



Appeal Decision

Inquiry held on 6, 8 to 9, 13, and 15 - 17 September 2021, and 6 October 2021
Site visit made on 22 September 2021

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2022

Appeal Ref: APP/M2270/W/21/3273022

Hawkhurst Golf Club, High Street, Hawkhurst, Cranbrook TN18 4JS

- 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 a part-outline/part-full planning permission.
 - The appeal is made by Cedar Drive Ltd against Tunbridge Wells Borough Council.
 - The application Ref 19/02025/HYBRID, is dated 11 July 2019.
 - The development proposed is Hybrid Application:
Demolition of existing clubhouse, squash courts and ancillary structures, and redevelopment of existing golf course.
Full planning permission sought for new relief road and associated earthworks and junctions with A268 and A229.
Outline planning permission (all matters reserved for future determination) sought for residential development, a C2/C3 care home, class D1 facilities such as a doctors' surgery and/or community hall, public car park, public park and associated parking, servicing, utilities, footpath and cycle links, formal and informal open space including woodland planting and recreation facilities, ground and infrastructure works.
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DECISION

1. The appeal is dismissed and planning permission is refused for demolition of existing clubhouse, squash courts and ancillary structures, and redevelopment of existing golf course for a new relief road and associated earthworks and junctions with A268 and A229 (applied for in full), and residential development, a C2/C3 care home, class D1 facilities such as a doctors' surgery and/or community hall, public car park, public park and associated parking, servicing, utilities, footpath and cycle links, formal and informal open space including woodland planting and recreation facilities, ground and infrastructure works (applied for in outline with all matters reserved), in accordance with the terms of the application Ref 19/1810/HSE, dated 11 November 2019.

PRELIMINARY MATTERS

2. Hawkhurst Parish Council and the Campaign to Protect Hawkhurst Village (the R6 Party) were granted Rule 6 status for the appeal.
3. Minor alterations were made to the proposed drawings in the lead-up to the inquiry. These alterations were agreed between the main parties and did not make material changes to the proposal. The inquiry proceeded on the basis of those revised drawings.

MAIN ISSUES

4. The main issues are:

- the effect of the proposed development on the character and appearance of the area, including the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (the AONB);
- the effect of the proposed development on traffic congestion and highway safety, with particular regard to the effect of the proposed new road;
- the effect of the proposed development on biodiversity, including consideration of mitigation and biodiversity net gain; and,
- whether or not the appeal site is an appropriate location for development of this type, both with regard to the principle of the site's location and access to services and facilities, including Hawkhurst village.

5. Concerns of the Council in relation to the provision of affordable housing and mitigation of the effects on local infrastructure have been addressed by a s106 Planning Obligation (the s106), dated 21 October 2021. In light of that, these matters were not pursued at the inquiry. There remains, however, dispute as to the weight to be applied to the provision of affordable housing and I deal with this as appropriate below.

6. In the lead-up to the inquiry, the Council questioned the viability of the proposed new road. However, at the inquiry itself this issue was not contested by the Council or the R6 Party. I have seen no substantive evidence that the proposed road would not be viable and have made my decision on this basis.

REASONS

Planning Policy

7. The Development Plan includes the 'saved policies' of the Tunbridge Wells Local Plan 2006 (the LP), the Tunbridge Wells Core Strategy 2010 (the CS), the Site Allocations Plan 2016 (the SAP), and the Hawkhurst Neighbourhood Plan made 2018 and amended 2020 (the HNP). There is debate amongst the main parties regarding the weight to be applied to some of the policies. I deal with this as appropriate throughout my Decision letter.

8. There is an emerging Tunbridge Wells Borough Pre-Submission Local Plan (the emerging LP). This will be the subject of further consultation and is likely to be modified prior to adoption. I place limited weight on the emerging policies in the emerging LP.

