



Appeal Decision

Hearing Held on 4 January 2023

Site visits made on 4 and 23 January 2023

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2023

Appeal Ref: APP/R3650/W/22/3301692

Land at Windacres Farm, Church Street, Rudgwick RH12 3EG

- 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 William Lacey Group Ltd against the decision of Waverley Borough Council.
- The application Ref WA/2021/02002, dated 16 June 2021, was refused by notice dated 13 May 2022.
- The development proposed is outline application with some matters reserved for erection of 37 dwellings with access and layout.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form with fixed access and layout. In view of this, other than where addressed in the submitted planning obligation, any suggested details in the submitted plans pertaining to the scale and appearance of the dwellings and the landscaping measures have been treated as indicative.
3. In August 2022, after the submission of the appeal, the '*Ewhurst and Ellens Green Neighbourhood Plan*' (NP) was adopted. The parties have had an opportunity to consider the implications of this document and have not, therefore, been prejudiced by my consideration of the same.
4. In October 2022, the Council adopted the '*Climate Change and Sustainability Supplementary Planning Document*'. This was considered as part of the hearing and taking it into account has caused no prejudice to the appellant.
5. The appeal site straddles the boundary between Waverley Borough Council ('the Council') in Surrey and Horsham District Council (HDC) in West Sussex, though all of the proposed housing would be within the Council's jurisdiction. However, the access road from the B2128 in Cox Green is the subject of an extant permission from HDC.
6. A planning obligation made pursuant to section 106 of the Town and Country Planning Act (1990) (S106) was submitted in draft form prior to the hearing and a final completed version of the same was submitted on the 25 January 2023. The S106 provides for 35% affordable housing of either social rent or shared ownership tenure, first homes, a right of way, a travel plan, cycle and public transport vouchers, open space (including areas of equipped play space,

a landscape buffer, biodiversity net gain and management provisions for many of the aforementioned aspects, i.e. open space. I return to this below.

Main Issues

7. The main issues are:

- whether the development would be of an appropriate scale and location having regard to the development plan policies and national policies that seek to guide the location of new housing;
- the effects of the development on local landscape character, including the Area of Great Landscape Value, having regard to the fixed elements of the scheme, including its layout;
- whether the proposal would preserve the settings and thereby significance of the nearby Grade I listed Parish Church of the Holy Trinity and Grade II listed Duke's Farmhouse, and whether it would preserve the setting of Rudgwick Conservation Area; and
- acknowledging that there is an agreed shortfall in the housing land supply in the area, the extent of that shortfall.

Context

8. The appeal site comprises two adjoining fields to the east and south of existing residential development along the B2128 (also known as Church Street). The access point (granted separately by HDC) would be between two properties on Church Street known as 'April Rise' and 'Trundle Mead'. A small linking section of the access to the appeal site would overlap with a third field to the east. The remainder of this field is outlined in blue to indicate that it is in the control of the appellants company.
9. At the time of my visit, the two fields forming the appeal site were laid to grass, and the eastern field outlined in blue appeared to be in more active arable use. All three fields are enclosed by trees and hedges and there are public rights of way (PROWs), including the Sussex Border Path, running along the southern and eastern boundaries of the site.
10. An outline proposal on the site for 57 dwellings was subject of an inquiry in 2019¹. The main differences between the current scheme and the previous appeal scheme are the reduced number of dwellings and the exclusion of the equipped play space and drainage ponds from the adjoining eastern field. The earlier appeal was dismissed and the parties agree that the decision forms a material consideration in this case.

Reasons

Scale and location of development

11. The site would be accessed from Cox Green which is within Waverley and the development would also adjoin the settlement of Rudgwick which is within Horsham. On the ground, there is no real separation of the settlements, although the character of Cox Green is lower density and largely linear, whereas Rudgwick has expanded out and has cul-de-sacs accessed via the main through road. Despite the contiguousness of the settlements, they are

