



---

## Appeal Decision

Hearing held on 30 April 2014

Site visit made on 30 April 2014

**by Anthony Lyman BSc(Hons) DipTP MRTPI**

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

**Decision date: 17 June 2014**

---

**Appeal Ref: APP/Z3825/A/13/2209207**

**Land south of Buchan Reservoir, Horsham Road, Buchan Hill, Pease Pottage, West Sussex**

- 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 Rural Eco Ltd and Hyde Housing Association against the decision of Horsham District Council.
  - The application Ref DC/13/0103, dated 18 January 2013, was refused by notice dated 23 May 2013.
  - The development proposed is the erection of 52 new dwellings (including 26 affordable dwellings) and a community building including access, parking and landscaping.
- 

### Decision

1. The appeal is dismissed.

### Application for Costs

2. At the Hearing an application for costs was made by Horsham District Council against Rural Eco Ltd and Hyde Housing Association. This application is the subject of a separate Decision.

### Preliminary Matters

3. The application was made in outline with only appearance reserved for future determination. I have considered the appeal on that basis although, I note that additional information submitted with the application gives an indication of how the development would appear.
4. The local planning authority determined the application on the basis of the proposed site plan – 0140.PL.001. During the appeal process, the appellants submitted a revised site plan 0140.PL.1000 rev. A. In a letter dated 9 January 2014 the appellants advised the Planning Inspectorate that all addressees on the Council's consultation list for the application had been advised about the revised plan and invited to make any representations on it to the Council's Planning Department.
5. The appellants argued that as a result of this consultation exercise and having regard to Wheatcroft<sup>1</sup>, the appeal should proceed on the basis of the revised layout as the interests of third parties had not been prejudiced. Furthermore,

---

<sup>1</sup> Bernard Wheatcroft Ltd. V Secretary of State for the Environment (1982) 43 P&CR 233

the appellants stated that a new planning application had been made to the Council based on the revised plan and that that application had also been the subject of full consultation by the Council.

6. At the Hearing, the Council objected to the Hearing proceeding on the basis of the revised layout, arguing that the changes were substantial. These included, a completely revised layout to allow for the introduction of a 15m wide buffer zone adjacent to an area of ancient woodland and to avoid building over a main water pipeline which crosses the site; the reduction in the number of houses from 52 to 50; the deletion of the community building proposed in the application plans; changes to the housing mix including 22 affordable houses instead of the 26 referred to at the application stage, and a slight change in the number of parking spaces.
7. Having heard submissions from both main parties about the revised plan I gave an oral ruling that the Hearing would proceed on the basis of the original proposed site plan 0140.PL.001 submitted with the application. I considered that the proposed changes were significant and I was not satisfied that the interests of some parties would not be prejudiced. In reaching that decision, I also had regard to other matters including the fact that some of the plans/cross sections submitted with the application did not reflect the proposed new layout and revised versions had not been submitted or included in the consultation undertaken by the appellants. Also, I had not been made aware of representations resulting from the appellants' consultation exercise; the representations made in response to the second planning application were not before me; and I was advised by the Council that the second application based on the revised layout had recently been determined and that the reasons for refusal were different from those relating to the original appeal application.
8. After a short adjournment the appellants confirmed that they wished the Hearing to proceed on the basis of the original application plans.
9. The Council's Decision Notice on the application included four reasons for refusal. At the start of the Hearing, the Council withdrew reason No. 2 relating to meeting local needs and the layout of the affordable and market housing.
10. At the Hearing, the appellants intended to submit a signed and dated s106 Unilateral Undertaking by Rural Eco Limited to Horsham District Council and West Sussex County Council, based on the revised layout plan. In view of my ruling, I allowed the appellants to submit a revised Unilateral Undertaking reflecting the original plan, after the close of the Hearing. I consider this later in my Decision.
11. After the close of the Hearing, the appellants submitted a Decision of the Secretary of State published on 1 May 2014<sup>2</sup>, relating to a neighbouring District. In the interests of fairness, the local planning authority were given the opportunity to comment on the appellants' submission. I refer to this later in my Decision.

### **Main Issues**

12. The main issues to be considered are, i) the effect of the proposed development on the character and appearance of the area, having regard to national and local planning policies which seek to protect Areas of Outstanding

---

<sup>2</sup> APP/D3830/A/13/2198213 and 2198214

Natural Beauty, ii) the effect of other considerations including housing land supply and sustainability on the overall planning balance, iii) whether adequate measures are proposed to mitigate the impact of the development on local services and facilities.