Character and Appearance

9. The appeal site is large and runs from an entry point on High Street, alongside the back of the north western edge of the Highgate element of Hawkhurst village, alongside the western side of Cranbrook Road, and then cuts back to Slip Mill Road just below the Gills Green element of the village. It is a former golf course which is not in use. A certain amount of re-wilding has taken place but the character of the site is still recognisably a golf course. It is undulating and there is also a stream and associated valley running across the narrowest part of the site alongside Cranbrook Road. The club house and car park remain alongside the High Street. The general landscape is managed in appearance,

- with fairways and linear lines of trees, but remains attractive, open, and green. There are thickly vegetated borders to almost all sides, although there are some more open aspects in places where the site backs onto some existing homes and their gardens.
10. The entire appeal site, the village, and a much wider area are all in the High Weald AONB. The statutory purpose of AONBs is to conserve and enhance the natural beauty of the area. The High Weald AONB Management Plan 2019, which is also cross-referred in Policy HD1(b) of the HNP, sets out the key characteristics of the AONB. Of particular relevance to the appeal site is the physical and perceived separation of settlements, that villages and hamlets are typically unlit, the importance of the incised landform and streams, the absence of large scale settlement extensions, and the importance of woodlands and ancient woodlands.
 11. There are many other key characteristics of the AONB, but these are either not related to the appeal site, or the appeal site has already lost them as a consequence of the previous golf course use, such as medieval field patterns. In my view, the effects of the golf course use are not reversible, because although in principle this may be true, there are no proposals before me to either let the course simply return to the wild, or for it to be used for entirely rural purposes.
 12. It is proposed to redevelop the appeal site to provide a substantial residential development including a care home, a community facility, extensive landscaping, and associated works. All of these elements are applied for in outline. A new road, to bypass the existing cross-roads at the centre of Highgate, is also proposed, and is applied for in full. The proposed built development would be split into two broad 'parcels' – the 'southern parcel' between the existing properties of Highgate and Slip Mill Road, and the 'northern parcel' running east-west between Cranbrook Road and Slip Mill Road to the south of the existing built-up area of Gills Green. The two parcels would be split by the Slip Mill Stream valley and proposed landscaping to either side of the stream.
 13. The 'southern parcel' falls within The Hawkhurst Wooded Farmland Character Area (LCA11) as set out in The Tunbridge Wells Borough Landscape Character Assessment, 2017 by LUC. The LCA11 area is found to be of wooded character, with many important rural lanes, dispersed hamlets, separation of built-up areas, an intact rural character, and ghyll valleys. Further studies¹ have come to similar conclusions on the nature of the existing landscape character and have found the sensitivity of the appeal site to be generally high, although there are some small areas of lower sensitivity along the settlement edges. I agree with these conclusions.
 14. The proposed housing and building to the 'southern parcel' would partially form an extension to Highgate, linking into the existing built form along the High Street and also along the southern part of Cranbrook Road. A part of this parcel, at the former Springfield Nursery, has in fact already been granted planning permission at appeal² for residential development. However, due to

¹ e.g. The Tunbridge Wells - Landscape and Visual Impact Assessment of Proposed Allocation Sites within the High Weald AONB by HDA; and, Landscape Sensitivity Assessment of additional settlements in Tunbridge Wells, 2018 by LUC

² Ref APP/M2270/W/20/3245562, on 30 November 2020

the steeply sloped land to part of the southern boundary of the appeal site, the proposed landscaped buffers to much of the appeal site boundary, and the layout of the existing properties all of which turn their backs towards the appeal site, the proposal would only be partially successful at integrating with the existing Highgate village.

