The Planning Inspectorate

Appeal Decision

Hearing Held on 19 October 2022
Site visit made on 19 October 2022

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2022

Appeal Ref: APP/C1435/W/22/3292552
Mill House Farm, Maresfield, Uckfield, East Sussex TN22 2ED

- 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 Messrs SJ, NM, PA and RP Flittner against the decision of Wealden District Council.
- The application Ref WD/2021/1068/MAO, dated 22 April 2021, was refused by notice dated 23 August 2021.
- The development proposed is described as 'Phased development of up to 49 houses. All matters reserved apart from the access, which will use the existing approved access and existing internal road.'

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Messrs SJ, NM, PA and RP Flittner against Wealden District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The proposal is made in outline with all matters reserved save for access. The site plan[1] provided shows an indicative layout but I have taken into account that there may be alternative ways of providing the proposed development in my determination.

4. As part of the appeal submission the appellants provided a signed Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 dated 29 September 2022. Amongst other things, this includes schedules relating to the provision of affordable and self-build/custom-build housing (SBCH), financial contributions towards providing mitigation measures for the Ashdown Forest Special Protection Area (SPA), the transfer of community land, provision for a management company and measures to secure a highway agreement and works. I have referred to the UU where relevant throughout this decision.

5. Refusal reason 2 on the Council's decision notice refers to the failure to provide accurate information and sufficient details of the surface water drainage

[1] Drawing reference 36D rev D

arrangements. An updated Flood Risk Assessment[2] (FRA) has been submitted with the appeal which includes details of communications with the Environment Agency. I am satisfied that no one would be significantly prejudiced by my taking the updated information into account given that a note on the decision notice indicates that this is a matter that would not be pursued at appeal provided adequate information is supplied. Furthermore, the Council have confirmed that the Local Lead Flood Authority have considered the updated FRA, and they no longer raise an objection. Therefore, refusal reason 2 falls away.

Main Issues

6. The main issues are:

- The effect of the proposal on the character and appearance of the area.
- Whether the appeal site provides a suitable location for residential development having regard to local planning policies.
- Whether the proposal would provide a safe and suitable access.
- Whether appropriate provision is made for affordable housing and SBCH.
- The effect of the proposal on the Ashdown Forest SPA.
- If harm arises, whether this is outweighed by other material considerations.

Reasons

Character and appearance

7. At the hearing there was some discussion as to the extent that design can be considered in outline proposals where the matters of layout, scale, appearance and landscaping are reserved. Planning Practice Guidance[3] (PPG) confirms that applications for outline planning permission seek to establish whether the scale and nature of a proposed development would be acceptable before fully detailed proposals are put forward. However, design is often considered at this stage in order to, amongst other things, inform a design and access statement and provide a framework for the preparation and submission of reserved matters proposals.

8. The PPG acknowledges that design quality cannot be achieved through an outline planning application alone as they contain fewer details. Nevertheless, they can include design principles where these are fundamental to decision making. Moreover, the Design and Access Statement that must accompany major development proposals such as the appeal scheme, should explain the design principles and concepts that have been applied to the development and demonstrate how the design of the development takes the context into account.

9. This is consistent with section 12 of the National Planning Policy Framework (the Framework) which stipulates that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Moreover, the National Design Guide (NDG) explains that a well-designed place is unlikely to be achieved by

[2] Version 3.1, prepared by WHS and dated September 2021
[3] Paragraph: 010 Reference ID: 26-010-20191001

focusing only on the appearance and detailing of buildings but comes about through considering many components of design. It identifies ten characteristics which work together and are relevant when considering development proposals.

10. Context is the first characteristic listed in the NDG and refers to the location of the development and the attributes of its surroundings. It states that well-designed places are based on a sound understanding of the features of the site and the surrounding context, that they are integrated into their surroundings, so they relate well to them and are influenced by and influence their context positively. It follows that these are matters that have a notable bearing when considering whether the scale and nature of the proposed development in the present case would be acceptable.

