



Appeal Decision

Site visit made on 25 September 2023

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2023

Appeal Ref: APP/K1128/W/22/3312925

Vicarage Park, Land north of Westentown, Kingston TQ7 4LU

- 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 Vicarage Park Ltd against the decision of South Hams District Council.
 - The application Ref 0761/20/OPA, dated 3 March 2020, was refused by notice dated 12 July 2022.
 - The development proposed is an outline application with some matters reserved for 12 new houses. Alterations to existing access and construction of access road, realignment and creation of new public rights of way, provision of public open space and strategic landscaping (Resubmission of 4068/17/OPA).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been made in outline with access for consideration at this stage. Appearance, landscaping, layout and scale have been reserved for future determination. An indicative layout plan has been submitted and I have treated the plan as an illustration of what the appellant has in mind for the proposal, but that other layouts would also be possible.
3. The fifth reason for refusal concerned the lack of a legal agreement to provide the necessary obligations to make the proposal acceptable in those respects. The appeal has been accompanied by a signed and dated Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 (the UU). The UU covers various obligations, and the Council has confirmed that the UU has addressed the fifth reason for refusal. I will comment on the details of the UU later in this decision.
4. When the application was submitted, the application form detailed that the 12 dwellings would comprise eight market properties and four social housing units. This mix has been amended during the consideration of the scheme and the UU specifies that seven units would be affordable housing and five units would be open market housing. I will consider the scheme on that basis.
5. At the final comments stage, the appellant submitted further detailed information, including further viability evidence. This information was accepted. The Council was given the opportunity to comment on these matters, and I have taken all this information into account in my considerations.

Main Issues

6. The main issues are:

- the effect of the development on the character and appearance of the area, having regard to the location within the South Devon Area of Outstanding Natural Beauty (AONB) and whether or not the scheme would represent Major Development,
- whether or not the development plan would support the proposed development in this location,
- the effect of the proposal on biodiversity, and
- whether or not the scheme could be provided with satisfactory surface and foul water drainage.

Reasons

Character and appearance

7. Kingston is a modest sized village set within open countryside. The village and the surrounding area all form part of the AONB. The scheme includes 12 new dwellings and the construction of an access off Westentown.
8. The Council consider that the proposal would constitute 'major development' in the AONB within the meaning of paragraph 177 of the National Planning Policy Framework (the Framework). The Framework explains that whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
9. In this case, 12 dwellings and the associated infrastructure would be fairly modest in scale and nature in terms of the village as a whole and it would not be of such a size to have a significant adverse impact on the purposes for which this wider area has been designated. For these reasons, I do not consider that the scheme should be considered to be major development in terms of the Framework definition with regard to this protected landscape.
10. This is not to say that the scheme would or would not be harmful within the AONB, simply that the scheme would not be of a nature and scale to meet the high bar to be considered as major development and the additional planning tests that such a proposal would be required to meet.
11. Indeed, I am conscious that when considering this proposal, the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues.
12. The appeal site consists of an accessway, between tree lined banks from Westentown, which then leads to two fields. The appeal site includes the western most field and about half of the eastern field. These fields are bounded by well-established hedges and occasional mature trees. There is an overgrown hedge that divides much of the two fields, although they interconnect, and with one, in particular, fine specimen of a protected oak fairly close to the divide between the fields. The dwellings at Morgans Row and those in the adjoining parts of Westentown exert a modest built influence at the very ends of the

fields in their vicinity, however, there is a clear visual separation between the fields and the built development.