15. The 'southern parcel' would also stretch towards the rear of properties and other land accessed from Slip Mill Road. Slip Mill Road is a rural lane and the properties along it have a rural feel and setting, several with clear views over the appeal site. The proposal would alter the setting and the character of this area, introducing an urban form much closer to the road and the properties along its western side than the existing Highgate village. The new road, in particular, and its associated substantial engineering, would negatively affect the setting of this rural lane and the properties along its eastern side.
16. It is agreed between the Council and the appellant that the 'southern parcel' is acceptable in principle for some form of development and associated infrastructure. I agree. However, the scale of the current proposal and the built infrastructure, including the road, and the only partially successful integration with Highgate, would result in material harm to the character and appearance of this part of the appeal site and the setting of Highgate and Slip Mill Road. It would result in the permanent alteration of character from an attractive, open and green area to a heavily developed site. The proposed road, in particular, would involve substantial engineering works, loss of trees, and would partly be on a relatively high ridge across the site, further increasing its visibility and impact. There would be an overall negative effect from lighting from the proposed buildings, lighting for the road, and vehicle headlights, intruding into an area which is currently almost entirely dark at night.
17. The Slip Mill Stream valley would be retained within a significant element of landscaped open space in, and either side of the valley. Both 'parcels' propose housing with access from Cranbrook Road and both are at a point on the road where there is existing housing on the opposite side. However, there would be development on currently open land, including the new road and the creation of new access points to Cranbrook Road. This would lead to a physical and perceived erosion of the separation between Highgate and Gills Green. This would be exacerbated by the street lighting along the proposed road and the general lighting that would occur from the proposed development and traffic headlights using the new road. These factors would harm the character and appearance of the area and the specific AONB key characteristics of separation of settlements and the unlit nature of villages.
18. The 'northern parcel' falls within The Bedgebury Forested Plateau Character Area (LCA15). This has many of the same characteristics as LCA11, but is more remote and rural in character, with fewer developments and modern intrusions. The sensitivity of the area to change is correspondingly higher than the 'southern parcel', particularly to large scale development.
19. The 'northern parcel' would border the existing development at Gills Green to the far north western corner of the appeal site, and would partially front onto Cranbrook Road, opposite existing dwellings. This would provide a degree of physical and visual integration with existing built form. However, the majority of this element of the proposal would be separated from Gills Green by existing woodland, and poorly integrated with it. The proposal would also erode the gap

between Gills Green and Highgate to some degree, by partially infilling a currently largely open part of the landscape. This part of the proposal would harm the setting of the Slip Mill Road rural lane through the substantial proposed housing directly adjacent to the road. As with the 'southern parcel', the proposal would result in the permanent alteration of character from an attractive, open and green area to a heavily developed site. Even considered on its own, it is still of substantial scale.

20. I acknowledge that the existing golf course is a manicured landscape that is quite different in character from agricultural fields or open countryside. This would partially mitigate the effect of the proposed change. It is also proposed to retain and reinforce the existing vegetated buffers to the appeal site's boundaries, providing further visual mitigation. The ancient woodlands would be protected by the proposal and, although some of the existing trees on the appeal site would be lost, a substantial proposed landscaping scheme, including significant tree planting, is proposed and could be secured by condition.
21. These works could be controlled by the Landscape and Ecology Management Plan as secured through the s106, and by conditions relating to the detail of landscaping. However, even after the proposed screening, the built development would be visible from several surrounding properties and from public roads. Apart from the clubhouse and car park, the appeal site retains a green and verdant character that reinforces the rural edge of the settlement here. The proposal would fundamentally alter that with the introduction of substantial, urbanising, built form, no matter what landscaped mitigation could be provided. There would be material harm to the established character and appearance of the area, and to the natural beauty of this part of the AONB, in this regard.
22. Moreover, the proposal is for a large scale extension to the existing village. All of these considerations would undermine the key characteristics that I have identified above and which are integral to the landscape and scenic beauty of the AONB. In addition, the scale of the proposal, the permanent loss of a green, attractive and open part of the AONB, and the general harm to the character and appearance of the area, would all also harm the special qualities and character of the AONB.
23. Overall, I have found harm to the identified AONB key characteristics and I have also found harm to the character and appearance of the area and the wider landscape in general terms, which would also harm the natural beauty of the AONB. I assess the level of harm to the 'southern parcel' to be minor to moderate, due to the scale of the proposal and the proposed road, only partially successful integration with Highgate, and, the harm to the setting of the rural lane. I assess the level of harm to the 'northern parcel' to be moderate, due to the intrusion into a rural landscape, harm to the setting of the rural lane, poor integration with Gills Green, and erosion of the gap between Gills Green and Highgate.
24. The proposal would, therefore, fail to comply with those parts of Policy CP4 of the CS and Policy EN25 of the LP, where they seek to preserve or enhance landscape character, and resist detrimental impact on landscape setting of settlements, and unsympathetic change to a rural lane of importance. The proposal also fails to comply with the parts of Policy CP14 of the CS that relate to the preservation and enhancement of landscape and the character of rural