11. Despite the flexibility inherent in the description of 'up to' 49 dwellings, it is proper to consider whether a development of 49 dwellings would be acceptable rather than limit or confine the consideration to smaller scale proposals. This is because if outline permission were to be granted for the proposed development, it would establish that a development at the upper limit could be satisfactorily accommodated at the site in principle. This was generally acknowledged by the appellants at the hearing.

12. The appeal site is located between Maresfield and Uckfield. The Wealden Design Guide, Supplementary Planning Document, November 2008 (SPD) indicates in Fig. 1.1 that it lies within the high weald character area albeit not within the High Weald Area of Outstanding Natural Beauty. Even so, both main parties agreed at the hearing that the area displayed open landscape characteristics more synonymous with the low weald landscape, and there was no dispute that saved policy EN8 of the Wealden Local Plan, December 1998 (LP) relating to development within the low weald is relevant to the proposal.

13. The SPD lists the traditional pattern of fields, shaws, hedges and woods as a constraint that should be considered as part of the preparatory process for any proposed development for both the low and high weald character areas. The explanation to policy EN8 describes the low weald as very attractive countryside, which overall retains a strong rural character.

14. The landscape to the south of the predominantly nucleated village of Maresfield displays a combination of open grassed land and a structure of mature hedgerows, which provide a green edge and setting to the village. Footpaths criss-cross the area connecting the village to the landscape. However, the proximity of main road infrastructure has a notable presence, both physical and auditory, which detracts somewhat from the natural characteristics. Nevertheless, I observed the area nearest the appeal site to be predominantly comprised of rural elements as follows.

15. The appeal site is part of an agricultural field used for grazing with sections of hedgerow to the north and south boundaries of the site. The land adjoining the appeal site is mostly a combination of fields, hedgerows, pockets of woodland and Shortbridge stream. There is a mixture of vernacular and modern residential and agricultural buildings to the east, between the appeal site and London Road. However, these are generally situated the other side of a public right of way and hedgerow and means that most of the site is set back some distance from the proposed entrance onto London Road. As such, the spacious

grassed appearance of the appeal site contributes positively to the attractive countryside character of the surroundings.

16. Moreover, I was able to appreciate the rural qualities of the appeal site and land beyond from both public footpaths that adjoin the site. This was owing to unobstructed views across the site from the path close to the north-eastern boundary. Glimpses across the land are also possible in gaps between trees and hedgerow from the footpath along the north-western boundary of the site.

17. At the hearing there were differing views as to whether the proposal could be accurately categorised as high or low density development. Even taking account of alternative ways that up to 49 dwellings might be accommodated, it would represent a considerable volume of permanent new built form. This would be exacerbated by the likely distribution across the appeal site that is shown on the indicative layout on the site plan. Consequently, the proposal would inevitably encroach into a spacious area presently free from built form and would thereby dramatically change the character and appearance of the land.

18. Furthermore, the introduction of up to 49 dwellings would extend considerably further westwards than the broadly linear band of existing and approved development along the western side of the nearby section of London Road. This would lead to a harmful loss of spaciousness. Given that the appeal site is somewhat removed from the centre of Maresfield and that there is intervening green space, it would result in a settlement pattern at odds with the otherwise broadly nucleated form of the village.

19. Moreover, in addition to the physical presence of built form, each dwelling would bring associated activity and lighting, and probable areas of hardsurfacing, boundary treatments, vehicles and domestic paraphernalia. Accordingly, the present countryside character would be displaced by a prevailing domestic one.

20. Access would be onto London Road with an internal road leading into the northern corner of the main part of the site. In practical terms this would limit options for an internal road layout arrangement. As such, it would be likely to involve a looping or cul-de-sac configuration, which is indicated in the indicative layout. Combined with the number of units proposed, the layout is likely to possess characteristics often seen in sub-urban residential development.

21. These factors would be palpably different to the more dispersed, informal clusters of buildings closer to the road to the east, that appear to have evolved over time. Hence, the proposal represents a different order of magnitude in terms of scale and site coverage by comparison to the most immediate settlement pattern. Consequently, it would be likely to have a discordant visual impact.

