



Appeal Decision

Inquiry held on 7-10 and 14-17 February 2023

Site visit made on 9 February 2023

by H Porter BA(Hons), MSc PGDip, IHBC

an Inspector appointed by the Secretary of State

Decision date: 7th July 2023

Appeal Ref: APP/G2245/W/22/3308246

Land At Brittain's Lane, Sevenoaks, Kent, TN13 2HL

- 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 outline planning permission
 - The appeal is made by Croudace Homes against Sevenoaks District Council.
 - The application Ref: 21/04236/OUT is dated 22 December 2021.
 - The development proposed is an outline application for development of up to 70 new homes (Class C3), including 50% (35no.) affordable homes and 10% self-build, and the formation of a new T-junction vehicular access onto Brittain's Lane with associated landscaping, parking, open space, play areas, and all other associated development works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Inquiry sat for 8 days. I undertook an accompanied site visit on 9 February 2023, during which I was able to view the appeal site from the Brittain's Farm Conservation Area (the CA) and a residential property on Marlborough Crescent. I also undertook further unaccompanied visits and saw the appeal site's surroundings and Brittain's Lane environs from public vantage points.
3. The application was submitted in outline with all matters reserved except access. Notwithstanding the reserved matters, it was confirmed that plans showing building heights and land use parameters are before me for consideration. I have considered the appeal on the basis of the access plans, and that up to 70 dwellings would be provided while bearing in mind that the detail within the two parameters plans could be secured via a condition.
4. The content of a draft s106 Agreement was discussed on the last day of the Inquiry; a signed and completed version was received on 1 March 2023, as agreed. I return to the obligations and provisions secured by the s106 Agreement later in overall planning balance, although assessment of the planning obligations against Regulation 122 of the Community Infrastructure Regulations 2010 (as amended) would only be necessary if planning permission was to be granted.
5. Since issuing the Decision Notice¹, Sevenoaks District Council (SDC) is no longer pursuing objections in relation to the lack of ecological information or to

¹ CDB.23

the lack of a completed s106 Agreement. Separate Statements of Common Ground (SoCG) covering matters of Planning, Landscape, Ecology, Highways, Housing Land Supply and Heritage have established various areas of agreement between the Appellant and SDC. Additionally, Kent County Council (KCC) does not object to the proposal in respect of flood risk, ecology, highways or sustainable travel. It is accepted that the proposal represents inappropriate development in the Green Belt.

6. The Brittain's Lane Association (BLA) was granted Rule 6(6) Party status under the Inquiry Procedure rules. In addition to endorsing the SDC's outstanding concerns with the appeal scheme that relate to harm to the Green Belt, character and appearance, and designated heritage assets, the BLA have advanced supplementary arguments and evidence in respect of site excavation/civil engineering, ecology, highway safety and access to services and facilities, and flood risk. I have considered these matters as part of the main issues.
7. The development plan comprises the Sevenoaks District Core Strategy, adopted February 2011² (the CS) and the Sevenoaks District Allocations and Development Management Plan, adopted February 2015³ (ADMP). After modification, in accordance with the examining Inspector's recommendations, on 9 February 2023 the Council resolved to hold a referendum on the draft Sevenoaks Town Neighbourhood Plan 2020-2038⁴ (the NP). My determination of this appeal shall be made in accordance with the development plan unless material considerations indicate otherwise. As the NP has reached a relatively advanced stage, I have taken it to be material in my decision-making.

Main Issues

8. Bearing in mind all that I have read and heard, I consider the main issues in this appeal to be:
 - a) The effect of the proposal on the openness and purposes of the Green Belt;
 - b) The effect of the proposal on landscape character and appearance of the area, including its effect on the Kent Downs AONB through development within its setting;
 - c) The effect of the proposal on the significance of the Brittain's Farm Conservation Area, and the significance and special interest of the Grade II listed buildings within Brittain's Farm, from development within their setting;
 - d) The effect of the proposed development on ecological assets, including Ancient Woodland;
 - e) Whether the appeal site offers a suitable location for the proposed development having regard to locational sustainability, highway safety and flood risk; and,
 - f) Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the 'very special circumstances' required to justify the proposed development.

² CD.E1

³ CD.E2

⁴ CD.E3

Reasons

The site context

9. The appeal site is situated at the western outskirts of Sevenoaks, beyond the Settlement Policy Boundary Area and within the Metropolitan Green Belt. The Kent Downs Area of Outstanding Natural Beauty (AONB) lies immediately west and it is common ground that the appeal site falls within its setting⁵. A public footpath begins close to the site's Brittain's Lane access and runs through a belt of established trees along its southern edge. Some of this tree belt comprises Ancient Woodland, which reaches partly into the appeal site at its southwestern corner. Just beyond the northern boundary of the site lies the Brittain's Farm Conservation Area and a collection of Grade II listed, and curtilage listed, farm buildings.

a) The effect of the proposals on the Green Belt

10. Both national and local planning policy emphasises the importance and permanence of the Green Belt. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and that the essential characteristics of Green Belts are their openness and their permanence.
11. The Framework sets out five purposes the Green Belt should serve. The parties agree that the purposes relating to preventing neighbouring towns merging and to assisting in urban regeneration are not pertinent in this case. In 2017 and in preparation for the emerging 2018 local plan, the Sevenoaks Green Belt was subject to assessment in order to provide evidence of how different areas performed against the Green Belt purposes in national policy and to identify weaker performing parts of the Green Belt⁶. Of various parcels of land, the appeal site falls within Parcel 40, which in its entirety was given an overall score of 'strong' in terms of its performance against the five purposes⁷. However, the Assessment was a high-level one and not at the more granular, field-by-field level, while the appeal site represents a small portion of Parcel 40 and an even smaller share of the Sevenoaks Green Belt.
12. The Framework does not refer specifically to the purpose of checking the unrestricted sprawl of London but of large built-up areas, which Sevenoaks is, nor is it necessary to identify a particular built-up area. The appeal scheme would represent an encroachment of urban forms westwards out from the Sevenoaks settlement edge and its built envelope and into the Green Belt countryside. There would be a definite infilling of the green wedge that separates Croft Way and Marlborough Crescent and an advancement of development into the countryside, in conflict with the purpose of checking unrestricted sprawl of large built-up areas. Even though housing exerts some urban influence close to the site's boundaries, the appeal scheme would also fail to safeguard the countryside from encroachment, conflicting with this purpose.
13. The case was advanced that the appeal scheme would conflict with the purpose of preserving the setting and special character of historic towns. However, while Sevenoaks clearly has important historic origins, the setting of the town