areas. It would fail to comply with Policy HD1(b) of the HNP due to the effects on landscape setting. I place full weight on the highlighted elements of all these policies, which are consistent with the Framework. The proposal would fail to comply with Chapter 12 of the Framework, which requires high quality design. The proposal would result in harm to the AONB and would therefore fail to comply with Paragraph 176 of the Framework, which gives the highest status of protection to AONBs.

Highways and Transport

Highgate cross-roads

25. In the centre of Highgate is the intersection of the A229 and the A268. This is the 'cross-roads'. It is clear that the cross-roads currently operates above capacity, on all arms, at peak times. It is heavily congested. It is predicted to worsen over time, with traffic congestion to reach an average of 9 minutes per vehicle by 2033 when factoring in traffic growth and committed developments. This is uncontested between the parties.
26. It is proposed to provide a new road that would cut away from Cranbrook Road, travel through the site, and then join up with High Street at a new roundabout junction. The road would have footways where appropriate, and bus stops at either end. Once constructed, it is then proposed to close Cranbrook Road south of the proposed junction to through traffic.
27. This would result in significant numbers of vehicles, both existing and as generated by the proposal, being able to by-pass the cross-roads. There would also, though, be the requirement for some drivers to use the new road and then cut back along High Street to the cross-roads before either carrying on to the east or turning right to the south, in order to divert around the closed-off Cranbrook Road.
28. The Transport Assessment accompanying the planning application was conducted on the basis of 420 dwellings (more than that now proposed), and incorporated allowances for allocated sites and extant planning permissions, as agreed with the Council. This document assessed the effect of the proposal on the operation of the cross-roads. I acknowledge that the introduction of puffin crossings could reduce pedestrian crossing times but there is no reason why they could not be introduced independent of this proposal. I have therefore used the assessment where the appellant has assumed the same crossing times for both as existing and as proposed, i.e. 12 seconds intergreen, because this is a fairer comparison between the two scenarios.
29. The proposal would result in a significant betterment of the traffic congestion, measured in this manner, saving several minutes per vehicle to travel through the junction on average, from nine minutes (2033 predicted) to three minutes (2033 predicted). Even the High Street arm, which would be the subject of more traffic due to the re-routing of south and east bound traffic, would experience reduced queuing times due to the more efficient operation of the three-arm junction versus its current four-arm configuration.
30. It is therefore clear that the proposed road would not only accommodate the traffic generated by the proposed development but would also improve traffic congestion through Highgate. The Council and Kent County Council agree that

there would be an overall positive effect on the cross-roads, over and above mitigating the development's own effects.

Highway safety

31. There is an existing footway alongside the A268 (High Street) running from the appeal site to the centre of Highgate. There is an existing footway alongside the A229 (Cranbrook Road) running along its entire length between Gills Green and Highgate. The cross-roads has pedestrian crossing facilities on all four arms. Accident data for High Street shows two accidents in a three year period, and for Cranbrook Road seven accidents, none of which could be attributed to highway design. The new road would be built to adoptable standards with all associated safety features and sight lines provided. The Highways Authority raise no objection in relation to highway safety. I am satisfied that there would be no material effect on highway safety from the proposal.