22. Furthermore, the access road would cross the route of the footpath along the north eastern boundary, which is close to where it intersects with the footpath along the north western boundary. The movement and presence of vehicular traffic would undermine the rural qualities of the paths at this point. Even with boundary screening, due to its proximity the development would be likely to feature prominently in views from a section of the north eastern footpath that presently has an open aspect onto agricultural land to the south-west.

Moreover, depending on the height of the structures and extent of leaf cover, given the proximity of the footpath to the north-western boundary, some of the physical form, lighting and associated activity from the proposal would be likely to be perceived when using the route. As such, the proposal would erode the quality of the rural experience for users of both footpaths. This would conflict with paragraph 100 of the Framework which states that decisions should protect and enhance public rights of way and access.

23. The appellants highlighted recent residential development that has taken place or been approved relatively close to the appeal site, including at Orchard Place, Furnace Bank House, Mill Chase, as well as a series of consents at or around Mill House Farm. Nevertheless, the amount of development involved in those schemes is considerably smaller by comparison. Neither would they extend as far westwards as the appeal site. Hence, the scale and nature of the development would not comfortably knit with the existing and approved settlement pattern and would appear somewhat adrift in the landscape.

24. Comparison was also made with recent permission given in outline for up to 25 dwellings and a community facility at land at Straight Half Mile, Maresfield. Whilst I accept this decision has some relevance, the nature of the proposal is notably different with fewer dwellings. Additionally, it is located a considerable distance to the north of the appeal site and has a different configuration relative the main body of the village. These differences lead me to attribute limited weight to it.

25. Although landscaping is reserved, the appellants consider that existing boundary hedgerows to the site could be supplemented by further planting to provide screening. In addition to the tree cover and hedgerows on other nearby land, it is asserted that this would largely restrict views of the development. I accept that it is likely that boundary planting could be accommodated within the site and that this could provide some screening to limit the extent of visual intrusion. However, it would not entirely surmount the harm I have outlined, and such an approach would tend to emphasise insular qualities reinforcing my concern that the housing would lack well designed integration into its surroundings.

26. Three Grade II listed buildings lie to the east of the appeal site, a listed barn, Mill Cottage and the Mill House. Their significance and special interest is largely derived from their architectural and aesthetic qualities, although there may be historic interest due to possible associations with the former mill. These designated assets are all some distance from the main part of the appeal site and are closer to the road. In addition, there are intervening buildings and/or vegetation that would prevent direct intervisibility. Both parties agree that that the proposed development would not detract from the ability to appreciate their significance. I have little basis to take a different view, but this is a matter I shall return to when considering the potential for additional bus stop provision on London Road.

27. Overall, there are a combination of factors that lead me to find that the proposal would fail to relate well to its surroundings and would have a harmful impact upon the rural character and appearance of the area. It follows that it would not enhance its surroundings and would fall short of advice in the NDG. Furthermore, it would fail to be sympathetic to local character and history,

including the surrounding built environment and landscape setting contrary to paragraph 130c) of the Framework.

28. Accordingly, the proposal would be contrary to saved policies EN1, EN8, and EN27 of the LP, which amongst other things seek to sustain, conserve and where possible enhance the character, local diversity and qualities of the landscape. Policy EN27 includes a criterion that the scale, form, site coverage, density and design of the development should respect the character of adjoining development.

Location

29. Maresfield is defined as a neighbourhood centre in the development plan. Although it used to have a defined development boundary, this was removed by policy WCS6 as part of the rural areas strategy in the Wealden District Core Strategy Local Plan, February 2013 (CS).

30. There is no dispute that the appeal site lies outside of any defined development boundary in the development plan, and neither is it an allocated site. It is not part of the appellants case that the proposal falls within any of the supported exceptions to development in the countryside, such as for example, rural exception affordable housing in policy WCS9 of the CS.

31. Hence, the proposal conflicts with saved policies GD2 and DC17 of the LP which seek to prevent housing development outside the development boundaries subject to specified exceptions. The weight to be given to this conflict is a matter I shall consider later in my determination as part of the planning balance.