⁵ CDD.2 Landscape SoCG p. 2

⁶ CDE.30

⁷ CDE.30 p. 63

has already seen the expansion of 20th century urban development westwards away from it. The proximity of the site to the CA is, in my view, a separate consideration. As a result of this envelopment of the historic core of Sevenoaks by development over time, there would be no conflict between the proposals and the purpose of preserving the setting and special character of historic towns.

14. Nonetheless, openness is also the counterpart of urban sprawl and the absence of development. The appeal site comprises a little over 5 ha of greenfield and partly wooded countryside at the western edge of Sevenoaks. Except for the dilapidated timber shed, and a scattering of trees and hedgerows, the site is devoid of built development and is spatially completely open. The openness of the site can be appreciated through the vegetation and its gated entrance along its Brittain's Lane boundary; through gaps in the vegetation between the public footpath along its southern edge; in views westwards from the lower portion of Redlands Road.
15. Notwithstanding the detail that would come through reserved matters, the appeal scheme would unmistakably have both spatial and visual impacts. Even with the retention of treed boundaries, some open space, buffers and related landscaping, the introduction of up to 70 dwellings, would have an acute effect on the openness of the appeal site and this part of the Green Belt. Much of the site would be open space, even so, the proposals would completely change its authentic countryside character, which would become suburbanised and dominated by housing, roads, and associated residential activity. Whether or not measures could help to soften visual impact at the development's edges, they would not mitigate the harm to the Green Belt and its openness would plainly not be preserved. The proposals would conflict with Frameworks paragraph 137, and purposes a) and c) of paragraph 138; as well as CS Policy LO8, insofar as it seeks to ensure the Green Belt is maintained.

b) The effect of the proposals on the landscape character and appearance

16. The greenfield appeal site is laid to rough grass, populated with occasional trees, and a dilapidated timber shed situated towards the southeast corner. A distinctive domed spur of higher land, with steep sides, extends into the site from the southwestern corner and slopes down towards the north and northeast. A narrow watercourse, the Brad Stream, runs along the site's western boundary, beyond which lies fields and woodland that are within the AONB.
17. Residential development exists on three sides of the appeal site, and its relative containment by partly wooded boundaries restricts far-reaching views across or out from it. Nevertheless, the appeal site has a prevailing agrarian character, informed by its open, greenfield nature and distinctive undulating topography. Overall, the landscape character and appearance of the appeal site corresponds most readily with the open countryside landscape that unfolds beyond the Sevenoaks settlement edge, rather than the urban forms within it.
18. Although the settlement edge reaches closer to the appeal site on three sides, its overall landscape character shares striking similarities with, and is complementary to, the adjoining AONB field. Furthermore, the appeal site provides a wedge of undeveloped land that separates Croft Way and Marlborough Crescent, giving definite sense of transition away from the settlement and introduction to the open countryside that unfolds to the west.

The specific judgements made at the time the AONB boundaries were drawn, and the reasons for excluding the appeal site from its designation, are unclear. Even so, I consider the appeal site is of value to the landscape character and appearance of the locality, and as a part of its setting, it makes small but nonetheless important contribution to maintaining the natural beauty of the AONB.

19. The characteristics of the appeal site fit with the typical characteristic of the Westerham and Sundridge Parks Farmlands Character Area identified in the Sevenoaks Landscape Character Assessment, 2017⁸ (LCA), which details: *'northern undulating slopes of the Greensand Ridge to the west of Sevenoaks, supporting small to medium scale fields; small to medium scale enclosed agricultural landscape with strong hedgerows and scattered dense woodland; and, traditional vernacular building styles including Oasts and timber framed barns'*⁹. The Brittain's Farm Conservation Area Appraisal and Management Plan, 2011¹⁰ (CAAMP) describes the landscape setting of the CA as: *small to medium scale with an undulating to steeply sloping rural landscape...this includes farmland with hedgerow networks and scattered dense woodland and shaws*¹¹. Map regression and evidence within the Sevenoaks Landscape Sensitivity Assessment, 2017¹² (LSA) puts the appeal site in Sevenoaks West (S4) and indicates the appeal site is part of the historic field pattern that surrounds the Montreal Park suburb¹³. It also supports Ancient Woodland, a habitat of ecological interest, and contains natural rolling features as well as the Brad Stream. Consistent with analysis of S4, I consider these elements add to the site's aesthetic value as well as its overall landscape sensitivity, which its relative containment and proximity to nearby housing developments do not diminish.
20. SDC did not refer to the appeal site as being a Valued Landscape, in its decision notice or during consideration of the application, however, the matter was discussed during the Inquiry, including reference to the latest technical guidance note (TGN) on assessing landscape value deals with areas outside of landscape designations, Table 1 of which sets out a range of factors that can be considered when identifying landscape value¹⁴. Correlations between the appeal site and with factors relating to wilderness and tranquillity, recreation and associations are tenuous. However, as above, the characteristics of the appeal site do correspond with a number of examples of indicators of landscape value, which is supported by examples of evidence such as a landscape character assessment, historic maps, a conservation area appraisal and ecological designations. Whether or not visually prominent from afar, the combination of its landscape features elevate the overall value of the appeal site above that of a pleasant but unremarkable, undesignated field. Rather it is a valued landscape that, paragraph 174 a) of the Framework indicates should be protected and enhanced.
21. The parameters plans would fix elements of the scheme at this outline stage, including the location of housing, the play area (LEAP), attenuation ponds, site accesses and internal vehicular and pedestrian routes but the final layout is not

⁸ CD.E33

⁹ CDE.33 p. 90

¹⁰ CDF.10

¹¹ CDF.10 para 4.1 p. 18

¹² CDE.48

¹³ CDE.48 pp. 73-75

¹⁴ CDG.7 p. 7

fixed. Were the eventual layout to be similar to that shown on the Illustrative Masterplan¹⁵, a lobe of built form would extend westwards from the Brittain's Lane frontage, leaving open areas to the north, south and west of it.