13. The well-established and verdant boundaries to the other three outer sides of the fields largely contain the views when within them, allowing only glimpses of built development to the very broadly south west and north east sides. A public footpath runs from the eastern corner across the site and joins the road near Vicarage Farm. I walked this footpath as part of my site visit and when entering the fields there is the ability to experience the expansive views up the slope to the generally north west. This is a meaningful and attractive area of countryside that forms an important component to the pattern of open space and built development at the edge of the village. The fields have a tranquil and very rural quality to them. In this way the fields add to the quality of the landscape and make a positive contribution to the character and appearance of the AONB in this location. The fields are characteristic of the high scenic quality of the wider landscape.
14. The red lined application site includes the western most field and about the bottom half of the eastern field. The indicative plan shows housing proposed in this broadly eastern field area. The quantum of development proposed and the need for the layout to try to transition the built form from the village to countryside would mean, in all likelihood with any layout at the reserved matters stage, that the development would spread up the slope of the field to a reasonably extensive extent.
15. Because of the visual separation between the existing residential buildings and the fields, the projection of 12 dwellings, with the related infrastructure and activities, into this open and visually distinct space would not appear as a natural or modest expansion of the village that would relate sympathetically to the existing built form. Indeed, it would be experienced as a harmful encroachment of development into the countryside. The footpath would likely need to be relocated¹ through the site and even if well landscaped at the reserved matters stage, the expansive and open views up the eastern field would be lost and the sense of the open, rural and tranquil quality of the landscape would be substantially undermined.
16. I have carefully considered all the appellant's submissions on this matter, including the Landscape and Visual Impact Assessment Report (March 2020). I accept that these fields are not especially visible in the wider landscape and that in plan form other residential development extends a similar or greater distance back from the central spine of the village, compared with the proposal shown on the indicative plan. However, I consider that these submissions underestimate the contribution that the fields make at the edge of the village, the experience for walkers passing through the site and the degree of visual separation from the existing built form. The development, notwithstanding details of landscaping, design and layout at the reserved matters stage, would unacceptably undermine the distinctive qualities of this section of the eastern field (or any other part of the red lined site if the indicative layout was to be shifted) such as to cause undue harm to the character and appearance of the area and would not protect the landscape and scenic beauty of the AONB in this location.

¹ This is shown on the indicative plan and forms part of the description of the development.

17. The reason for refusal also refers to the location of the site within the Undeveloped Coast and Heritage Coast. I understand the points that the appellant raises in these respects and that the site is not directly adjoining the coast. Nevertheless, the site falls within these designations and inland sites can contribute to the general setting and qualities of coastal areas. As I have found that the scheme would unduly harm the landscape and scenic beauty of the area, it follows that the proposal would not meet, notwithstanding any details that could be submitted at the reserved matters stage, with the policy requirement in the Undeveloped Coast and Heritage Coast that development should protect, maintain and enhance the unique landscape and seascape character and special qualities of the area.
18. I have taken into account all the submissions concerning other sites, and in particular the detailed information regarding the permission at St Ann's Chapel². I was able to see this development following my site visit to Kingston. This is a development of 13 dwellings within the AONB and is elevated and highly visible, much like the surrounding properties in that location. The Planning Report indicated that there would be some moderate landscape harm resulting from that scheme but that other considerations, including the delivery of affordable housing, in the particular circumstances of that site, allowed the Council to find, in the planning balance, that the scheme was acceptable.
19. There are some similarities between the development at St Ann's Chapel and the present scheme such as the size of the housing proposal within the AONB. However, there are also some material differences, including the considered effect on the landscape and the relationship to the built development in the vicinity. While consistency in decision making is important, assessments of landscape impact are very much site dependent and the effects on the character and appearance of the respective developments are different in each case. Consequently, I attribute the considerations and decision at St Ann's Chapel limited weight in the planning assessment of the impacts of the present appeal proposal.
20. I have also carefully considered the appeal decisions³ that have been included in the appellant's submissions and which concern other housing developments within the AONB. Again, these other sites all appear to have their own locational issues including the character of the site and immediate surroundings, together with the relationship to the wider countryside and other development. I do not find them especially instructive in my assessment of the impacts of the present appeal proposal, which I have considered on its merits, and therefore afford these other appeals limited weight.
21. In the light of the above analysis, I conclude that the scheme, having regard to any details which could be made at the reserved matters stage, would be likely to unduly harm the character and appearance of the area, and in particular, would not conserve the landscape and scenic beauty of the AONB. This latter matter is a planning issue which the Framework requires to be attributed great weight. For the reasons explained, the proposal would also fail the policy approach to the protection of the Undeveloped Coast and Heritage Coast. Accordingly, the proposal would conflict with Policies DEV20, DEV23, DEV24

² Application 4214/18/FUL - Residential development to provide 13 dwellings with associated access, car parking, public open space and landscaping - Land at Holwell Farm, St Anns Chapel, TQ7 4AP.