Access

32. Amongst other things, paragraph 110 of the Framework stipulates that in assessing specific applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be, or have been taken up, and that safe and suitable access to the site can be achieved for all users.

33. Access is proposed onto London Road, a classified road with a 30mph speed limit. The access arrangement (drawing reference T641_39) shows a 6m wide road with 6m radii. This would allow for visibility splays of 43m in either direction from a set back point of 2.4m from the edge of the carriageway. There is no dispute that the required minimum driver sightlines can be met and that the level of vehicular traffic generation from the proposal would be unlikely to have discernible impact on the highway network.

34. However, the access arrangement details only show carriageway details and the Highway Authority expressed doubts that suitable provision of a footway to reach London Road could be provided within the site area. PPG states that where details have been submitted as part of an outline application, they must be treated as forming part of the development for which the application is being made and that conditions cannot be used to reserve these details for subsequent approval. The appellants explained at the hearing that a footway measuring 2m wide could be accommodated, which would allow for a carriage way of 5.5m within the red edge of the appeal site. Moreover, it was asserted that the terms of the UU would require the owner to enter into a section 278

agreement under the Highways Act 1980 to include improved access from the property to School Hill.

35. There is a raised footway close to London Road that would provide a pedestrian route from the appeal site to the primary school, and beyond that to other facilities at Maresfield. This is on the northern side of London Road, so would require future residents to cross the road to access it. There is presently an uncontrolled pedestrian crossing, with tactile paviours near the proposed access. This involves steps and is therefore below current design standards. Moreover, it is not shown on the access arrangement drawing. The appellants contend that the suggestions in the Stage 1 Road Safety Audit provided[4] would be incorporated into the provision of a suitable replacement crossing secured under the terms of the UU.

36. The Highway Authority had no objection in principle to securing these measures by way of a UU. However, the red line of the plan in the UU around the access point with London Road is different from that shown on drawing 36D revision D. Moreover, the provisions of the UU[5] which set out the owner's covenants only explicitly refers to Schedules 1, 2, 4, 5, 6 and 8 of the Undertaking. Setting aside that there is no Schedule 8 in the document, there is no reference to Schedule 7 which pertains to the highway agreement and works. This casts doubt as to the soundness of the ability of the UU to adequately deliver suitable improved access to School Hill for pedestrians.

37. In addition, the pedestrian route to the nearest bus stop on London Road is south of the Budletts Roundabout. The route would involve crossing London Road, crossing the A26 in two segments, one of which has two lanes of traffic, and where traffic speeds are derestricted. Thereafter, it would be necessary to cross the A272. There are no shelters at the bus stops and little or no designated hardstanding area for people to wait on adjacent to a busy road. Alternative bus stops in Maresfield would be considerably in excess of the 400m distance recommended.

38. These factors would be off putting to future residents at the appeal site and would especially be likely to deter more vulnerable users of public transport such as children, people pushing prams, or those facing some mobility challenges. The appellants propose to provide two new bus stops on London Road closer to the appeal site which would avoid the route outlined. Amongst other things, these are specified in the UU as having high rise kerbing, a hard standing area, a pole and flag.

39. Notwithstanding that the Highway Authority were generally supportive to this approach at the hearing, I have not seen indicative drawings to illustrate how two such bus stops could be satisfactorily accommodated close to the appeal site. My observations were that there are physical constraints that would run counter to their satisfactory provision. This includes the proximity to Budletts Roundabout and/or the existing priority traffic system arrangements on London Road, the limited extent of the highway verge and the absence of a footpath on the south side of London Road. When account is also taken of the close proximity of the listed barn abutting the south side of the road, which has consent for a residential conversion, this makes the provision of at least one of the bus stops particularly uncertain.

[4] Appendices A and B, Transport Statement Rev E, prepared by Exigo
[5] Clause 10

40. Hence, based on the evidence presented to me, I am not convinced that the bus stop improvements described in the UU would be deliverable. In the absence of those, whilst it would be possible to reach public transport services, the route and facilities fall considerably short of what would be conducive to increase bus usage. It follows that those residents with a choice would be more likely to opt to use the private car.