22. In order to realise a housing scheme of up to 70 dwellings onto the appeal site, it would inevitably demand civil engineering works to overcome the underlying geology and complex topography, including the steep-sided spur of land that extends into it from the southwest. I do not doubt an engineered solution is possible and that the Appellant's team have the technical expertise to design one. The precise nature and extent of necessary groundworks have not been fixed and two possible strategies were discussed during the Inquiry. One approach would be to excavate and level the spur, remove associated spoil, to form an essentially flattened site. The other solution would be to work with the site's existing topography, terracing into its contours and adopting structural features such as retaining walls, and banks. Either approach would require a concentration of development towards the east and centre of the site, away from the flood risk and Ancient Woodland constraints at its edges¹⁶.
23. Should the eventual scheme retain more of the existing landform, housing would sit atop the spur and dominate the local landscape including the setting of the AONB. Should a more level site be formed, it would be a dramatic and artificial intervention into the local landscape, completely at odds with the appeal site's authentic, softly undulating greenfield nature.
24. Irrespective of the final engineered approach, the introduction of up to 70 homes, roads, paths, SuDs¹⁷ ponds, play areas, and domestic paraphernalia would significantly erode the attractive natural topography and greenfield character of the appeal site. While buildings and roads do have an influence on wider locality that is within the existing built-up area of Sevenoaks, the proposal would weaken the buffering effect the appeal site has between the settlement edge and the wider rural countryside. The wedge of open countryside that separates Marlborough Crescent and Croft Way housing would become suburbanised.
25. The majority of views to new development would be from private dwellings or filtered glimpses through vegetation along Brittain's Lane, the adjacent footpath or Brittain's Farm CA. However, where visible, the proposal would appear as an urban intrusion, that even with the inclusion of green buffers and additional planting, would be completely at odds with its soft, open greenfield character.
26. As the appeal site is in the setting of the AONB, new development is required by paragraph 176 of the Framework to be sensitively located and designed to avoid or minimise adverse impacts on the designated area. The PPG recognises that land within the setting of an AONB could make an important contribution to maintaining natural beauty, and where poorly located or designed, development can do significant harm. Notwithstanding the parameters plans show that the proposed development would be set back from the AONB boundary, there would still be an encroachment of housing, roads and domestic infrastructure to within some 20 metres of it. Consequently, the moderating effect the green and open appeal site provides as part of the AONB setting would be weakened. Bearing in mind the size of the AONB, the effect of the appeal scheme on its overall landscape and scenic beauty would be localised.

¹⁵ CDA.8

¹⁶ A 15m setback from Ancient Woodland

¹⁷ Sustainable Drainage System

Nonetheless, I do not consider that the appeal scheme would be sensitively located or designed within the AONB setting.

27. Conflict therefore arises with CS Policies SP1 and LO8, insofar as they seek to ensure new development responds to the character of the area; give priority to protecting rural character and seek to ensure development is compatible with policies for protecting the AONB; and that seek to conserve and enhance the distinctive character of the AONB and its setting. The proposals would also fail to comply with ADMP Policies EN1, EN4 and EN5, insofar as these require the layout of the proposed development to respect the topography and character of the site and the surrounding area and sensitively incorporate natural features; and give the highest status of protection to the AONB and its setting. The proposed development would not successfully minimise adverse impact on the AONB designated area and would fail to contribute to and enhance the natural and local environment, contrary to paragraphs 174 and 176 of the Framework.

c) The effect on designated heritage assets

28. The CA boundaries are tightly drawn around a cluster of traditional farm buildings at Brittain's Farm, which is nestled within a small valley and enclosed along Brittain's Lane by high boundary walls. The CA lies just beyond the northeast corner of the appeal site, separated by timber fencing, hedgerows and a group of trees protected by Tree Preservation Orders (TPOs). Within the Brittain's Farm CA are the Grade II listed Brittain's Farmhouse; the Grade II listed Farm Buildings adjoining Brittain's Farmhouse; the Grade II listed Oast; as well as curtilage listed buildings¹⁸.
29. In considering whether to grant planning permission for development that affects a listed building or its setting, special regard should be paid to the desirability of preserving that building, or its setting. As the proposals do not concern land or buildings in a CA, therefore the statutory requirements under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act (the Act) are of no relevance. That said, although no statutory protection for the setting of a CA is present in the Act, paragraph 200 of the Framework requires consideration of any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting. The main parties agree that the appeal site is within the setting of the CA and contributes to its significance but do not agree on the extent of that contribution¹⁹.
30. The CAAMP indicates that the CA, and listed buildings within it, originated as an isolated farmstead situated in wider rural surroundings, and part of the historic Montreal Estate. The historic map extracts and analysis within the CAAMP illustrate how Brittain's Farm was surrounded by an undeveloped mix of woodland and small field parcels up to the early 20th century. The CAAMP, maps 'open space' to include the appeal site, while at paragraph 4.1 the 'occasional long views... and open areas' are amongst the features that contribute strongly to the special character of the CA²⁰. The maintenance of views to open countryside and the agrarian nature of the appeal site are amongst the important within the setting of the CA that contribute to its significance as a designated heritage asset.