## **Reasons**

### *Character and appearance*

13. The appeal site is in the open countryside, outside any defined settlement boundary and is within the High Weald Area of Outstanding Natural Beauty (AONB). The site comprises a central area of open scrubland and extensive tree belts with dense rhododendron undergrowth along the southern and western edges. Immediately to the east of the site there is a designated ancient woodland. The site is contained to the north by a further area of trees above which can be seen a very prominent air traffic control radar tower and installation. The proposal seeks outline planning permission for 52 dwellings including 50% affordable homes, the provision of a small community building, private and communal parking areas, a new highway access and landscaping. Only the appearance of the development remains to be dealt with as a reserved matter.
14. To the south, the site borders the busy Horsham Road, from which a narrow private lane/bridleway runs along the western boundary of the site giving access to, amongst other things, a few isolated houses, the radar installation, and the independent Cottesmore School some distance beyond. There is no obvious vehicular access into the site and the proposal is to create a new road from the private lane to serve the development. Improvements would be made to the alignment and width of the lane and its junction with the public highway. Pedestrian footways would be created from the new access along the lane and Horsham Road to join up with the existing pavement, albeit on the opposite side of the road, in the settlement of Pease Pottage to the east.
15. The AONB Management Plan 2004, refers to the area being characterised by, amongst other things dispersed settlements, particularly historic farmsteads, ancient tracks and routeways, and an abundance of ancient woodland and wooded heaths. At a more local level, the Horsham District Landscape Character Assessment (HDLCA) describes the landscape character area in which the appeal site is located as a very densely wooded area, with a landform of flat top ridges and steep sided ghylls which together create a strongly enclosed landscape with confined views. The HDLCA concludes that the area would have high landscape character sensitivity to large scale housing development, although the visual sensitivity would be moderate partly due to the fact that the enclosing woodlands limit views in the area.
16. The cleared part of the site, where the majority of the proposed development would be sited, is currently largely obscured from public view by the dense peripheral vegetation, particularly the extensive evergreen rhododendron cover alongside Horsham Road and the lane alongside the western boundary. The appellants' landscape strategy seeks to respond to the site and the surrounding landscape by, amongst other things, retaining and restructuring boundary woodland to restrict visual impacts of the development. According to the strategy this would involve, retaining most of the mature trees in the boundary hedgerows, selectively removing the invasive rhododendron and encouraging native birch/oak woodland particularly along the two road frontages.

17. In effect, the vegetation belt alongside the private road would be largely cleared except for a number of retained specimens, and many of the trees in poor condition in the woodland belt adjacent to Horsham Road would also be removed together with the rhododendron and shrub undergrowth. The proposed dwellings on plots 1 to 6 and on plots 49 to 52 would have relatively short rear gardens backing on to the site boundaries with the private lane and Horsham Road respectively. Despite the intention to plant native hedgerows along these boundaries to provide the dwellings with some privacy, the buildings would appear visually intrusive, especially during the months when the deciduous vegetation lacks leaves.
18. Furthermore, I share the concerns of the Council's arboricultural officer that the retained mature trees alongside Horsham Road, shown on the landscape plans as being within the small rear gardens, would dominate and overshadow these properties, and would significantly reduce their southern light. I agree that this would be likely to lead to pressure from future residents for the trees to be removed, which would have a serious detrimental impact on the street scene and the wooded character of the area.
19. The appeal site is a few hundred metres from the end of the ribbon development on the approach to the settlement of Pease Pottage, which is in the neighbouring district of Mid Sussex. However, the site is not viewed in the context of that village and apart from the occasional random existing rural dwelling such as the nearby South Lodge, it is seen as an isolated, remote area of attractive woodland when viewed from the Horsham Road, the private lane used by many vehicles accessing the school, the bridleway or from Grouse Road, which joins Horsham Road, opposite the private lane. From these viewpoints the development would be seen by motorists, walkers and users of the bridleway as an isolated substantial urban intrusion in the countryside and the AONB, particularly so after nightfall when the illumination from windows and external lights from 52 dwellings and numerous cars would be particularly invasive of the countryside.
20. Given the limited space between the development and the highways, mostly occupied by private rear gardens, I am not persuaded that the proposed landscaping would sufficiently ameliorate this incongruous urbanising impact, particularly if any of the retained mature trees near to Horsham Road were subsequently felled following resident pressure. Further adverse suburbanising impacts on this rural setting would be the introduction of the 2m wide footways along the private lane and Horsham Road and the improvements to the junction to accommodate the development.
21. With regard to long distance views of the development, from the bridleway in the vicinity of Cottessmore School, the view southwards towards the site is one of a wooded ridge dominated by the mass of the radar installation. For parts of the year, with the trees in leaf, the site would be obscured and even in winter, the outline of the buildings through the woodland would have limited visual impact. From the south-west however, in the vicinity of Shelley Cottages and from nearby public footpaths, the view towards the site is one of the isolated South Lodge set against a backdrop of woodland. The adjacent corner of the appeal site can also be seen and parts of the development would appear visually intrusive, eroding the wooded horizon which is a key characteristic of the AONB. The introduction of a new substantial urban development would also be seen as contrary to the established settlement pattern of the AONB.