41. At the hearing it was clarified that a financial contribution of £1100 per dwelling was sought by the Council towards the extension of existing bus service provision into the evenings and on Sundays. The costs of extending the services that would serve the site were estimated to be £200,000 for a 5 year period. However, there was little explanation of how this translated to £1100 per dwelling in relation to the appeal site. Consequently, I am not persuaded that such a requirement has been adequately shown to be fairly and reasonably related in scale and kind to the development before me. Therefore, it fails the tests specified in paragraph 57 of the Framework where planning obligations may be sought.

42. The appellants assert that there are other substandard accesses nearby. Even if that were the case, this would not alter the harm that I have identified arising from the appeal proposal in relation to this main issue.

43. Accordingly, I find that the proposal does not convincingly demonstrate how appropriate opportunities to promote sustainable transport modes can be taken up and unacceptable doubt remains as to whether safe or suitable pedestrian access to the site would be secured. Consequently, the proposal would fail to provide a satisfactory means of access contrary to policy TR3 of the LP.

44. Refusal reason 3 on the Council's decision notice also refers to Spatial Planning Objectives SPO2, SPO12 and SPO13 contained in the CS. However, given the generic wide-ranging nature of these objectives, which are written as statements of intent, I do not find a direct conflict with them.

Affordable housing and SBCH

45. Policy AFH1 of the Affordable Housing Delivery Local Plan, May 2016 (AHDLP) requires the provision of 35% of the number of dwellings to be affordable homes. Although the development plan does not explicitly require residential developments to provide SBCH, the Council point to the statutory duties to give permission to enough suitable serviced plots of land to meet the demand for SBCH in their area. The duties extend to having regard to the SBCH register. Recent extracts from the Council's SBCH register show 150 serviced plots of land are sought by those on the register. On that basis 5% of the total number of dwellings is sought as SBCH serviced plots.

46. These requirements are not matters of dispute between the main parties. I am satisfied that the obligations are necessary to make the respective development acceptable in planning terms, that they are directly related to the development and are fairly and reasonably related in scale and kind to the development.

47. The UU contains schedules whereby an affordable housing scheme including phasing and tenure mix, would need to be first agreed with the Council. In broad terms it also deals with the construction of affordable homes and how it would be transferred to a registered provider. Schedule 3 of the UU requires a

SBCH plots scheme to be agreed with the Council and thereafter provided and marketed.

48. However, I have concerns with the way the UU is drafted which lead me to doubt its effectiveness in delivering these requirements. Firstly, I am not convinced that the arrangements for allocating the affordable housing would work satisfactorily. The Council explained that they would normally seek to incorporate a nomination agreement securely into the obligation. In this instance, the UU has separate definitions for the terms 'Affordable Housing Nomination Agreement' and 'Nomination Agreement'. The former is defined as an agreement substantially in the 'form set out in the Schedule 3', whereas Schedule 3 of the document relates to SBCH. Moreover, the definition goes onto specify that this shall have the same meaning as 'Nomination Agreement' despite that term having its own subsequent definition. In addition, the provisions of the UU which set out the owner's covenants omits any reference to Schedule 3 relating to the provision of SBCH.

49. Hence, there are inconsistencies and omissions within the UU that lead me to doubt that it would secure the necessary obligations in relation to the provision of affordable housing and SBCH. Hence, the proposal would conflict with policy AFH1 of the AHDLP. In addition, it would not align with the encouragement given in paragraph 62 of the Framework to address the housing needed for different groups in the community. This includes references to those who require affordable housing and people wishing to commission or build their own homes.

Ashdown Forest SPA

50. Ashdown Forest SPA contains habitat in which there is a concentration of Dartford warbler and European nightjar, both rare ground nesting birds. As such the site is recognised under the Conservation of Habitats and Species Regulations 2017 (the Regulations).

51. Evidence shows that the SPA is under pressure from an increasing number of people living nearby. As the population grows, urbanising impacts from human pressures and increasing recreational activity has the potential to cause disturbance to these bird species and have adverse effects on the protected habitat. The appeal site is within 7km of the SPA.