¹⁸ CDD.6 p. 1 identify the outbuilding to the east of the farmhouse, the single storey weatherboarded building to the north east corner of the larger barn, the ragstone boundary wall along Brittain's Lane as curtilage listed buildings and/or locally listed buildings.

¹⁹ As detailed p. 1 Heritage Matters SoCG CDD.6

²⁰ Map 6

31. I consider the significance of the CA to derive predominantly from its origins as an historic rural farmstead, which, to this day comprises a relatively in-tact enclave of vernacular farm buildings. Agricultural activity within the CA and its wider setting may have ceased, but there remains an authenticity within the integrated layout of the farmstead that speaks of its agricultural origins and function. Over time, new housing developments have encroached upon the agrarian surroundings of the farmstead. The appeal site, however, is the exception. Indeed, to this day, the undeveloped greenfield nature of the appeal site is part of the surroundings in which the CA is experienced, and which provide a remnant of the former agrarian context intrinsically linked to it. Beyond a historic connection evidenced through desk-top analysis, and in spite of the presence of a swimming pool and manicured hedgerows nearby, I experienced a clear tangible and visual link with the appeal site, which reinforced legibility of the CA's rural origins. Thus, I consider the appeal site is a part of the setting of the CA that makes an important positive contribution to its overall significance.
32. The relevant listed buildings and curtilage listed structures at Brittain's Farm largely derive significance and special interest from their age, form, fabric and historic farming use. Their significance is also derived from their value as interrelated components within a single clearly defined farmstead complex. Irrespective of direct lines of sight, remnants of the listed buildings' former agricultural surroundings facilitate an appreciation of their intrinsic link to a wider rural landscape that would have been essential to the working and productivity of the farmstead complex over many centuries. A remnant of the former rural landscape within the wider setting of the Grade II listed buildings, it enables appreciation of their historic origins, functions and agrarian purpose, and makes a valuable contribution to their overall significance and special interest.
33. The introduction of up to 70 new dwellings would weaken the authentic, agrarian, qualities of the appeal site, and exert an obvious intrusion on remnant views out towards open countryside. There would be a very obvious visual impact from the southern portion of the CA, where the currently open views out to the undulating greenfield appeal site would be replaced with housing and roads. Neither the relatively contained environs at Brittain's Farm, nor the intervening and supplementary vegetation, would alleviate the harmful change the appeal scheme would exert; and nor could the reserved matters details be such as to prevent the harm identified. Rather, the appeal scheme would cause harm to the significance of the CA as a designated heritage asset, through development within its setting.
34. Although the appeal scheme would have no direct physical effect on any of the Brittain's Farm listed buildings or their closer farm-yard settings, it would fail to preserve their wider rural setting, causing harm to their significance. Consequently, the proposal would fail to preserve the settings of listed buildings, contrary to Section 66(1) of the Act. The proposal would therefore run contrary to CS Policy SP1 and ADMP Policy EN4 insofar as these seek to protect and enhance the District's heritage assets and their settings, including listed buildings and conservation areas; and to conserve or enhance the character, appearance and setting of a heritage asset. While it does not yet carry full weight, conflict would also arise with NP Policy C1, which supports developments that sustain or enhance the significance of a heritage asset or the contribution made by its setting.

35. In the terms of the Framework, the harm to the significance of the designated heritage assets would, in each case, be less than substantial. When determining planning applications, decision makers are not obliged to place harm to the significance of a heritage asset or its setting somewhere on a 'spectrum'. However, in light of the above, I judge the less than substantial harm would be of a moderate level.
36. Irrespective of where harm to the significance of a designated heritage asset falls on the scale of 'less than substantial', the desirability of preserving the setting of listed buildings is a matter that should be given considerable importance and weight; while there is an expectation that great weight be afforded to the conservation of a heritage asset, and its setting in the Framework. Paragraph 202 of the Framework requires the less than substantial harm be weighed against the public benefits of the proposal. The provision of market, self-build and affordable housing would, in my judgement, constitute public benefits, the weight of which would be sufficient outweigh the less than substantial harm to the significance each heritage asset affected. This notwithstanding, the moderate level of harm to heritage assets shall still be considered in the overall planning balance.

d) The effect of the proposal on ecological assets

37. CS Policy SP 11²¹ sets out that the biodiversity of the District will be conserved and opportunities sought for enhancement to ensure no net loss of biodiversity. Sites designated for biodiversity value will be protected with the highest level of protection. The explanatory text²² identifies Ancient Woodlands as a feature of the countryside and a particularly rich source of biodiversity that should be afforded a high level of protection.
38. The consultation response from Natural England²³ (NE) identifies the potential for the proposals to adversely affect Ancient Woodland, and refers to its standing advice, which requires a minimum 15m buffer zone. The proposals include such a buffer zone and KCC's ecology officer has raised no objections, subject to condition.
39. The BLA advance the case that another portion of Ancient Woodland extending further east has not been identified for protection as part of the proposals. Sources of evidence other than pre-1600 historic maps can throw light on whether woodland is ancient, and I take the point that the inventory of Ancient Woodland maintained by Natural England does not record woodlands smaller than 2 hectares, such as this. However, notwithstanding the potential shortcomings of the mapping tools and lack of a tree survey, the contention of the BLA has not been supported by surveys. On the other hand, the Appellant's ecological assessments and methodologies had been subject to consultation, including by the Council's Tree Officer. Indeed, their initial consultation response had raised concerns regarding additional residents using the area and additional footfall through the Ancient Woodland including accessing the woodland for leisure purposes. A Management Plan for protection of the Ancient Woodland, including use of planted buffer zones, fencing, maintenance, among other matters, would be proposed. There is no outstanding objection to the proposals from the Tree Officer, who raised no concerns in respect of the woodland along the site's eastern edge.