¹ Under appeal reference APP/R3650/W/19/3230164, decision dated 15 November 2019

- separated by the county/district boundaries and thus, also for planning policy purposes.
12. The development plan documents specifically applicable to the site itself include the recently adopted NP, the *Waverley Borough Local Plan Part 1: Strategic Policies and Sites* (2018) (LPP1) and the *Waverley Local Plan* (retained policies 2018) (LP2002). The overarching spatial strategy outlined in LPP1 Policy SP2 sets out that the main focus for growth within Waverley will be the main settlements of Farnham, Godalming, Haslemere and Cranleigh, followed by moderate levels of development in the larger villages and limited levels of development in/around other villages such as Alfold, Churt, Dunsfold, Ewhurst, Frensham, Tilford, Shamley Green, and Wonersh (and in particular where the Surrey Hills Area of Outstanding Natural Beauty (AONB) or Green Belt do not present a constraint). Outside of these identified villages, Policy SP2 seeks only to allow modest growth to meet local needs.
 13. For the purposes of LPP1 Policy SP2, Cox Green is not a named village where either a limited or moderate level of general growth is proposed. It falls to be considered as an 'other village' where only modest amounts of growth shall be permitted to meet local needs.
 14. LPP1 Policy ALH1 provides more detail on the amounts and location of housing growth anticipated by Policy SP2 and sets a minimum target of 100 dwellings for the main settlement of the NP area, Ewhurst. However, the appeal site is remote from Ewhurst village itself and so this minimum target is not strictly applicable. Furthermore, Ewhurst is reported to have enough housing completions and commitments to far exceed the target of 100 dwellings and, on this basis, the NP does not include any additional housing allocations.
 15. Nevertheless, paragraph 5.1 of the NP seeks to ensure that any residential development proposals specifically address local housing needs. To this end, NP Policy EEG1 seeks to encourage developments that align with the needs identified in the most recently available data, i.e. such as the West Surrey Strategic Housing Market Assessment. This Policy specifically seeks to encourage dwellings of one, two and three bedrooms at a low to median financial cost or for rent and other community-led housing schemes.
 16. Notwithstanding that the proposal is smaller than the previous appeal scheme and would include a range of dwellings from one to four bed units, of which 35% would be affordable, it would not be of a scale or nature that is aligned to only meet local needs. Rather, a scheme of 37 dwellings would be better suited to addressing a broader housing need, a point not disputed by the appellant's evidence, and, in my view, would be of a scale better suited to a larger village in the context of Policies ALH1, SP2 and the settlement hierarchy.
 17. For the above reasons, the proposal would not be of an appropriate scale or location having regard to, in particular, Policies ALH1 and SP2 of LPP1.
 18. The Council is in the process of producing the Local Plan Part 2: Site Allocations and Development Management Policies document (eLPP2). Despite its advanced stage, no policies within eLPP2 have been brought to my attention that alter my finding in relation to the conflict with the spatial strategy of the adopted development plan.

Location of development – other considerations

19. As a settlement, it is clear that Rudgwick, and the neighbouring settlement of Bucks Green, have a range of services and amenities, including a convenience store, post office, pharmacy, medical centre, public houses, a preschool, preparatory school, primary school and open spaces. Furthermore, there are regular public bus services to a range of destinations. These amenities help to support the day-to-day needs of their residents. Given the contiguous relationship between the settlements, residents of Cox Green also benefit from the existence of these conveniently located services and amenities.
20. The Inspector that considered the previous scheme noted that the proximity to local services and adequacy of walking and cycling infrastructure would help to minimise car dependency by future residents. I find no reason to reach an alternative view in this regard and thus also conclude that the proposal would align with LPP1 Policy ST1 which seeks to promote sustainable transport. It would also align with the expectations of the National Planning Policy Framework (the Framework), paragraphs 79, 110 and 112 which seek to promote sustainable transport modes and allow growth in rural villages where such would lend support to local services.
21. My attention has been drawn to a number of adopted and emerging development plan documents in the adjoining HDC area. The adopted Rudgwick Neighbourhood Plan (2021) does not allocate any sites for housing development. The evidence suggests that the emerging Horsham Local Plan includes two draft site allocations adjoining the settlement of Rudgwick and Bucks Green to meet a housing requirement of around 50 dwellings. This number of dwellings is based on the categorisation of the combined settlements as a 'medium village'.
22. Whilst I note the relatively consistent approach to the categorisation of the settlement as relatively sustainable and indications of anticipated levels of growth for the area, the duty to co-operate between the authorities has not resulted in the recognition of Rudgwick, Bucks Green and Cox Green as a single settlement that warrants a holistic growth or policy strategy. As such, whilst the relevance of the HDC-area policies is acknowledged, the exercise of trying to fit the proposal under the ambit of such policies is not possible.

Local landscape character and fixed design considerations

23. The site comprises undeveloped, gently undulating agricultural land surrounded by hedgerows and relatively well-spaced hedgerow trees. The Sussex Border Path runs from the church yard along the southern boundary of the site and Footpath 449 runs alongside the far side of the adjoining eastern field all the way up to Church Street. Bridleway 1395 abuts the south-east corner of the eastern field. The concentration of public routes in the area, and their well-used nature suggests that a high number of sensitive visual receptors experience the site in its current context.
24. Along with the areas of similar land to which it adjoins, the site is green, generally open, and has a rich, visually appealing quality. The historic field boundaries are intact and the close proximity of the site to the Church and church yard combine to give the site and its surroundings a sense of time-depth. These qualities are only affected to a minor degree by residential development generally being on the outer edges of the rural scene, including

the dwellings on Church Street and the recently completed development at Rudgwick Metals. The presence of 'High Croft Cottage' is a minor anomaly in this regard, and it exerts a more obtrusive domestic influence onto a localised area around the Sussex Border Path.