Flimwell junction

32. The proposal would also result in increased traffic through the Flimwell cross-roads to the west, both through general traffic generation and because it is proposed to direct HGVs that currently travel north-south through the Highgate cross-roads through this junction instead. This is a junction of the A268 and B2087 with the A21. The A21 is part of Highways England's Strategic Road Network (SRN).
33. It is proposed to mitigate the increased traffic through the junction by providing additional flared approach lanes on the eastern and southern arms of the junction, a widened exit northbound and improved pedestrian crossing facilities. After mitigation, the proposal would result in an overall improvement to traffic congestion through the junction in the 'am' peak, with average queuing times reduced from 302 seconds to 254 seconds in 2028. The 'pm' peak queuing would increase slightly from 196 seconds to 247 seconds. It should also be noted that in the 'am' peak the northbound A21 queuing would increase.
34. The overall effect of the Flimwell junction would be broadly neutral. There would be some increase in queuing on some arms at certain times but this would be balanced against improvements at other times. None of the increased traffic congestion would be to a material degree. In addition, a Stage 1 Road Safety Audit has been undertaken. Importantly, Highways England does not object to the proposal, either with regard to road safety or traffic congestion.

Rat running

35. The cross-roads would operate more efficiently than as existing. For the most part, therefore, there would not be a material increase in the pressure to, or likelihood of, drivers 'rat running' to bypass the junction and/or the new road. The exception is traffic using Delmond Lane and North Hill Road as a cut-through to the A229 and then onto the A21. I can foresee the temptation of this as a 'rat-run' because of the new route forcing southbound drivers onto the relief road, rather than through the cross-roads, and because of the longer length of queues on the High Street arm, albeit shorter in time. I have driven this route and the roads are very narrow country lanes, almost single track. In my view, this would likely remove the temptation to use this route for the majority of drivers, because it would be slow and inconvenient to drive along.

Whilst there may be a limited increase in use of this route, that would not be to such a degree in my view, that it would have a material effect on highway safety or traffic congestion.

Conclusion

36. The proposal, subject to the implementation of the proposed mitigation measures, would result in an overall improvement to the operation of the cross-roads over and above the development's own traffic generation. It would have a broadly neutral effect on the Flimwell junction. I do not foresee any material increase in rat running. It has been successfully demonstrated that there would be an acceptable effect on highway safety. Paragraph 111 of the Framework states that development should only be refused if there would be an unacceptable impact on highway safety or if the cumulative impacts of the road network would be severe. Neither of these scenarios are true for the appeal proposal, which would result in an overall betterment to traffic congestion and would not harm highway safety, and complies with the Framework.

Biodiversity

37. Although The Environment Act 2021 has now passed, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain (BNG) requirement set out in the Act is not yet law and is not applicable to these appeals. Whilst Policy EN9 of the emerging LP sets a requirement of 10% BNG, I place limited weight on this because it may be the subject of modification before adoption. Paragraph 174 of the Framework simply seeks a net gain in biodiversity. It does not specify a specific percentage. Policy CP4 of the CS requires no net loss of biodiversity, implying that either neutral or a notional net gain is required. A 'net gain', of any percentage, is all that is therefore required. It is common ground that Natural England's Biodiversity Metric 3.0, is the most appropriate tool available for measuring this.
38. It is common ground that the majority of the appeal site provides relatively species poor grassland, because of its managed nature as a golf course, until recently. Most of the existing biodiversity interest lies to the boundaries of the site, which would largely remain unaffected. The appellant has run various scenarios for biodiversity mitigation and enhancement on the site. These assume that all gardens would be vegetated and that all non-developed areas would be grassland. That is unlikely to be the case, given personal preferences for the landscaping of gardens, and footpaths, drainage and other requirements within landscaped areas. Making allowances for this would reduce the calculated level of BNG. There is also the possibility that, in the detailed design, further areas currently assumed to be used to improve biodiversity, may end up being used for construction.
39. However, the proposal is at outline stage. A significant proportion of the site would be controlled by parameters plans to be landscaped open space. Significant planting is indicated throughout the site, and particularly within the proposed open space areas and to the boundaries. The adjacent ancient woodland, and the woodland with ancient characteristics within the site, would be protected with buffers and enhanced with native species-rich planting. There is no reason to believe that a scheme could not be devised within these parameters, that would meet the over-arching assumptions set out in the Metric, even if the detail were to change. This could be controlled by

condition(s). I am therefore satisfied that there is sufficient flexibility within the appeal proposal such that a BNG could be achieved through the reserved matters and condition discharges stages of the proposal.