³ Including APP/Q1153/W/3177360, APP/K1128/W/16/3156062, APP/K1128/W/18/3218474, APP/K1128/W/19/3226585 and APP/K1128/W/18/3205992.

and DEV25 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (the JLP), Policies KNP7 and KNP8 of the Kingston Neighbourhood Plan 2019-2034 (the NP) and the Framework which, amongst other things, set out the planning approach to development in protected landscapes.

22. Policy DEV28 of the JLP is referenced in the reason for refusal and concerns trees, woodlands and hedgerows. However, given the access would not materially affect the trees and, as the layout is likely to be set within the field, there would be no conflict with this policy.

Location

23. The NP establishes the Development Boundary for the village of Kingston. The appeal site adjoins but is located beyond this boundary, where in planning terms, the land is considered to be countryside. Policy KNP1 of the NP indicates that in such a location development will be strictly controlled and permitted only where it can be delivered sustainably and requires a countryside location or will meet a proven need which cannot be met inside the Development Boundary. The Policy goes on to explain that the latter may include development of a suitable small exception site or sites outside the Development Boundary.
24. This approach is set out in more detail in Policy KNP5 of the NP concerning housing development. Some of the criterion which are relevant, having regard to my findings on the first main issue, are that the proposed housing development outside the Development Boundary should be on a suitable small exception site or sites and should have, amongst other criteria, the clear support of the local community.
25. The approach to local needs housing on sites adjoining or very near to an existing settlement is also set out in Policy TTV27 of the JLP. This includes the criterion that a mix of affordable and market housing products is allowed where necessary to be financially viable. This includes open market housing, providing it does not represent more than 40% of the homes. Criterion 4 of this policy is that the proposal should meet the requirements of all other relevant policies of the JLP.
26. An open market led housing scheme would be clearly contrary to development plan policy. However, the scheme is argued that it can be considered as a local housing need led scheme based on 12 units of accommodation, seven of which would be affordable and five open market. The seven affordable units would meet the established need for the village and, together with the tenure and mix, is accepted by the Council's Housing Officers as being required.
27. However, I have found that the scale with 12 units and the related impact of the scheme would likely cause unacceptable harm to the character and appearance of the area, including to the AONB. As a consequence, the development would not meet with the requirements of Policy KNP5 of the NP that the site be a suitable small exception site.
28. Furthermore, there are quite a large number of representations of objection to the scheme, many from local residents, although I appreciate that some of these comments were submitted in respect of re-consultations as well. The Parish Council object to the scheme. On this basis, the proposal would not

- meet with the requirement of Policy KNP5 of the NP that it should have the clear support of the local community.
29. In terms of the JLP, given the conflict with the policies for the protection of the character and appearance of the area, including the AONB, and, as I shall conclude later with policies to protect biodiversity, the scheme would, thereby, fail to meet with the requirement of Policy TTV27 of the JLP that a proposal should meet the requirements of all other relevant policies of the JLP.
30. Consequently, for these reasons, the scheme would not accord with the policy approach for the delivery of local needs affordable housing beyond the Development Boundary in the JLP and NP. It follows, because of the harm that I have found, the scheme would not meet with the environmental objective of sustainability within the meaning of the JLP, NP and Framework.
31. The open market component would not exceed the 40% level set out in Policy TTV27 of the JLP. However, the Council dispute the need for all five open market units to help to cross subsidise the affordable units. At the appeal stage, the appellant has submitted further detailed viability evidence to seek to demonstrate that this level of open market housing is necessary to ensure the delivery of the affordable housing. However, given that I have already found that the scheme would not meet with the policy requirements for a local needs affordable housing development, I have not needed to reach a conclusion on the viability issues on this occasion.
32. Accordingly, I conclude that the scheme would not be supported by the development plan in this location and, in particular, it would conflict with Policies SPT1, TTV1, TTV26 and TTV27 of the JLP and Policies KNP1 and KNP5 of the NP which, notably, set the approach for development beyond the boundary of any settlement.