25. The site falls within an Area of Great Landscape Value (AGLV) as designated under LPP1. In landscape terms, it is agreed between the parties that the site is broadly representative of *Landscape Character Area (LCA)² WW8: Cranleigh to Charlwood Wooded Low Weald* as defined by the Surrey Landscape Character Assessment (2015). The key characteristics that the site shares with the LCA include its small scale pastoral and arable fields, largely enclosed by intact hedgerows and tree belts; woodland and tree cover which provides enclosure and limits long distance views; and a rural, tranquil landscape, with a sense of remoteness and intimacy. The guidelines for management of the 'Wooded Low Weald' LCA type includes conserving areas of intimate, peaceful landscape; limiting the spread of settlements and other development; ensuring that development responds to the historic settlement pattern; and protecting hedgerows and hedgerow trees.
26. I also note the points about the site's inclusion and consistency with the *Rowhook & Rudgwick Wooded Ridge LCA³* under HDC which is more a consequence of the district/county boundary rather than a change in landscape character, but note the absence of an AGLV designation from the HDC development plan.
27. The appellant's Landscape and Visual Impact Assessment (LVIA) was undertaken with regard to the *Guidelines for Landscape and Visual Impact Assessment 3rd Edition⁴* (2013) (GLVIA3). It refers to an overall finding that the landscape receptors are of 'moderate sensitivity'. It also concludes that there would be negligible to minor adverse landscape effects after construction and during occupation. The overall visual effects were found to be moderate adverse at worst for the occupation stage, reducing to either neutral or negligible through the establishment of vegetation. These findings are reinforced in the supplementary Rebuttal⁵ and Landscape Statement,⁶ which also assert that all landscape and visual effects would be localised.
28. The Council's Landscape Briefing Notes (Ref BN01 and BN02) and Landscape Hearing Statement⁷ assert that the appellant's evidence has understated the value of the landscape, and that the proposal would erode its quality. The Council's case essentially details that despite the reduction in scale and alternative layout compared with the earlier scheme, the presence of the dwellings would still harmfully urbanise the site and the rural setting to the settlement and would be visually harmful in views from the local PROW network.
29. The Council's evidence includes a value assessment of the site in relation to the '*Landscape Institute Technical Guidance Note 02/21*' (TGN) which uses factors such as condition, distinctiveness and perceptual qualities to determine the value of the landscape. The Council's evidence concludes that the site should

² As defined by the Surrey Landscape Character Assessment: Waverley Borough, 2015

³ Horsham District Landscape Character Assessment, 2003

⁴ The Landscape Institute and the Institute of Environmental Management & Assessment

⁵ Rebuttal to Landscape Briefing Note (January 2022)

⁶ Landscape and Visual Matters Statement, dated 31 August 2022

⁷ Hearing Statement Landscape and Visual Issues, dated November 2022

be considered high value and thus highly sensitive to change, with overall findings of moderate/major adverse landscape effects and major adverse effects on the visual amenity of users of the PROW network, reducing to moderate/major adverse after establishment of the landscaping.