22. Overall I conclude that the proposed residential development would have a significant detrimental impact on the character and appearance of this open countryside location and the AONB. This would be contrary to The National Planning Policy Framework (the Framework) which, amongst other things, advocates protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside, and confirms that great weight should be given to conserving landscape and scenic beauty in AONBs which have the highest status of protection.
23. The proposal would also fail to accord with the objectives of the following policies of the Horsham District Local Development Framework Core Strategy (2007): Policies CP1 relating to maintaining and enhancing landscape character; and Policy CP3 which, amongst other things, requires development to accord with the AONB Management Plan. The Council's General Development Control Policies Document 2007 also contains policies, the objectives of which would not be satisfied by the proposal. These include Policy DC1 which seeks to protect and enhance the countryside; Policy DC2 which permits development that protects, conserves and/or enhances the key characteristics of the landscape character; Policy DC4 which seeks to protect the character, quality, views and distinctiveness of the AONB; and Policy DC9 which, amongst other things, requires development to respect the character of the surrounding area including its overall setting.

*Other considerations - Housing*

24. It is common ground between the parties that the Council cannot demonstrate a five year supply of housing land. In the circumstances paragraphs 49 and 14 of the Framework are engaged. They confirm that relevant policies for the supply of housing should not be considered up to date and that planning permission for development deemed to be sustainable should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the Framework's policies taken as a whole, or specific policies in the Framework indicate development should be restricted. A footnote to the last proviso gives examples of such policies and lists, amongst others, those relating to an AONB.
25. I will refer to the housing land supply in the planning balance later in my Decision.
26. The appeal site is within the parish of Colgate where a recent survey identified the need for 22 affordable houses in the parish<sup>3</sup>. The appellants argued that the development would satisfy that need. I note that paragraph 54 of the Framework advocates allowing some market housing in rural areas to facilitate the provision of significant additional affordable houses to meet local needs.
27. With reference to an appeal determined by the Secretary of State (SoS) regarding a site in Tetbury, Gloucestershire<sup>4</sup> the appellant also argued that as most of the parish of Colgate was within the AONB, the appeal site would have less environmental impact than other areas in the parish and that *there is very limited scope for meeting the needs of the Parish outside of the AONB*. I am not persuaded by this argument. In the Tetbury case, the SoS referred to the 'very limited scope to provide housing within the **district** (my emphasis) on

---

<sup>3</sup> Housing Needs Survey carried out by Action in Rural Sussex – January 2012

<sup>4</sup> APP/F1610/A/11/2165778

sites that are not in the AONB'. That is not the case in Horsham where, irrespective of the situation in individual parishes, significant parts of the district are not within an AONB. Also the SoS considered that that appeal site was well related to Tetbury and would provide scope for improvements to the setting of the town. The appeal site before me is approximately 2km from the village of Colgate in a rural location which relates more to Pease Pottage than the village of Colgate where the need has been identified.

28. Furthermore, parts of Colgate parish on the outskirts of Crawley are not in the AONB and are allocated for substantial residential development. The appellants stated at the Hearing that that area was intended to meet Crawley's housing needs and would not satisfy the identified needs of Colgate parish even though the allocation was within the parish boundary.
29. I note that the housing needs survey for Colgate was instigated and supported by the Parish Council. Nevertheless the Parish Council objected to the proposed development for a number of reasons including its location in the AONB, the isolation of the site on the edge of Colgate Parish and the poor pedestrian links between the site and the village. I attach little weight to the appellants' argument in support of the appeal site that the housing needs of the community of Colgate cannot be met within the existing settlement boundaries.