Biodiversity

33. There has been a range of ecological surveys of the site by suitably qualified ecologists. These include a Preliminary Ecological Appraisal (Halphin Robbins 2016), Badger Activity Survey (2016), Ecological Update (Halphin Robbins 2017) and Ecological Update (Halphin Robbins March 2020). Reports and ecological survey updates have a limited life before they need to be repeated or updated as the biodiversity of a site can change over time. With particular relevance to this issue is that the last available report, the Ecological Update (Halphin Robbins March 2020) Report, explains that if no action or development of this land takes place within twelve months of the date of this report, the findings of this survey can no longer be considered reliable and should be repeated⁴.
34. I appreciate that the application for this appeal proposal was submitted in March 2020 and, at that time, the Update Report findings were current. The appellant raises the issue that the Council did not determine the application until July 2022 and that this passage of time has led to the concerns as to whether the ecological reports are still relevant. While I understand these points which are being made, I am required to determine the appeal based on the information before me.

⁴ I have also had regard to the email dated 21 April 2021 from Adam Robbins.

35. The guidance in Circular 06/2005⁵ is that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The Circular advises that the need to ensure ecological surveys are carried out should, therefore, only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.
36. The undeveloped and verdant character of this site, and the connectivity to wider, open countryside, is such that it could, since the last survey work, realistically now have protected species that could occupy or frequent the site, and which were not present when the last surveys were undertaken. Consequently, it is not possible with sufficient certainty to appreciate the extent, if any, to which protected species may be affected by the development and, therefore, that all relevant material considerations have been addressed. The survey work is not up to date for the reasons explained and cannot now be relied on to provide the necessary reassurance on biodiversity matters.
37. The appellant makes the case that a planning condition could be used to address this matter and argues that this was the approach that the Council used in the St Ann's Chapel permission. However, based on all the information before me, including the characteristics of this site and the age of the original baseline surveys, I do not consider that there are exceptional circumstances which would justify the attaching of a planning condition to require ecological surveys and mitigation as part of any planning approval. As I have explained, this information is necessary at this stage to be reassured that all necessary material considerations have been taken into account.
38. The Council also raise concern, in the reason for refusal, that there is limited details provided to demonstrate a Biodiversity Net Gain would be achieved. While that is the case, the site is sufficiently large that I am confident that a scheme could be designed to ensure that the final development delivered an appropriate and policy compliant level of net gain and this is a matter that could be the subject of a planning condition in any approval.
39. For the reasons explained above, I conclude there is insufficient up-to-date information to provide reassurance that the development would not have an adverse effect on biodiversity, and in particular in relation to protected species. Accordingly, the proposal would not meet with the requirements of Policy DEV26 of the JLP, Policy KNP7 of the NP and the Framework which, in this respect, requires that development shall not harm but should conserve and enhance biodiversity.

Drainage

40. The application was accompanied by documents that investigated the flood risk and drainage approach and this included a Flood Risk Assessment (March 2020), which also covered the drainage strategy, and a Soakaway Test Report (July 2016) from Ruddlesden Geotechnical. Devon County Council, as the Lead Local Flood Authority, has raised concerns with the level of detail, what it considers are contradictions in the submissions and that insufficient information

⁵ ODPM Circular 06/2005 - Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System – 16 August 2005.

has been submitted to demonstrate with sufficient confidence that the proposed drainage strategy would work. The appellant, through drainage engineers, has submitted further information including a letter and calculations at the final comments stage.

41. The scheme is submitted in outline form and, therefore, the position and size of dwellings are not fixed, and the drainage strategy can, at this stage, only be based on the information available. The evidence shows that the ground conditions, if suitable parts of the site are chosen, is capable of supporting infiltration for surface water and this can be ensured at the reserved matters stage, wherever practicable, in line with the drainage hierarchy. The site has sufficient space to provide attenuation and South West Water has indicated that, if necessary, the surface water sewer can accommodate an appropriate flow of attenuated water.
42. There is also information that South West Water has confirmed that the existing sewer network has available capacity for the additional 12 dwellings, although other information indicates it is at capacity. If, at the detailed design stage, any upgrades were to be identified as a result of this scheme, the developer would fund them and, therefore, the scheme could be provided with a suitable foul drainage.
43. At this outline stage, I consider that there is sufficient information available to demonstrate that a policy compliant drainage scheme for both foul and surface water should be able to be designed at the reserved matters stage. This could be the subject of an appropriately worded condition. If a scheme did not, at the reserved matters stage, meet with the requirements of the Council, after taking the advice of the Lead Local Flood Authority, then that scheme could be refused. However, the indications are that a suitable scheme would be able to be designed. Consequently, I conclude that the scheme should be able to be provided with satisfactory surface and foul water drainage and this would comply, in these respects, with the requirements of Policy DEV35 of the JLP, Policy KNP3 of the NP and the Framework.