30. I came to the view that the site and its landscape context scores highly or moderately against all of the TGN criteria and that it should be regarded as more than 'moderately sensitive' overall. I find that the reason for the local designation as an AGLV is understandable for its inherent qualities, even if not specifically as an integral part of the buffer to the Surrey Hills AONB. Though the site is at the southernmost point of the AGLV, its relationship with it did not appear to be weak because it maintains a consistent character and appearance to surrounding areas of the same. Consequently, I consider that the site makes a positive contribution to the AGLV and should be considered a valued landscape for the purposes of paragraph 174 of the Framework.
31. The Briefing Note BN01, which forms part of the Council's evidence, was prepared following submission of the appeal scheme. In response to this, the appellant produced a Rebuttal Statement and landscape strategy to propose the 'shaw', or linear woodland feature on the eastern boundary. The Council's BN02 responded to this and found that whilst the development would still be harmful overall, that the linear woodland feature would constitute an improvement, would not be out of character with the local landscape in and of itself and, subject to successful establishment, would eventually limit views.
32. The Council's Landscape Hearing Statement refers to a revisitation of the site in November 2022 and of the conclusions reached in BN02. In this Statement, the author contradicts the earlier findings and indicates that whilst the landscape buffer would limit views of the development in time, it would also obscure a key landscape feature, insofar as linear woodland strips are not prevalent in the immediate locale and would obscure the existing spaced native hedgerow trees.
33. Having heard the views of the parties at the hearings and taking into account the extensive evidence on this topic, I am of the view that the urbanisation of the site, even in the more informal and lower density arrangement proposed, would result in irreversible landscape and visual harm to a distinctively attractive rural landscape and village setting. Whilst I appreciate that some gaps through hedgerows would be infilled and further obscured by tree planting, the presence of dwellings would still be undeniable and the tranquillity of the area would be eroded. Overall, the change from a high quality rural scene with dwellings largely at the fringes would be lost to a suburban housing estate character, and even though the visual effects would be relatively localised, the well-used nature of the surrounding PROW network means that a high number of receptors would still experience this harmful change.
34. The creation of a dense linear woodland strip would sever the visual connection between the PROW network and the settlement in a manner inconsistent with the current pattern of vegetation, even taking into account seasonal variability. However, through deliberate openings, such as where the site would provide pedestrian links to the Sussex Border Path, the views into the development would be very clear. Although there would be greater spaces between the dwellings, this would not reduce the extent of the development or its

urbanising effects on the rural edge of the settlement which were previously found to be harmful.

35. Furthermore, the layout and character of the scheme would still fail to reflect the linear form of development of dwellings set in large, leafy plots as found on Church Street and visible within Cox Green. Whilst the officer's report to committee and the appellant refer to the changes between this and the previous appeal scheme, I find that the changes would not be so obvious that it could be considered to assimilate well with this strongly defined character. Even though the Rudgwick Metals scheme is more of a cul-de-sac than linear in form, it is in a less sensitive area, lower in the landscape and where the historic field boundaries have already been partly lost. It also connects physically and topographically better with existing similar developments in Rudgwick, in contrast to the appeal site.
36. Additionally, I find that there would be harm from the change from a green gap rising up from the eastern field between gardens to a hardsurfaced access road to the high point in Church Street. There would be activity and lighting associated with this access that would further erode the tranquillity and visual qualities of the landscape. The topography of this part of the site would largely limit the effectiveness of vegetation screening.
37. My attention has also been drawn to another appeal for a site at Scotland Lane⁸ owing to its alleged similarities in terms of landscape effects and location within the AGLV. Whilst I note the Inspector's finding of localised harm to that particular area's character and appearance was outweighed by public benefits, from the written evidence, I regard that the sites are not so similar in landscape or visual respects that my findings are dictated by that decision and each appeal must be determined on its own particular merits in any event.
38. Drawing together the above, the scheme would be considerably harmful to local landscape character and is therefore contrary to, in particular, Policy EEG3 of the NP, LPP1 Policies RE1, RE3 and TD1 and Policies D1 and D4 of the LP2002. Collectively, these Policies seek to conserve and enhance the AGLV, protect the intrinsic character and beauty of the countryside and ensure developments respect local distinctiveness.
39. For similar reasons, the proposal would also conflict with, in particular, paragraph 174 of the Framework which seeks to protect and enhance valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

Designated heritage assets, settings and significance

The Parish Church of the Holy Trinity

40. The Grade I listed Church of the Holy Trinity (List Entry Number: 1354190) (the Church) is a medieval church of mostly C14 origins with C19 internal restorations which the statutory list entry describes as an impressive building, particularly externally. The significance and special interest of the Church derives, in part, from its surviving historic fabric, architectural qualities and features, and also from the Church's long-standing and unchanged function as a place of worship and as a visual and social landmark within the once small rural settlement.

⁸ Appeal Ref: APP/R3650/W/21/3280136 dated 1 February 2022

41. Though it has a prominent position within a generous churchyard, its position on the edge of the village has become more obscured by vegetation and modern developments overtime, such that it is hard to discern in most views from Church Street. The most impressive streetscene views are framed between narrow gaps between buildings.
42. In views towards the Church from the surrounding PROW network, mature vegetation filters views, but its scale, form and position is still discernible. The PROWs lead to the settlement via the Church yard which gives the Church prominence as an arrival point into the historic settlement. On leaving the settlement from the same route, the green and open spaces that unfold behind the Church form a part of its setting, which also contributes to its significance.