*Other considerations - sustainability*

30. The Framework confirms that economic, social and environmental gains should be sought jointly and simultaneously to achieve sustainable development. The economic benefits of the scheme would include investment in the local economy, job creation during the construction phase, and potential increased support for local businesses by future occupants of the development. The development would also satisfy the social dimension through the provision of a mix of market and affordable houses which would contribute to the identified housing shortfall in Horsham District and carry significant weight in favour of the development. The removal of the invasive rhododendron which the appellant states is listed on Schedule 9 of the Wildlife and Countryside Act (1981) as amended, and the replanting of the woodland belts with native species would be an environmental benefit. However, this benefit would be significantly offset by the harm that I have identified to the character and appearance of the local environment and the AONB.
31. Furthermore, the proposed layout does not provide a buffer zone between the development and the area of ancient woodland, as advocated by Natural England in their *Standing Advice for Ancient Woodland (May 2012)*. This is a serious omission from the proposed development which would be likely to have a significant detrimental impact on the designated woodland and the biodiversity of the area, further undermining the sustainability of the proposal.
32. With regard to the sustainability of the location, the appellants argued that the site is only about 200m from Pease Pottage which, it is claimed has *a range of amenities and services suitable for day to day essentials for future occupiers*. The shops referred to by the appellants are largely to be found in a roadside service station at the furthest end of Pease Pottage on the opposite side of the M23. With regard to other services and facilities, there is no primary school in the immediate vicinity and I was not advised whether there was a medical practice nearby.

33. Only a very limited bus service passes the site although more regular services to nearby towns stop at the far end of Pease Pottage. Railway stations at Faygate and Crawley are said to be within cycling distance of the site. The bridleway which passes the site continues beyond Cottesmore School to the outskirts of Crawley approximately 2km away. However, I am persuaded by the Council's argument that due to the surface of parts of the track this would be likely to be only a fair weather option and not a serious route for accessing employment or other facilities in Crawley.
34. I consider that the sustainability of the location is limited and that the development would not give future occupants a real choice about how they travel, as advocated by the Framework. It is highly likely that the future occupants of the development would be largely dependent on the use of the private car.
35. Overall, I am not persuaded that the sustainable development credentials of the proposal are sufficiently sound for there to be the presumption in favour as advocated in the Framework.

*Other matter*

36. In my Preliminary Matters section I refer to the Decision by the Secretary of State, brought to my attention by the appellants after the close of the Hearing. The appeal related to a site within an AONB in the neighbouring district of Mid Sussex. I am not aware of the full details relating to that appeal. However, from the information before me it appears that there are differences particularly with regard to the locational characteristics of that site and the appeal proposal. I must determine this appeal having regard to the specific circumstances relating to it and the evidence put before me. For that reason I consider that this and other appeal decisions brought to my attention cannot have a determinative influence in this case.

*Overall planning balance*

37. The proposed 52 market and affordable dwellings would accord with the Framework's requirement for the supply of houses to be boosted significantly. The development would also contribute to the shortfall in the Council's five year supply of deliverable housing land. These considerations carry great weight in favour of the appeal proposal.
38. On the other hand, in this open countryside location, detached both visually and physically from a built up area and outside any settlement boundary, there would be substantial harm to the character and appearance of the area, the AONB and local biodiversity contrary to the development plan policies noted earlier and specific policies of the Framework which carry significant weight. I conclude that the harm and conflicts identified significantly and demonstrably outweigh the benefits and that, therefore, the appeal must fail.

*Planning obligation*

39. The s106 Unilateral Undertaking, referred to in my preliminary matters section would have the effect of securing the affordable housing and triggering contributions to various services and facilities to mitigate the impact of the development in the event of planning permission being granted. However, in view of my conclusion that the appeal should be dismissed, there is no need for me to consider the matter further as to whether the provisions of the Unilateral

Undertaking would comply with the requirements of Regulation 122 of the Community Infrastructure Regulations.

**Conclusion**

40. For the reasons given and having had regard to all other matters raised, the appeal is dismissed.

*Anthony Lyman*

INSPECTOR

Richborough Estates



## **APPEARANCES**

### FOR THE APPELLANT:

Mary Cook	Of Counsel
Brian Woods	Ws Planning and Architecture
Angus Jeffries	Landscape Visual Limited
Nick Stilwell	Stilwell Partnership
Chris Buchan-Hepburn	Hyde Housing Association
Chris Oakley	Oakley Commercial
Justin Pitman	Rural Eco Ltd
Godfrey Madgwick	Rural Eco Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

James Hutchison	Interim Team Leader Major Projects Team – Horsham District Council
Matthew Bright	Landscape Architect - Horsham District Council
Don Baker	Senior Ecologist – West Sussex County Council

### INTERESTED PERSONS:

Edward Croucher	Local Resident
-----------------	----------------

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Summary of bus services shown on the Sustainability Map
- 2 Delegated Application - Assessment Sheet, dated 29 April 2014

## **DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE HEARING**

- 1 S106 Unilateral Undertaking
- 2 Appeal Decision APP/D3830/A/13/2198213
- 3 LPA response to the above Decision