52. Recent caselaw[6] requires the decision maker, when considering the effect that a proposal may have on European Sites, to consider mitigation within an Appropriate Assessment. In the absence of mitigation measures and using a precautionary approach, given the proximity of the appeal site to the European habitat site, it is reasonable to suppose that residents of the development would potentially visit it for recreational purposes. Intensification of such activities would be likely to cause disturbance to the bird populations and their habitats. I am required under the Regulations to consider the effect of the proposal both individually and in combination with other projects. As such, there is a risk of a significant effect on the internationally important interest features of the SPA.

53. The Council outlines in its Ashdown Forest Mitigation Zone Background Paper[7] measures supported by Natural England that seek to establish strategic

[6] People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244
[7] Page 29, Council's Delegated Officer Report

mitigation for the impacts of development on the SPA. This generally takes two forms, the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM).

54. The former seeks to provide alternative greenspace for recreation to divert visitors away from the SPA, and the latter relates to projects to monitor and manage visitors to the SPA. Financial contributions of £5000 per dwelling towards SANG provision and £1170 per dwelling towards SAMM and are sought in line with tariffs set out in the Council's background paper. At the hearing the Council explained that SAMM would include the provision of rangers and advice for recreational visitors to the SPA. In addition, it was confirmed that the closest SANG at Uckfield does have capacity to address the impact arising from the proposal. The appellants did not dispute the requirement for, or quantum of these mitigation measures.

55. I am satisfied that the financial contributions towards mitigation for the recreational impact on the SPA meet the tests for planning obligations set out in paragraph 57 of the Framework.

56. Saved policy EN1 of the LP seeks, amongst other matters, to conserve and where possible enhance the quality of the natural environment. Saved policy EN15 seeks to safeguard designated nature conservation sites by resisting development which would be likely to adversely affect their nature conservation value. This is further reinforced by amended policy WCS12 of the CS which seeks to avoid an adverse effect on the integrity of the SPA by creating an exclusion zone around the SPA.

57. Schedule 4 of the UU sets out measures to secure the requisite financial contributions prior to the commencement of development. The Council explained at the hearing that there is a well-established process whereby such monies would be directed towards SAMM projects and the provision of SANG, and I have little basis to doubt that this would happen prior to the occupation of the proposed dwellings.

58. Therefore, on the face of it the proposal secures sufficient mitigation in the UU to avoid an adverse effect on the SPA. However, I have not undertaken consultation with Natural England as necessary under the Regulation 63 of the Regulations, as in light of the other substantive concerns already outlined, this issue is unlikely to be determinative. On that basis, I shall treat it as a neutral factor in the planning balance.

Other considerations

Housing land supply

59. The Council does not dispute that it cannot demonstrate a 5-year supply of deliverable housing sites. The latest Five Year Housing Land Supply Statement produced by the Council indicates that as of April 2021, there is 3.66 years supply. This is a substantial shortfall and is an important factor to be weighed in the overall planning balance.

Other development

60. During the hearing my attention was drawn to examples of other recent residential development in and around Maresfield, and further afield in the

district. The appellant provided a list of development sites around the village[8] and also referred to recent developments at Ridgewood Farm, Uckfield, at East Hoathly and Blackboys. I have had regard to these schemes in reaching my findings. However, the nature of individual parcels of land will be unique to their specific context. The evidence presented does not show that any given example amounts to a direct parallel to the appeal proposal. Whilst certain aspects of some of the examples may share some traits with parts of the proposal, these cannot be aggregated. Therefore, I am not convinced that a precedent equal to the proposal before me is shown. As already indicated, the most relevant example at Straight Half Mile attracts limited weight but would not provide a sound basis to justify the entirety of the development proposed.

Wildlife

61. At the hearing my attention was drawn to the proximity of Shortbridge stream. Concerns were raised that the predatory activity of domestic pets from the development could have a harmful impact on the populations of some threatened aquatic species presently supported by the stream. This was not a matter identified in either the submitted Ecological Appraisal[9] or by the Council. In the absence of technical evidence to show the extent of such a threat, I attribute it limited weight.