Duke's Farm House

43. The Grade II listed building, Duke's Farm House, (List Entry Number: 1044330) (Dukes Farmhouse) is the closest building to the north of the Church. Though not detailing all aspects of its special architectural or historic interest, the statutory list entry details the building as an early C18 two storey house with semi-basement, constructed of red brick and of 6 bays in width and with a Horsham slab roof. It also has many other notable details such as a modillion eaves cornice, traditional joinery and cambered window heads.
44. It is believed that the house from which the building has evolved had a typical rural vernacular character until its grand Georgian façade was added to address Church Street. Therefore, whilst the significance and special interest of Duke's Farmhouse is primarily derived from its architectural interest and detailing as a grand Georgian house, the time-depth of the building and its evolution throughout the development of the settlement also forms part of its special interest.
45. Dukes Farmhouse can be best appreciated from Church Street, with views of the less-imposing side elevation available from the church yard. The rear of the building and the sense of its position can be seen from the appeal site, and from the nearby PROW, but it is more distant and partly obscured by vegetation. The current domestic character of the land associated with the dwelling, including a tennis court and orchard, has also diluted some sense of the dwelling being situated within an agricultural context. However, the rural backdrop provided by the green and open spaces to the far rear of the building, including the site, still contribute to its significance and special interest, albeit in a modest way.

The CA

46. The site technically falls outside of the CA but abuts the garden of Duke's Farmhouse which falls within it. Paragraph 200 of the Framework, requires that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Agricultural land to both the east and west of the CA, including the appeal site, forms a part of the setting of the CA. As such, the protection of heritage assets and their settings enshrined within the Framework applies in this case, even though the statutory protection of conservation areas under s72(1) of the Act⁹ only applies to land within them.

⁹ The Listed Building and Conservation Areas Act 1990

47. Despite the absence of a character appraisal, I find that the CA's significance and special interest stems from its range of historic and architecturally significant buildings forming the historic core of the village, which tell of its long history and built evolution over many centuries. Many buildings within the CA are listed in their own right, including the Church and Duke's Farmhouse.
48. Generally, views between the site and CA are limited by buildings within Church Street and vegetation. The exceptions to this include from within the church yard and on approach to the settlement along the PROW, from where views of the rear of Duke's Farmhouse, the Church and the spaces around them are visible.
49. On leaving the settlement along the PROW, the church yard demarks a clear transition between the historic settlement edge and its rural surroundings, with the views expanding out to an open, rolling, green pastoral landscape. Both the Church yard and the countryside along the PROW share intimate and tranquil qualities but the contrasting experience of the enclosure of the Church yard and the openness of the rural landscape beyond it contributes positively to the setting of the CA.

The effects of the development

50. Despite that the development would have a relatively low density and informal layout, and notwithstanding the existence of High Croft Cottage alongside part of the PROW to the rear of the Church, the transition between the Church yard and the contrasting rural surroundings would be irreversibly changed to one of a suburban development context. The presence of dwellings beyond the Church yard would be detectable both visually and in sensory terms, through the erosion of the area's tranquillity. Though the supplementary woodland planting to the east of the development would eventually block views of the dwellings themselves, this would also obscure the filtered views from the rural surroundings towards the Church itself and vice versa, undermining the appreciation of its setting on the edge of a historic settlement.
51. The close proximity of the development to Duke's Farmhouse would result in a sense of enclosure of its curtilage and further severance of its connection to an agricultural backdrop. Existing and proposed boundary planting would provide screening, but, at certain times of the year, would be unlikely to block views altogether. This urbanising effect would be harmful to the setting, and thus significance of Duke's Farmhouse.
52. Whether or not intervisibility is partly obscured or filtered by existing vegetation at certain times of the year, introducing such a spread of solid built form on the appeal site would undermine the contribution the appeal site makes to the settlement's rural edge. For these reasons, the proposal would also harm the setting of the CA.

Heritage conclusions

53. It follows that the proposed development would fail to preserve the settings of the Grade I listed building known as the Church of the Holy Trinity and the Grade II listed building known as Duke's Farm House, leading to conflict with s66(1) of the Act. There would also be harm to the significance of the Rudgwick Conservation Area through development within its setting.