40. It is common ground that there would be a long term minor-adverse effect on bat habitat. Bats are a European Protected Species (EPS). The habitat relates to roosts in the club house, which is to be demolished, and to flying routes. However, measures could be undertaken to ensure that individual bats were not harmed, even if their habitat was lost, for example through undertaking the relevant construction works outside of the breeding and hibernating periods, and the provision of suitable compensatory habitat. Lighting of the proposed road, even if only at the junctions, would affect bat flying routes. However, this could be effectively controlled at detailed design stage and/or by condition discharge to minimise the effect on bats. The most sensitive area for flying routes is around the stream and this area would be retained as open space.
41. Dormice are also an EPS. Dormice, and their nests, have been observed in a number of locations in the appeal site, particularly to the eastern and northern boundaries. Their habitat would be fragmented, particularly by the new road in-between their habitat to the west boundary and the south east corner of the appeal site. Dormice can cross roads although this is best achieved with mitigation. This could be secured at the detailed design stage or by condition. Overall, additional dormouse habitat would be created and it is common ground between the parties that the overall effect on dormice would be neutral.
42. Consequently, it has been demonstrated that the proposal would result in a suitable level of BNG, and that the EPS's, particularly bats and dormice, would be sufficiently protected subject to the proposed mitigation measures, which could be controlled by condition. The proposal therefore complies with the relevant part of Policy CP4 of the CS and Paragraph 180 of the Framework which together, amongst other things, seek to protect such interests.

Location

Principle

43. The policies most important for determining an appeal for housing and other works outside the defined settlement boundary of Hawkhurst are Policies CP1, CP6 and CP14 of the CS, and Policy HD1(b) of the HNP. Policy CP1 is the overarching locational policy. It prioritises development of land within settlement boundaries, and states that sites adjacent to or outside of settlement boundaries will not generally be allocated or released for development. Policy CP6 directly refers to Policy CP1 with regard to location of residential development. Policy CP14 relates to development in villages, such as Hawkhurst, and restricts development to sites within settlement boundaries in accordance with Policy CP1, and seeks to protect the countryside for its own sake. Policy HD1(b) sets out the 'exceptional circumstances' required to support larger developments and the importance of the effect of proposals on landscape setting and the AONB.
44. However, the greater the in-principle policy protection against development outside the settlement boundary, the greater its conflict with the Framework, which requires a balancing exercise. Because of this, I consider the relevant parts of Policies CP1, CP6 and CP14 of the CS to be out of date. Policy HD1(b) allows for large scale development outside the settlement boundaries if the

'exceptional circumstances' test of the Framework can be met. It is therefore broadly consistent with the Framework and is not out of date. Policy HD1(a) of the HNP was also discussed as part of the appeal, but it is largely in relation to small-scale developments of 10 units or fewer, and is not, therefore, one of the most important policies for determining the appeal.

45. The proposal is for a large scale residential-led development largely outside the defined settlement boundary of Hawkhurst, save for a small section in the Springfield Nurseries part of the site. It is also an unallocated site apart from in that small section. The proposal therefore conflicts with Policies CP1, CP6 and CP14. However, they are out of date and I afford limited weight to this conflict. I turn to the 'exceptional circumstances' test, and therefore Policy HD1(b), later in this Decision.

