Wickham Conservation Area; and
- whether the proposals would be consistent with the settlement hierarchy set out in the DP.

Reasons

Character and appearance

8. Hurst Wickham Barn is a former agricultural barn that has been converted into residential use but retains much of its rural character and appearance. It is located within Hurst Wickham Conservation Area and adjacent to the open countryside. The conservation area has a semi-rural appearance, and comprises a gradual transition from Hurst Wickham Barn through lower density development of detached houses of a mix of styles and ages to terraced and semi-detached houses set above retaining walls on the edge of College Lane that winds through this part of the village.
9. The countryside is seen in views into and out of the conservation area. As a result, the countryside around Hurst Wickham Barn helps place the settlement in its rural context, through which it is experienced and appreciated. Hurst Wickham Barn contributes to that. As such, the surrounding countryside is important to the setting of the conservation area and contributes to the significance of the heritage asset.
10. The proposal would introduce development in the small field to the side of Hurst Wickham Barn with access between the building and the open countryside. The development, including the access, would separate Hurst Wickham Barn from the surrounding countryside. Whilst careful choice of materials and landscaping of the access would reduce its impact, nevertheless it, and the dwellings it would serve, would be prominent in views to and from the conservation area. As a result, development would be extended into the countryside surrounding the village and would cause harm to the setting of the conservation area.
11. The proposed layout, in both schemes, would provide dwellings around a courtyard, with the end of the courtyard facing the open countryside. The developments, particularly that of appeal A, would be denser than neighbouring

development on this part of the village edge and would provide dwellings of a consistent character. This differs from the varied low density character of other development adjacent. As a result, the development proposed would not reflect the character and appearance of surrounding development and would harm the rural setting of Hurst Wickham Barn and the village, including the conservation area.

12. For these reasons, I conclude that both of the developments proposed would harm the character and appearance of the surrounding area, including causing harm to the setting of Hurst Wickham Conservation Area. This harm to the setting of the conservation area would result in harm to the significance of the heritage asset. For these reasons, I conclude that the proposals would conflict with Policies DP12 and DP26 of the DP and Policies C1, C4, H1 and H5 of the Hurstpierpoint and Sayers Common Neighbourhood Plan (NP) and the Framework that seek well designed development that reflects the distinctive character of towns and villages and to maintain or enhance the quality of the rural and landscape character of the district. In addition, it would be contrary to Policy DP35 of the DP that seeks to protect the setting of the conservation area and in particular views into and out of the area.
13. The Framework advises at Paragraph 193 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. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Accordingly, while less than the 'substantial harm' referred to in Paragraph 195 of the Framework, the harm to the significance of the conservation area resulting from development in its setting is nevertheless a matter of considerable importance in this case.
14. Paragraph 196 of the Framework establishes that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The only public benefit in this instance is the provision of either 6 or 10 dwellings to the supply of housing, including a contribution toward affordable housing in the case of the 10 dwelling scheme, in the area. However, that benefit is modest and cannot outweigh the identified harm to the setting of the conservation area.

Settlement hierarchy

15. Hurst Wickham Barn is located on the edge of Hurstpierpoint, but outside the defined boundaries of the settlement, as shown on the Proposals Map to the NP. The boundary of the settlement includes a neighbouring house, Four Winds, within the built up area such that it touches part of the boundary of the site.
16. Policy DP6 of the DP relates to the settlement hierarchy of the district and enables the growth of settlements, including supporting their expansion where the site is allocated for development or where the proposed development is for fewer than 10 dwellings. In the latter case, the site should be contiguous with an existing built up area of the settlement and it should be demonstrated to be sustainable. The appeal site is not allocated for development, but it is contiguous with the built up area of the settlement. Hurstpierpoint is defined as

a larger village that acts as a local service centre providing key services. It has a good range of services and facilities that would be supported by either development.

17. As the development proposed in appeal B would comprise six dwellings, it would be supported by Policy DP6 of the DP. However, appeal A would provide 10 dwellings such that it would not be supported by the terms of that policy.