54. The identified harms also raise conflict with Policy EEG5 of the NP, LPP1 Policy HA1, and saved Policies D1 and HE3 and HE8 of the LP2002. Collectively, these Policies seek to ensure that development proposals affecting designated heritage assets, either directly or indirectly, should conserve and, where possible, enhance the significance and setting of heritage assets.
55. Bearing in mind the nature of the proposal in relation to the overall significance of the Church, Duke's Farmhouse and the CA as designated heritage assets, the appeal scheme would cause less than substantial harm to each of them. Paragraph 202 requires less than substantial harm to be weighed against the public benefits of the proposal. LP2002 Policy HE3 fails to reflect the need to undertake a balancing exercise as prescribed by the Framework and attracts less weight as a consequence.
56. In this case, the public benefits would result from the creation of 37 dwellings, including 35% affordable housing, in close proximity to a village that would offer a range of facilities and opportunities to minimise dependency on private vehicles. The provision of housing would be a notable social benefit, through increasing access to housing of a range of tenures and types, and would also be economically beneficial, throughout the construction phase and beyond. There would also be environmental benefits from the provision of biodiversity net gain and other recreational enhancements through the provision of a new bridleway link. I consider this combination of public benefits capable of attracting great weight. Though less than substantial harm still carries considerable importance and weight, consistent with the view of the Council, I consider that the public benefits of the proposal outweigh the harm I have identified to each heritage asset.

Housing Land Supply

57. The parties submitted an agreed '*Statement of Common Ground – Housing Land Supply*' in December 2022 which uses an updated base date of 1 April 2022. The overall requirement figure of 4,211 dwellings, is agreed between the parties. This figure also includes a shortfall of 1,060 dwellings.
58. The view of the Council put to me in relation to the housing land supply for the 5-year period 2022-27 broadly follows that set out in the Position Statement¹⁰ published in November 2022. It is claimed that the Council can demonstrate a supply of 4,074 dwellings against a requirement of 4,211 dwellings, resulting in a housing land supply figure of 4.8 years' worth. The appellant disputes the supply figure and considers that a maximum supply of 3,092 dwellings, or a supply of around 3.7 years' worth is available.
59. The appellant has emphasised the Framework's definition of deliverable which says that sites have to be "...available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years"¹¹. It goes on to say that for sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years. However, where a site has outline planning permission for major development, has been allocated in a development plan,

¹⁰ Five Year Housing Land Supply Position Statement 2022

¹¹ National Planning Policy Framework 2021 – Glossary definition

has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

60. The agreed sources of supply are those with outstanding planning permissions on small and medium sites (Source A) (485 dwellings) and estimated dwellings from small site windfalls from 01/04/2022 to 31/03/2026 (Source F) (144 dwellings).
61. The sources of supply which are disputed are from outstanding permissions on large sites (Source B), sites with a resolution to permit (Source C), eLPP2 allocations (Source D) and other identified deliverable sites (Source E).
62. In terms of Source B, the appellant is disputing the deliverability of 691 dwellings of a total of 3,036 dwellings, specifically from two large sites with outstanding planning permissions: Land Coordinates 504360 134890, Alfold, and Dunsfold Park, Stovolds Hill, Cranleigh.

Alfold

63. The Council project that 86 dwellings will be delivered on this site in the year 2026/2027. There is only outline permission on the site and no reserved matters have been submitted as yet. Despite the Council's allowance of additional time for such to be resolved, there is a lack of clear evidence that housing completions will occur within the timeframe envisaged. Therefore, I deduct these 86 dwellings.

Dunsfold Park, Cranleigh

64. Of the 605 dwellings expected from this site, 120 are expected in the year 2024/2025, 225 in the year 2025/2026 and 260 in the year 2026/2027. Though this trajectory is based on evidence submitted to the Council by a land promoter based on multiple outlets operating simultaneously in the later stages of the five year period, this appears optimistic. Whilst it is clear that progress is being made, particularly with the adoption of a related supplementary planning document, it is not sufficiently clear that such a high yield can be relied upon within such a relatively short timeframe.
65. The Scotland Lane appeal decision reduced this figure to 50 dwellings in 2025/2026. On the basis of the evidence, I consider this an appropriate yield from the site within that year once a housebuilder has been engaged and reserved matters consent has been secured. I also add a further expected supply of 120 units from the year 2026/2027, though this is lower than the Council's optimistic yield of 260. This reduces the yield from this site from 605 to 270 dwellings.

Source C

66. In terms of Source C, the appellant disputes a total of 60 dwellings of the total 102 from a site with a 'resolution to permit' at Coxbridge Farm, Farnham.
67. The signing of a S106 has delayed the issuing of planning permission for this site (for a larger development of 320 dwellings) for a considerable period. Whilst the yield has been adjusted to assume a modest delivery in the later part of the five year period, once reserved matters have been secured, there is

a lack of robust evidence on which to assume completions would be forthcoming. I therefore remove all 60 dwellings from the supply from this site.