²¹ CDE.1

²² CDE.1 para 5.7.2

²³ CDB.18

40. It was put to me that September is a sub-optimal time for undertaking a reptile survey, yet no issue was taken with the survey methodology or findings by KCC, while NE's Standing Advice gives April to mid-October as suitable survey timescales for Reptiles²⁴. Owing to restricted access to the site, I understand the BLA were unable to undertake their own surveys. Consequently, beyond speculation, there is no demonstrable evidence to show that the appeal site contains dry acid grassland, which stands against the up-to-date survey and evaluation provided in support of the proposals. Furthermore, neither these surveys nor their methodology were queried by KCC.
41. Bearing in mind the outline nature of the proposals, I am satisfied that a full evaluation of specific impacts could be further assessed, and ultimately mitigated, through the preparation of additional ecological surveys that would be concurrent with any reserved matters application. Subject to suitably worded conditions being imposed, I am content that a scheme could be devised that would avoid or adequately mitigated against significant harm to ecological assets, including Ancient Woodland. On this basis, I do not find conflict arises with Policy SP11 nor paragraph 180 of the Framework, which, amongst other things, seeks to conserve the biodiversity of the District, and avoid significant harm to biodiversity and the loss or deterioration of irreplaceable habitats.

e) Locational sustainability, highway safety and flood risk

42. The appeal site is located within walking distance of Sevenoaks train station, bus stops, a primary school and a range of shops and services along London Road, as well as in Riverhead. I experienced the walking route from the town centre to the appeal site on a number of occasions during the Inquiry week, including taking the footway along Brittain's Lane. The local topography is certainly hilly and the nature of the roads combined with traffic speeds may be off-putting to the less confident cyclist. While distances, topography, driver behaviour and the frequency of bus routes may serve to disincentivise some journeys by sustainable means, a proportion of future residents could make such journeys. Additionally, the submission and approval of a Travel Plan that could be secured by condition, would further support this. I consider that proposed development would be in a sustainable location where future residents would be offered a genuine choice of transport modes.
43. The BLA and a number of interested parties with local knowledge raised concerns in respect of highway safety, citing an already challenging environment for non-car users. Amongst other things, questions have been raised over whether the Appellant's traffic survey data accurately reflects traffic flow and vehicle speeds along Brittain's Lane; as well as the increase in development-related traffic routing south from the appeal site. Although just a snapshot, when I visited the appeal site, both in the morning and late afternoon, I observed traffic flows in the vicinity to be relatively light. I also observed the nature of Brittain's Lane to be narrower and potentially less suited to pedestrians further to the south along the route.
44. There is no doubt that the appeal scheme would result in an increase in traffic flows along Brittain's Lane. However, the original submission was accompanied by a comprehensive Transport Assessment²⁵ (TA), the content of which was reviewed by KCC. While the BLA contend Brittain's Lane is more akin to a local

²⁴ CDH.8

²⁵ CDA.15

distributor road, the TA indicates Brittain's Lane as having comparatively light traffic volumes for a route of its type. Yet, KCC, who would have local knowledge, took no issue with the TA characterisation of Brittain's Lane nor the TA methodology. As the capacity levels are not marginal but around 1/3 the volume for direct frontage access to be provided safely, I consider Brittain's Lane is able to safely accommodate the increase in traffic volumes the appeal scheme would realise.

45. I recognise that the nature of Brittain's Lane, combined with driver behaviour, could influence a sense of trepidation crossing it at certain points, notably south of the appeal site. While there is a private school located to the south, the evidence before me indicates that most of the development-related traffic would be heading north, with far fewer additional journeys routing south. The TA included detailed analysis of injury accident records, which showed no collisions in the study area. While I heard accounts of regular near misses, KCC concluded that there are no identifiable trends to indicate any relevant highway issues other than driver error²⁶. Therefore, I do not consider there would be a demonstrable threat to highway safety even with an increase in vehicular traffic moving southwards.
46. Access is not a reserved matter. The scheme would offer a primary access onto Brittain's Lane²⁷, featuring footways either side, and designed using the 85th percentile speed recorded along Brittain's Lane and visibility assessed in the horizontal and vertical planes in accordance with KCC and Manual for Streets Guidance. A little further north, there would be a secondary access for emergency vehicles, pedestrians and cyclists, linked to the primary access via a 2m wide footway. The appeal scheme would also include provision of a footway between the site's access points, as well as a crossing over Brittain's Lane to an extant footway on the other side. The proposals would ensure future residents would have a clearly defined crossing point, away from traffic entering and exiting the appeal site. As the precise location of the crossing point is not yet fixed, it would be speculation to judge it as unsafe.
47. Additionally, the BLA raised concerns regarding the capacity at Riverhead roundabout, and the potential impact construction traffic could have on the local highway network and highway safety, especially if the quantity of excavated materials required to realise the development has been underestimated. Following a request for further information, it was concluded that the proposal would not be EIA development²⁸. Other than access, this application is for outline permission, and a final engineered solution has not been devised. It is not uncommon for final details on the engineering, floor levels, site preparation, removal of excavated materials, and temporary construction impacts to be forthcoming at the reserved matters stage. Even with a complex geological and topographical make-up, for a development of up to 70 dwellings, it would not be usual to secure a detailed Construction Management Plan to be approved at the reserved matters stage.
48. While noting the concerns of interested parties and the BLA, given the supporting evidence and nature of the access proposals before me for approval, I have no cause to assume that the increase in traffic movements associated with the appeal scheme, including during its construction, would have a

²⁶ CDB.11

²⁷ CDA.15 Drawing J32-6017-01, J32-6017-02

²⁸ CDQ.4

significant impact on highway capacity. No do I find the proposals would result in unacceptable impact on highway safety, to the extent that the residual cumulative impacts on the road network would be so severe as to warrant refusing the outline scheme on highway grounds. The proposal would therefore not conflict with ADMP Policy T1 nor with paragraphs 105 or 111 of the Framework.