Planning Obligations

62. The main parties broadly agreed that planning obligations to provide for affordable housing, SBCH, mitigation measures for the SPA and some highway works were necessary to make the development acceptable in planning terms. In relation to those matters, I have previously outlined where I consider the statutory tests would be met. I have also identified where discrepancies in the submitted UU are such that its ability to secure the necessary obligation is questionable.

Planning balance and conclusion

63. Footnote 8 to paragraph 11 of the Framework indicates that in circumstances where a five year supply of deliverable housing sites cannot be demonstrated, relevant development plan policies are deemed to be out-of-date. There is nothing otherwise before me to show that the Framework policies in footnote 7 to paragraph 11 provide a clear reason for refusing the proposal. Consequently, paragraph 11dii) states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. A broadly similar presumption in favour of sustainable development is contained in policy WCS14 of the CS.

64. The principal benefits of the proposal would be the provision of up to 49 dwellings, of which it is intended that 35% would be affordable housing and 5% SBCH. Setting my concerns regarding the UU's effectiveness in suitably delivering the affordable housing and SBCH to one side, the proposal would boost housing supply in an area where there is a substantial unmet need. Hence, these factors attract significant positive weight.

[8] Appendix 2a, Appellants' Appeal Statement
[9] Prepared by Aspect Ecology, paragraph 3.7.1

65. In addition, there would likely be social and economic benefits derived from the construction and future activity of the occupants of the additional dwellings, to which I attribute limited additional weight. Overall, the cumulative benefit of the proposal attracts significant weight in favour of allowing the development.

66. Nevertheless, I have identified that there would be harm to the character and appearance of the area owing to the nature and amount of development proposed. The Framework stipulates that good design is a key aspect of sustainable development[10], and the proposal would result in permanent harm. Therefore, the conflict with policies EN1, EN8 and EN27 of the LP which are broadly consistent with the Framework in this regard attracts full weight.

67. The Framework does not preclude development in rural areas, but states that rural housing should be located where it will enhance or maintain the vitality of rural communities[11]. The rural areas strategy to prevent development outside of defined development boundaries is more restrictive and has failed to deliver sufficient housing. Therefore, given the substantial shortfall in supply of deliverable housing land, the consequent conflict with policies in the development plan on that account attracts very limited weight.

68. However, I am not persuaded that the proposal would secure good accessibility to public transport links for pedestrians, nor address inadequacies in footway and crossing provision at and near the intended access onto London Road. This would conflict with paragraph 110 of the Framework, and the consequent conflict with the development plan policy in this regard attracts full weight.

69. Moreover, there are inconsistencies and omissions in the UU provided which lead me to question whether it would appropriately secure the necessary provision of affordable housing and SBCH. This would run counter to the thrust of paragraph 62 of the Framework.

70. Taking these factors together, the proposal would conflict with the policies of the development plan taken as a whole. Overall, I find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development set out in the Framework and policy WCS14 of the CS does not apply.

71. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise[12]. There are no other considerations, including the provisions of the Framework, which outweigh this finding.

72. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

[10] Paragraph 126
[11] Paragraph 79
[12] Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

APPEARANCES

FOR THE APPELLANT

Mr SJ Flittner	Appellant and Agent

FOR THE LOCAL PLANNING AUTHORITY

Mr M Taylor	Senior Planning Officer, Wealden District Council
Ms K Kamboh	Highway Officer, East Sussex County Council

INTERESTED PARTIES

Cllr M Craddock	Chair, Maresfield Parish Council
Mrs C Shaw	Maresfield Conservation Group

Documents handed in at the hearing

1. Copy of amended policy WCS12 Biodiversity in the Wealden District Core Strategy Local Plan, February 2013 following the legal challenge to the original wording.
2. Ashdown Forest SPA SAMM Tariff Guidance, October 2019
3. Email dated 19.10.22 from Transport Hub Developments, East Sussex County Council regarding the public transport service improvement request (read out at the hearing).