Other matters

18. I note that the Council can demonstrate a five year supply of housing. The Framework seeks to significantly boost the supply of housing and targets within the DP and NP are not a cap or maximum figure. Consequently, additional residential development in this area would contribute toward the supply of housing.
19. Appeal B is supported by Policy DP6 of the DP that enables the growth of settlements. The proposed development would support employment during construction and occupants of the dwellings would support local services and facilities. The landscaping of the site along with provision of other biodiversity enhancements would result in benefits to ecology and biodiversity in the area.
20. Policy DP31 of the DP relates to the provision of affordable housing and requires developments of more than 1,000m² of gross floorspace to contribute toward affordable housing. The proposal in appeal A would comprise more than 1,000m² gross floorspace and the UU confirms that the development would contribute three dwellings toward affordable housing in accordance with that policy. Appeal B would not contribute toward affordable housing as it is below the threshold in that policy. The Council suggest that the more recent Policy 31 of the DP should be given precedence over Policy H7 of the NP that has a lower threshold. I see no reason to disagree with their conclusions in this regard.
21. Policy DP20 of the DP enables provision of financial contributions toward infrastructure provision. In this case, the UUs provide contributions toward community buildings, primary and secondary education provision, local community infrastructure, formal sport, kickabout and play space. These contributions would be no more than is necessary to meet needs arising from the development. They are therefore a neutral factor in the overall planning balance.
22. The appeal site is located outside the 7km zone of influence of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). Consequently, the proposals would not have a significant effect on the SPA and SAC either individually or in combination with other plans and projects.
23. If I were to allow the appeal, I would need to consider the contributions in the UUs against the regulatory tests at section 122 of the CIL Regulations. However, given the significant policy conflicts I have identified, I need not address this matter further.
24. My attention has been drawn to the New Homes Bonus and Council Tax income, but how it should be taken into account and its connection to the development is not clear. In these circumstances, Planning Practice Guidance¹ states that it would not be appropriate to make a decision based on the

¹ Reference ID: 21b-011-20140612

potential for the development to raise money for a local authority or other government body.

25. My attention has been drawn to Policy C3 of the NP that seeks to prevent coalescence in the gap between Hurstpierpoint and Burgess Hill. Notwithstanding my conclusions above relating to the impact of the development on the rural setting of the village and the setting of the conservation area, given the pattern of development in the locality I do not think that the proposals would result in coalescence of these settlements. As such, the proposals would not conflict with Policy C3 of the NP.
26. The appeal site is located close to Wickham Farmhouse that is a grade II listed building. However, it is separated from the site and screened such that the proposed developments would not affect the setting of the listed building. As a result, both proposed developments would preserve the special interest and significance of this designated heritage asset.

Conclusions

27. I have concluded that the proposals in both appeals would conflict with Policies DP12, DP26 and DP35 of the DP and Policies C1, C4, H1 and H5 of the NP. Given those conflicts, I conclude that the proposed development would conflict with the DP as a whole. The Framework states that where development would conflict with an up-to-date development plan, permission should not usually be granted. For that reason, I put substantial weight on that conflict. Nevertheless, decisions may be taken that depart from the development plan, but only if material considerations indicate that the plan should not be followed.
28. In both cases, the proposals would contribute toward the supply of housing and would support the local economy and ecology and biodiversity in the area. These factors can carry modest weight in favour of the proposed developments.
29. The development proposed in appeal A would also contribute toward the supply of affordable housing. That adds modest weight to this proposal. Nevertheless, taking all the factors into account in appeal A, I conclude that the weight I attach to the benefits arising from the proposed development would not outweigh the conflicts with the development plan.
30. The development proposed in appeal B would be supported by Policy DP6 of the DP. That adds moderate weight to this proposal. Nevertheless, taking all the factors into account in appeal B, I conclude that the weight I attach to the benefits arising from the proposed development would not outweigh the conflicts with the development plan.
31. On the basis of the above considerations, I conclude that both appeals should be dismissed.

AJ Steen

INSPECTOR