49. The appeal site's existing topography and Brad Stream present risk of fluvial and surface water flooding. Where the watercourse crosses the site, the land is assessed as being in Flood Zones 2 and 3. The Appellant's Flood and Drainage Strategy identifies a risk of surface water flooding towards the low-lying parts of the site close to Brittain's Lane²⁹. Subsequent to the submission of a Flood Risk Assessment (FRA) and proposed drainage strategy for the site, the Lead Local Flood Authority (LLFA) does not object to the proposals on the basis of flood risk.
50. The LLFA has based its conditional approval on the original drainage strategy, which proposes SuDS basins close to the site's northern boundary and within Flood Zone 1. While the 'cut and fill' plan may show a raising of ground levels within current surface water flow paths, it is only illustrative. The acceptability of the final engineering solutions, as well as an assessment of the impact on flood risk, would be forthcoming with the reserved matters. Whilst I note the doubts of the BLA, and concerns of residents downstream, I consider it would be supposition to find at this stage that a scheme would not be technically achievable without increasing flood risk elsewhere. Suitably worded conditions would provide adequate certainty that a final drainage strategy would manage surface water flow paths appropriately and mitigate the increase of flooding either on or beyond the appeal site. Conflict therefore does not arise with CS Policy LO1, nor the Framework, in respect of flood risk.

Other considerations in favour of the proposal

51. That SDC is unable to demonstrate a 5-year supply of housing land (HLS) is not in dispute, albeit the Appellant and Council do not agree on the precise level of housing shortfall³⁰. Even taking the Council's figure, there is evidently a substantial and acute shortfall and a persistent under-delivery of homes in the District. It is also clear that the need figure will be even greater than that within the draft 2018 plan and that, to date, dialogue with neighbouring authorities to assist in housing land supply is reported to have proved unproductive.
52. The Inquiry heard compelling evidence to illustrate that the Council has consistently failed to deliver enough homes, in what is a highly-constrained District. The Sevenoaks settlement boundary is the inverse of the Metropolitan Green Belt, with the latter having remained unchanged for many decades and covering 93% of the Sevenoaks District³¹. The Council is seeking a plan-led solution to increasing the provision of more housing, and work is underway on a new local plan. However, it is common ground that this will be likely to have an even greater annual need figure than the draft 2018 plan, and the development of Green Belt land to accommodate housing numbers, is likely to be inevitable.

²⁹ CDA.19 (Flood and Drainage Strategy)

³⁰ Council's shortfall figure of 1,805 homes and Appellant's of 2,153 homes over the next 5 years

³¹ ADMP p. 68 para 7.1

53. Not only is the Council failing to provide sufficient housing land, the District is also a comparatively expensive one in which to purchase property. Indeed, the evidence before me indicates that buying a home would be financially unattainable for those on lower-quartile incomes, and that the average wait on the Council's Housing Register could be well over two years. The Council conceded that the extent of under-delivery of affordable housing has been substantial, and that it must deliver more affordable homes, which would require a 'step-change' moving forward.
54. In respect of self-build or custom build plots, the Appellant contends the Council is failing to give enough permissions in respect of serviced plots of land to meet the demand in its area, in accordance with its statutory duty³². It is also argued that the true requirement figure is higher than the Council's data sources would indicate. The designing and administering of a register does not place an express requirement for reviewing secondary data sources. Notwithstanding that the Appellant considers SDC's approach could have been more rigorous, and I do not consider the approach followed to be flawed nor that justification for why secondary sources were not reviewed to be necessary. Ultimately, the LPA must be satisfied that the initial owner of that home will have primary input into its final design and layout³³. There are various ways an LPA may determine whether an application or development is for self-build or custom housebuilding, and not limited to just those permissions that have been accompanied by a Community Infrastructure Levy or Section 106 exemption.
55. The Council is required to grant enough suitable planning permissions for serviced plots of land within three years of the end of a base period to match the number of people added to the register in that period. In getting to grips with this particular aspect, the evidence brought by the Council was, at best, unclear. The confusion, which the Council conceded, arose from it counting permissions within the same base period, rather than immediately after the end of that base period. The Appellant's criticisms of the Council's administration of its register and determination whether an application, permission or development is for self-build or custom housing may be overstated. Even so, the evidence causes me to doubt whether sufficient permissions have been given by the Council to meet the demand for self-build or custom housebuilding, in accordance with the statutory duty.
56. The appeal scheme would realise up to 70 homes, 50% of which would be secured as affordable and 10% as custom and self-build. In general terms, the provision of housing would offer extensive benefits associated with meeting the Government's objective of significantly boosting the supply of homes, increasing choice and diversifying the housing market.
57. Although the appeal scheme is relatively modest in size, the benefits derive principally from the provision of housing, which should be seen in the context of demonstrable shortfalls and where the need for new homes is exigent. The affordable housing element would not only be 10% above the policy requirement but would also realise the delivery of almost as many affordable homes as have been provided in the District over the past two years.
58. Further considerations in favour of the proposals include the economic benefits associated with the construction phase and future occupiers feeding into the

³² S2A Self-build and Custom Housebuilding Act, 2015 (as amended)

³³ Paragraph: 16a Reference ID: 57-016a-20210208

local economy. The scheme would be supported by green infrastructure, footpaths and facilities including a LEAP, with security given for their ongoing maintenance and management. In the main, these would meet the needs of the development, however, the scheme would also deliver additional habitat features of ecological value and secure biodiversity net gain of at least 10%, which represent further benefits.