Unilateral Undertaking

44. The appeal has been accompanied by a completed UU which includes a number of obligations. I will examine each in turn, taking into account the advice in the Framework and Planning Practice Guidance, and the requirement that each obligation is required to meet the statutory tests⁶. These tests are that an obligation is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. I have had regard to the appellant's submission in terms of the need for the obligations, without prejudice to the submission of the UU, and to the evidence of the Council, including the Community Infrastructure Levy (CIL) Compliance Statement.
45. The affordable housing contribution in the form of the seven units, with the tenure and mix as proposed, are necessary to support the policy case made for the development outside the Development Boundary. The affordable housing obligations meet with the advice of the Council's Housing Officer and the CIL tests, and are matters to which I attach full weight.

⁶ Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

46. The Landscape and Ecological Management, Open Space and related Management Company obligations are necessary in the interests of the long term management of the site for these purposes. This cannot be reasonably agreed as part of a planning condition and includes a substantial part of the red-lined area and with the on-going management requirements, such as with the SUDS system. I consider that these obligations meet with the CIL tests and are matters to which I attach full weight.
47. The County Council has provided, as part of the CIL Compliance Statement, an updated analysis of the need for the Education Contributions. I accept the case made by the County Council and that the additional accommodation would likely add to school numbers at Ivybridge Community College which with other developments would be above capacity, and also for the related school transport costs to both primary and secondary schools which would result from children occupying the housing. These obligations would meet with the CIL tests, and I attribute them full weight.
48. The development would provide on-site open space. However, it appears that no on-site play equipment has been sought because the size of the development does not trigger such a requirement. In these circumstances, it seems to me that children resident on the site would likely use the Kingston Recreation Ground and, therefore, increase the need for improvement, repair and maintenance of these facilities. In these circumstances, without any on-site provision of such formal play equipment, I consider that the Open Space, Sports and Recreation Contribution is necessary and reasonable. It would, consequently, comply with the CIL Tests and this is an obligation to which I attribute full weight.
49. Policy KNP6 of the NP states that new market housing will only be supported where there is a restriction to ensure occupancy as a principal residence. I agree that this should be secured in some form for the market housing to be policy compliant, and the policy indicates that this could be guaranteed by a condition or legal agreement. This is a situation where this requirement could be met equally well by imposing a planning condition as by using a planning obligation. In these circumstances, the Planning Practice Guidance explains that a condition should be used. If permission was to be granted, a condition should be attached requiring the occupation is for principal residence only. Consequently, it is not necessary for this requirement to be a planning obligation and, therefore, it would not meet with the CIL tests. I therefore attach no weight to this obligation.
50. The site is located within the zone of influence of the Plymouth Sound and Estuaries European Marine Site. It is likely that new housing, either alone or in combination with other schemes, would likely have a significant effect upon the interest features of the European Site due to the increased recreational pressure caused by the additional residents. However, the obligation secures a payment, in accordance with the Recreation Mitigation and Management Scheme for the Plymouth Sound and Estuaries Marine Site November 2019, to mitigate the effects of the additional residents within the zone of influence. This obligation requires a payment and, therefore, a condition would not be reasonable or appropriate. I am satisfied that with the mitigation secured by the obligation, the proposal, either alone or in combination with other schemes, would not have a significant or adverse effect on the integrity of this European Site.

51. Consequently, when undertaking an appropriate assessment, I am satisfied that the scheme would accord with the requirements of the Conservation of Habitats and Species Regulations 2017 and with Policy SPT14 of the JLP. This obligation, therefore, meets with the CIL Regulations and is a matter which should be afforded full weight.