Source D

68. Of the yield expected from Source D, the appellant accepts that 17 dwellings are deliverable from the site at Wheeler Street Nurseries, Witley. However, the remaining 190 dwellings from the following sites are not agreed: Land at Wey Hill Youth Campus, Haslemere; The Old Grove, High Pitfold, Hindhead; Land at Highcroft, Milford; and Land at Secretts, Hurst Farm, Milford. These are all sites which have a draft allocation in the emerging LPP2 which is undergoing examination. On the basis of a lack of certainty on these sites receiving allocations at the present stage, combined with a lack of robust evidence to confirm completions within 5 years, with the exception of the 34 dwellings from the Wey Hill Council-owned site, I remove this source of sites from the supply.

Source E

69. In terms of the Source E supply, the appellant accepts that 59 of 106 dwellings from 18 sites are deliverable but that 47 dwellings from the following six sites are not based on the fact that they are only sites indicated in the Land Availability Assessment¹² (LAA): The Fairfield, Farnham; Land at Keys Cottage & Wedgewood, Holloway; Land east of Binscombe; Uplands Stud, Bowlhead Green Road; Land south of Franklin Court, Brook Road, Wormley, and Land at 1 Gadbridge Villas, Gadbridge Lane, Ewhurst.
70. I note that the majority of these sites are expected to yield marginally above the 5 dwellings that is the threshold for consideration as a small windfall site. However, the Council indicates that these sites have been identified and would be expected to be allocated in the emerging Local Plan and Neighbourhood Plans. I consider that the reliance on these sites through the LAA falls short of the certainty necessary to count them as part of the housing land supply and that if required, allocations should have been considered. The evidence submitted in respect of these sites therefore falls short of the clear evidence needed to assume site deliverability. Consequently, I remove all 47 contested dwellings from this source of supply.
71. Though I note that the Gadbridge Villas site has received permission on appeal for 4 dwellings, this is claimed to have occurred after the base date and cannot be counted without a similar alteration to the need figure.
72. On the basis of the above, I deduct a further 684 dwellings from the Council's supply. This has the effect of reducing the Council's total supply to 3,390 dwellings which is equivalent to around a 4 year supply. This is between the figures offered by the two parties, but closer to that offered by the appellant.

Other Matters

73. The parties agreed that the settings and thereby significance of the Grade II listed building, 'Duke's Lodge' and Grade II listed building, 'Trade Winds', would not be harmed by the proposal owing to their distances, lack of intervisibility and lack of evidence of any historic links between them and the site. This was the view taken by the Inspector in the previous appeal and, given the relative

¹² Waverley Borough Council Land Availability Assessment 2020

similarities between the extent of the site and scale and nature of the proposals in both cases, I reach the same view.

74. I have had regard to the suggested planning conditions agreed between the parties that would secure the development in accordance with the relevant plans, details and timescales, and further details where necessary.
75. There is a condition that requires improvements to facilitate pedestrians crossing over Church Street in the vicinity of the Lynwick Street junction. As this would be a public benefit of the scheme, I attribute weight to it accordingly.

Protected Sites

76. The site is not specifically within the zone of influence of the Arun Protected Sites¹³ which are designated under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). However, owing to the cross-boundary nature of the site's location, for reasons relating to potential water abstraction within the Sussex North (water) Supply Zone which is harmful to the Arun Protected Sites, a condition was suggested to ensure the water supply for the dwellings would be provided by Thames Water to avoid such harm occurring. The Council referred to an appropriate assessment (AA) having been undertaken in respect of this avoidance measure, but it was revealed during the hearing that none had been.
77. On a separate but related point, another condition had been suggested to prevent occupation of the dwellings until necessary upgrades were made to the Thames Water infrastructure to accommodate the scheme. Correspondence exchanged subsequent to the hearing indicated that this capacity issue has already been addressed, obviating the need for the condition. This provides comfort that an alternative water provider, potentially within the Sussex North Supply Zone, would not need to be considered and were the development acceptable in other respects, the appropriateness of the avoidance measure outlined above would need to be considered as part of an AA.

S106 Obligation

78. LPP1 Policy AHN1 requires a minimum of 30% affordable housing from schemes involving a net increase of 11 or more dwellings. The S106 provides for 35% affordable dwellings which would result in 13 dwellings of a total of 37 being of either affordable rent, first home or shared ownership tenures in perpetuity. If the minimum of 30% were offered, this would result in one fewer affordable dwelling. However, the Policy does not preclude more than the minimum being secured and the scheme therefore complies with the same. This aspect is capable of attracting moderate weight in support of the scheme.
79. The S106 also provides for the provision of open spaces and sustainable urban drainage systems (SUDS), along with the long-term management thereof. LPP1 Policy CC4 seeks to ensure the provision of SUDS on major schemes and Policy LRC1 seeks to ensure the provision of new open spaces, including Local Areas for Play (LAPs) and Local Equipped Areas for Play (LEAPs). These aspects are therefore necessary to make the development acceptable in planning terms.