59. The appeal site holds advantages of being adjacent to the extant settlement limits of Sevenoaks, which is the Principal Town for the purposes of the District's Settlement Hierarchy. The location of the appeal site would offer future residents access to a range of services and facilities by sustainable modes of travel, including ongoing connections to London via Sevenoaks railway station.
60. Amongst other things, the completed s106 Agreement would secure the affordable homes, their type and distribution and delivery prior to the occupation of 50% of the open market properties; and secure construction of the self-build and custom plots. An advocate spoke to the Inquiry on behalf of KCC, specifically in respect of the adequacy of secondary school infrastructure. Therefore, the scheme would secure, as appropriate, secondary education contributions. The s106 Agreement would ensure production of an 'Ecological Design Strategy' that would ensure provision of a measurable bio-diversity net gain of at least 10%, and the ongoing management of the open space. Financial contributions towards footpaths, as well as the agreement and delivery of highway works with KCC would also be secured. Production of the s106 Agreement has realised a satisfactory resolution that will establish a consistent way forward between developers, SDC and KCC in finding secondary school infrastructure. The production of the s106 Agreement therefore secures the benefits associated with housing and biodiversity so that they give no cause to find against the scheme on the basis of education contributions, highways or ecology.
61. The standard time-limit condition requiring reserved matters be submitted within 3 years, it has been suggested, could be reduced to 18 months. While not a benefit of itself, it would provide confidence that the benefits through increasing the supply of housing would be realised in the shorter term.

Overall planning balance

62. All parties agree the proposal represents inappropriate development in the Green Belt. Consequently, the weight of other considerations must clearly outweigh the harm to the Green Belt and any other harms to amount to 'very special circumstances'.
63. The local plan is out of date, the need for housing is increasing and affordability ratios are woeful. The prospect of a plan-led solution to these issues is a long way off, while discussions with neighbouring authorities have proved unproductive to date. Against this background, the market and affordable housing elements merit very significant positive weight, as does the provision of market housing. Self-build housing, as a contribution to boosting the supply and range of dwellings carries, moderate positive weight, proportionate to the number of plots proposed. The provision of additional habitats features that would be of ecological value and a secured biodiversity net gain of at least 10% carry moderate positive weight.

64. While I do not consider there are planning policy reasons to find against the proposal based on its locational sustainability, other than the provision of a footway and crossing point, the scheme does not pursue additional provisions, such as dedicated cycle routes or contributions for bus services, that might further improve the site's locational sustainability. I judge that the locational sustainability of the appeal site attracts moderate weight in the scheme's favour.
65. The release of additional Green Belt land to rectify the District's acute housing needs may ultimately be inevitable. However, in this case, the Green Belt harm is not just in-principle; it would also lead to a material loss of Green Belt openness and clear conflict with the purposes of the Green Belt. The totality of Green Belt harm that would arise carries substantial negative weight against the appeal scheme.
66. I have concluded the proposal would cause harm to the landscape character of the site and locality. I have also found the proposals would have an adverse impact on the setting of the Kent Downs AONB, albeit that harm would be localised. The overall harm in terms of landscape character and appearance carries significant negative weight against the proposal.
67. While the degree of harm to the significance of heritage assets identified would be outweighed by public benefits for the purposes of the Framework, the appeal scheme would still fail to preserve the settings of the Grade II listed buildings and the CA, a harm that carries significant negative weight.
68. In all these respects, the proposal would be at odds with various extant and emerging local plan policies. The Council cannot demonstrate a 5-year supply of deliverable housing sites and so the most important policies for determining the application are deemed to be out-of-date. Moreover, policy E5 does not wholly align with the Framework, which gives the highest status of protection to land *in* an AONB, not its setting. There are a number of other policies with which there would be no material conflict, or fulfilment secured by conditions and planning obligations. This includes in relation to locational sustainability, highway safety, flood risk, and ecology. Nonetheless, the proposal would unequivocally conflict with the thrust of the development plan policies collectively, insofar as they seek to ensure development preserves landscape character and appearance, heritage and the Green Belt. I therefore find the proposal would not be in accordance with the development plan as a whole.
69. Despite this, paragraph 148 of the Framework establishes that 'very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. I have been offered numerous appeal decisions and reasons to favour other Inspectors' weightings for benefits associated with other schemes in different local authority areas. In assessing the case and evidence put to me, I recognise there are compelling benefits that weigh greatly in the appeal scheme's favour. However, the sum of negative aspects and considerable collective weight these carry means the Green Belt harm together with the weight of other harms identified, would not be clearly outweighed by the other considerations in favour of it. Very special circumstances therefore do not exist.

Other Matters

70. Part of the appeal site falls within a Biodiversity Opportunity Area; however, KCC's ecology witness explained that this is not a planning constraint but measure of enhancement potential. I therefore do not consider the site's location within the BOA should count against the proposal.
71. On a number of occasions during the Inquiry, I was referred to the parallels between an Inspector's decision to allow an appeal for development within the Green Belt at Colney Heath³⁴. The Inspector in that case was not dealing with a site within the setting of an AONB or heritage assets, but rather a site she considered strongly resonated with the urban edge and a proposal that would cause limited harm to the character and appearance of the area in question. While I recognise broad similarities, such as housing supply figures and the size of the proposed developments, the site-specific circumstances are evidently not the same. Hence, I have come to a different decision based on my own judgement and experience of the appeal site and the surroundings particular to the case before me.
72. Interested parties have raised additional concerns with the proposals that sit outside the main issues, including in relation to loss of views and flood risk in the wider network. However, these matters have been subject to assessment by independent professionals, none of whom has raised objection (subject to conditions) and I have no compelling evidence to warrant doubting or deviating from their professional judgement.
73. A Written Ministerial Statement (WMS) can be capable of being a material consideration in appeal decisions, however, the WMS from Michael Gove on the Statement of the Planning System³⁵ is not indicative of any immediate or certain change to national policy. An update to the Framework is expected, and with it a potential change to extant Green Belt policies. However, at the time of writing, no revisions have yet come forward and it is too early to judge what implications they might have for the Green Belt and planning decisions pertinent to Sevenoaks.