Other Matters

52. Kingston has two Conservation Areas within this part of the village. One of the Conservation Areas covers land broadly south of the two fields and extends to include part of the access drive flanked by the rows of trees. It would be possible, as part of the scheme, to maintain the trees alongside the access drive, which would not need to be widened because of the vehicle passing points at either end. I consider that the character or appearance of the Conservation Area would not be adversely affected by the changes to provide the access.
53. The proposed housing, if located in the eastern field, would be away from the boundary of the Conservation Areas and the development should not have an adverse impact on their significance. I give great weight to the preservation and enhancement of the character or appearance of the Conservation Areas, however, because of the likely location and form of the development within the site, I am satisfied that the character and appearance of these designated heritage assets would be preserved by the scheme.

Planning Balance and Conclusion

54. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁷.
55. In terms of the benefits of the proposal, the scheme would deliver 12 units of accommodation, seven affordable and five open market. The affordable units would meet with the need for such accommodation in this village. There is no clear evidence that the affordable units would be able to be provided in the near future on another site or sites in or around the village and, therefore, the affordable housing should afford substantial weight in favour of approval. The five open market units would provide a modest boost to general housing supply and should afford moderate weight in favour of permission.
56. The proposal would provide additional dwellings on a windfall site, making effective use of the land and could be delivered by a small/medium sized builder, reasonably quickly, and would add to the overall mix and offer of housing in the area. There would be economic and social benefits to the area during construction and in subsequent occupation. The site would be located in a location with access to local services and facilities by foot and bicycle and therefore future occupants would not be wholly dependent on the private vehicle.
57. The scheme should be able to deliver dwellings which could be constructed to high environmental standards, for instance, in terms of the use of renewable energy features and minimising water usage.

⁷ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

58. The development, subject to details at the reserved matters stage, could provide quite a large area of public open space and a footpath link to the broadly north. This, and the other related obligations in the UU such as the related management and Biodiversity Net Gain, would all be benefits of the scheme, although I am not clear that the open space would address any identified village deficiency in that respect. Nevertheless, these matters would be benefits and together are worthy of moderate weight in favour of approval.
59. Other obligations in the UU, such as the education contribution, Open Space, Sports and Recreation contribution, and the payment in respect of the Plymouth Sound and Estuaries European Marine Site are not benefits of the scheme because they mitigate the effects of the proposal on schools, play equipment and these habitats sites. They are neutral in the overall balance.
60. The cumulative benefits of the scheme would be fairly wide ranging, and in particular, the delivery of the affordable housing is very worthwhile and such local housing appears unlikely to be delivered in the near future unless this scheme was to go ahead. I attach substantial weight to the totality of benefits which have been outlined by the appellant and to which I have summarised the main elements above.
61. On the other hand, the development would not be without a range of harms and policy conflicts. I appreciate that almost any scheme for development on a greenfield site would affect and change its character and, in this area, would be within the AONB. However, even with an extensive landscaping scheme and well-designed dwellings at the reserved matters stage, the scheme would, in my judgement, cause an unreasonable degree of harm to the character and appearance of a section of at least one of the fields, undermining its rural and tranquil qualities to an unacceptable extent. This would cause undue harm to the character and appearance of the area, and would undermine the contribution that this site makes to the AONB. The Framework requires that great weight be given to conserving and enhancing the landscape and natural beauty of AONBs. With the level of harm that I have found, I attribute the harm to the character and appearance of the area, including the AONB, great weight against approval.
62. The scheme would be located outside the Development Boundary and the proposal would, for the reasons I have found, fail the policies for the delivery of affordable housing in the NP and JLP. This is an important issue, and notwithstanding the benefits of the housing itself, this policy conflict should attract substantial weight.
63. I have also found that the scheme would not satisfactorily address potential impacts on biodiversity, in particular because of the possible presence of protected species. The adverse impacts that could result from the proposal in that respect are a significant matter that weighs very substantially against the scheme.
64. Drawing all these matters together, the benefits of the scheme are wide ranging and worthwhile. Cumulatively they merit substantial weight in favour of approval. However, the combined harms that I have identified, in particular because of the harm to the character and appearance of the area, including the AONB, and the potential adverse impacts to protected species, weighs very substantially against the proposal. The harm and policy conflict would clearly not be outweighed by the benefits of the proposal, and it is such that the

harms and related policy conflicts mean that the proposal would not accord with the development plan when considered as a whole.

65. There are no material considerations of such weight that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR

Richborough