¹³ Arun Valley Special Area of Conservation, Arun Valley Special Protection Area and Arun Valley Ramsar Site

80. The S106 also secures a PROW to be used as a bridleway from Church Street, alongside the proposed access, overlapping with Footpath 449, to the point where it meets with the existing bridleway at the south-eastern corner of the eastern field. Policy ST1 of LPP1 encourages the provision of new and improved footpaths, bridleways and cycleways, provided there would be no significant effect on areas of importance for nature conservation. In this case, the provision of a new bridleway would offer enhanced recreational opportunities.
81. The S106 provides for the requirement to secure biodiversity net gain (BNG) enhancements of a level or in excess of that specified in the Biodiversity Metric Report (ACD environmental, 31 January 2022). These enhancements would be secured through the provision of habitats both on site and on the adjoining eastern field, outlined in blue. A large part of the gains would come from both the linear woodland buffer and the cessation of agricultural use of the eastern field to enable it to be planted as a meadow. Subject to successful implementation, management and monitoring of the landscaping measures, the proposed development would achieve a 97.12% net gain in habitat units and a 43.09% net gain in hedgerow units which aligns with the expectation of NP Policy EEG7 and LPP1 Policy NE1 to conserve and enhance biodiversity.
82. The landscape buffer to the east of the development and within the blue line area and the management thereof would also be secured by the S106. This would offer the certainty of delivery of this mitigation measure, despite that the landscaping is a matter reserved for future consideration.

Planning Balance

83. I have identified conflicts with the spatial strategy, harm to local landscape character and harm to designated heritage assets which bring the scheme into conflict with the development plan when taken as a whole.
84. The parties agreed that paragraph 11(d) of the Framework is triggered in this case. This states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless one of the limbs of paragraph 11(d), (i) or (ii), indicates otherwise. The housing policies are deemed to be out of date owing to the absence of a 5 year housing land supply with the shortfall identified to be in the region of a years' worth.
85. Limb (i) of paragraph 11(d) states that the application of policies in the Framework that protect areas or assets of particular importance may provide a clear reason for refusing the development proposed. Such areas or assets includes designated heritage assets and sites protected under the Conservation of Habitats and Species Regulations 2017, as amended.
86. In this case, I have found the harm to designated heritage assets would be outweighed by the public benefits of the scheme. Accordingly, there are no reasons specifically under paragraph 11(d)(i) that provide a clear reason to refuse the development.
87. Limb (ii) of paragraph 11(d) sets out that permission should be granted unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

88. The public benefits to be considered in this case include the provision of 37 dwellings in the context of a housing deficit of around a years' worth. Of these units, 35% would be affordable housing of a range of tenures. The dwellings would be located where residents could access facilities and services and provide economic support to the same. The increased access to a range of housing, the construction phase job creation and subsequent support for services and facilities are notable social and economic benefits of the scheme to which I attach great weight.
89. I also attach moderate weight to the combination of benefits, including the biodiversity net gain, provision of a bridleway link, areas of public open space and crossing enhancements, rather than the either neutral or mitigatory aspects that would be secured by conditions or the S106, such as the travel plan measures.
90. In contrast, the harmful effects of the proposal on local landscape character would be considerable. The moderate harm to heritage assets also falls to be considered. In my view, the combination of the adverse impacts of the development would significantly and demonstrably outweigh the aforementioned benefits when assessed against the policies in the Framework taken as a whole.
91. The presumption in favour of sustainable development, does not, therefore, form a consideration of such materiality that it indicates that permission should be granted other than in accordance with the development plan.

Conclusion

92. For the forgoing reasons, I conclude that the appeal should be dismissed.

Hollie Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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Mr Matthew Good MA MRTPI	Pegasus Group
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FOR THE LOCAL PLANNING AUTHORITY:

Ms Ruth Dovey	Waverley Borough Council
Ms Katherine Dove	Waverley Borough Council
Ms Sophie Piper	Waverley Borough Council
Ms Michelle Bolger	Michelle Bolger Landscape Consultancy

DOCUMENTS:

Document 1	Cllr Nigel Clowes speaking notes
Document 2	Mr Michael Ellis speaking notes
Document 3	Mr Charles Pinney speaking notes
Document 4	Mr Paul Kornicky speaking notes
Document 5	Cllr David Buckley speaking notes
Document 6	Printed figures from Ms Michelle Bolger
Document 7	Climate Change and Sustainability SPD
Document 8	Email exchanges about Thames Water Supply
Document 9	Vehicular, electric vehicle and cycle parking guidance for new developments – Surrey County Council
Document 10	Additional housing land supply evidence