Conclusion

74. As required by s38(6) of the Planning and Compulsory Purchase Act 2004, determination of this appeal must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework is an important material consideration. Of the basket of development plan policies that are of relevance to the main issues, there are varying degrees of conflict. While the proposal would fulfil some policy requirements, I consider there would be conflict with the development plan read as a whole. In respect of paragraph 148 of the Framework and the overall thrust of national policy, I also find the proposal would be in conflict with the Framework read as a whole.
75. For the reasons given above, I conclude that the appeal should be dismissed.

H Porter

INSPECTOR

³⁴ CDK.3

³⁵ CDM.2

APPEARANCES

FOR THE APPELLANT:

Zack Simons - of Counsel	Instructed by Laurence Moore of Woolf Bond Planning
He called:	
Clive Self MA (Urb Des), Dip LA, CMLI	Managing Director, CSA
Jo Evans BSc (Hons) MRTPI, IHBC	Director of Built Heritage, RPS
Alexia Tamblyn MA (Oxon), MSc, CEcol, CEnv, MCIEEM, FRGS	Managing Director, The Ecology Partnership
John Russell BEng (Hons), CMILT, MIHT	Director, Motion
Kristoffer Holmes BSc (Hons) Civ Eng, IEng MICE	Technical Manager, Croudace Homes Group
James Stacey BA (Hons), Dip TP, MRTPI	Managing Director, Tetlow King Planning Ltd
Annie Gingell BSc (Hons), MSc, MRTPI	Associate at Tetlow King Planning
Laurence Moore BA (Hons), DipTP, MRTPI	Associate, Woolf Bond Planning LLP
Caroline Bailey	Group Legal Director and Company Secretary, Croudace Homes Group

FOR THE LOCAL PLANNING AUTHORITY:

Robin Green – of Counsel	Instructed by SDC
He called:	
Ashley Bidwell MSc AMIEnvSc	Senior Planning Officer, SDC
Hannah Gooden	Planning Policy Team Leader, SDC
Emma Henshall	Principal Infrastructure Delivery Officer, SDC

FOR THE RULE 6 PARTY:

Alex Greaves – of Counsel

Instructed by Brittain's
Lane Association (BLA)

John Stamboullouian

Marius le Roux B.ING CEng
MCHIHT

Mike Glover OBE

Jim Quaife DipArb (RFS),
FArborA, CEnv

Rick Hodges PhD

Keith Balaam

Charles George

FOR KENT COUNTY COUNCIL:

David Forsdick KC

Instructed by KCC

Helen Forster MCIEEM

Senior Biodiversity Officer, KCC

INTERESTED PARTIES:

Julia Fontaine

Local Resident

Dr Robin Poston

Local Resident

David Gamble

Local Resident

Andy McClinton

Local Resident

Paul Roberts

Local Resident

John Ingram

Bradbourne Residents

Association

Peter Scott BSc(Eng), CEng, MICE,
MCIHT Dip H&TE

Local Resident

Neil Munro

Local Resident

Nick Prowse

Local Resident

Nick Varley

Local Resident

Julie Thomson

Local Resident

Cllr Andrew Eyre

SDC

Cllr Avril Hunter

Chairman, SDC

Geraldine Tucker

Sevenoaks Society

Mike Piercy

Head, The New Beacon School

Gerald Dolby-Gray

Local Resident

Stuart McCreadie

Local Resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

ID1 – Appellant Opening and List of Appearances
ID2 – SDC Opening
ID3 – BLA Opening
ID4 – KCC Opening
ID5 – Darent Valley Landscape Map
ID6 – Geraldine Tucker speaking note
ID7 – Cllr Avril Hunter speaking note
ID8 – Julia Fontaine speaking note
ID9 – Keith Balaam speaking note
ID10 – Paul Roberts speaking note
ID11 – John Ingram speaking note
ID12 – Sevenoaks Countryside Assessment 2011 extract
ID13 – Kent Downs AONB Designation Report 1984
ID14 – Mr Glover Civil Engineering full presentation
ID15 – Geotechnical Investigations Final Report GI1771
ID16 – Education Contributions S106 RT suggested Agenda
ID17 – Michael Piercy speaking note
ID18 – Cllr Andrew Ayre speaking note
ID19 & ID19A – Julie Thomson speaking note & Brittain's Lane property photograph
ID20 – Nick Varley speaking note
ID21 – Dr Robin Poston speaking note
ID22 – David Gamble speaking note
ID23 – Andy McClinton speaking note
ID24 – Stuart McCreadie speaking note
ID25 – Mr Glover Civil Engineering reduced presentation
ID26 – Suggested Site Visit Points
ID27 – PINS Note 14/2022 8 Dec 2022 – WMS: changes to the planning system
ID28 – LLFA letter 4 Feb 2022 consultation response
ID29 – LLFA letter 4 April 2022 consultation response
ID30 – Inspector Revised Agenda for Transport Round Table
ID31 – Natural England Research Report NERR042
ID32 – Extract of NE Research Report and MAGiC Map extract
ID33 – Neil Munro speaking note
ID34 – NE Standing Advice: Ancient Woodland and Veteran Trees gov.uk
ID35 – Cabinet Decision Notice Neighbourhood DP to referendum 9 Feb 2023
ID36 – Email to David Forsdick KC re proposed agenda for education contributions
ID37 – Nick Prowse speaking note
ID38 – KCC response re. education contributions to Rule 6
ID39 – Peter Scott speaking note and presentation slides
ID40 – Draft S106 as at 12.02.2023
ID41 – Fig 5.1 Delivery of self-build and custom housebuilding plots (Tetlow King)
ID41 – SDC comments on self and custom build housing
ID42 – CIL Form 7: Self Build Exemption Claim Form – Part 1
ID43 – CIL Form 7: Self Build Exception Claim Form – Part 2
ID44 – Revised suggested conditions for RT discussion (agreed)
ID45 – Latest draft S106 16.02.23 and S106 site plan
ID46 – Rule 6 Closings
ID47 – LPA Closings
ID48 – Appellant Closings
ID49 – Final agreed suggested conditions