Accessibility to facilities and services

46. Also of importance to the suitability of the appeal site location is the capability of Hawkhurst to accommodate growth of the scale proposed, and the accessibility of the appeal site to Hawkhurst.
47. Hawkhurst is a 'small rural town' as defined in the CS and is identified as one of five 'main settlements' in the emerging LP. The Highgate section of Hawkhurst provides two supermarkets, a range of shops, cafes and pubs, and a cinema. There are also employment opportunities in the centre of Highgate, and a business park at Gills Green. There is no bank or leisure centre. There is a primary school but no secondary school. However, it is not unusual to not have a secondary school within walking distance in rural areas. Overall, the village provides a range of amenities and employment opportunities and is a suitable settlement, in principle, to accommodate residential-led development.
48. Although the layout is not yet fixed, the proposed road would bisect the site, divorcing some of the dwellings in the 'southern parcel' from Highgate. In addition, the dwellings in the 'southern parcel' would only be connected to Highgate via either the High Street or Cranbrook Road entrances. Some of the proposed dwellings would, therefore, be a relatively long walk from this centre, potentially in excess of the 800m comfortable walking distance identified in the Manual for Streets. However, this is not an unusual situation in a rural area. Importantly, it would be possible, and would in fact be likely, that many future residents would walk into the commercial centre of Highgate, even for many of those beyond 800m, because of its relative proximity and the relative difficulty of parking in the centre of the village.
49. The 'northern parcel' dwellings would be further away. However, this area would be closer to the business park and pub at Gills Green. Even from the 'northern parcel', all of the proposed dwellings would be under the 2 km distance set out in Manual for Streets as the greatest potential distance where walking might replace car trips. These factors are not fatal to the suitability of the appeal site for new housing.
50. There are five bus routes, and further specialist school services, serving Hawkhurst. These provide services to Hastings, Tenterden, Maidstone and Cranbrook, amongst many other smaller destinations. Some of the services are hourly and also operate at weekends. The village is not served by rail but there are two train stations providing services further into Kent and back towards London at 6.5 km and 15 km away. The proposal would re-route some of the

bus routes along the proposed road, which would be provided with bus stops, providing ease of access to the bus services. The overall access to alternative methods of transport to the car would be high.

51. Consequently, in terms of accessibility to services, the appeal site is an appropriate location for development of this type, both with regard to the site itself, and Hawkhurst. It would comply with Policy HD1(b) of the HNP in these respects. The proposal also complies with Section 2, and in particular Paragraph 8, of the Framework, regarding achieving sustainable development.

OTHER MATTERS

Air Quality

52. It is common ground, and common sense, that air quality along Cranbrook Road would improve as a result of the stopping-up of the road. This is particularly beneficial because some of the properties along Cranbrook Road suffer from poor air quality at present, to the extent that the Council has declared an Air Quality Management Area (AQMA). The Council has provided evidence that the air quality would improve even without the proposal due to the increasing use of cleaner vehicles, such as electric cars. Furthermore, because of the AQMA declaration, the Council is looking to take further measures to improve air quality, such as parking restrictions and traffic light sequencing to improve traffic along the road. They expect the AQMA to no longer be required as of end-2024.
53. However, these are predictions based on vehicle trends not yet realised, and on traffic control measures not yet implemented and the detail of which are not before me. The reductions cannot therefore be guaranteed. In addition, the closure of Cranbrook Road would further improve air quality over and above any improvements achieved by the AQMA measures.
54. The proposal would also alter traffic patterns. The displaced traffic would travel along the new road but then some of it would then return along High Street. It is common ground that this would result in a worsening of air quality to receptors along High Street, which includes residential receptors. However, traffic speeds through the cross-roads junction would be increased, as discussed above, which would moderate this.
55. Overall, the significant improvements to Cranbrook Road would go beyond any worsening to High Street and to the natural, and AQMA related, improvements to air quality that are expected in any event.

Heritage Assets

56. The appeal site lies within the setting of nine listed buildings. The open aspect and semi-rural character of the site provides limited contribution to their heritage significance. The appeal site is not a substantial element of the experience of the listed buildings and is only visible in partial, glimpsed views. Slip Mill Cottage would be most affected due to a more open aspect toward the site, and its proximity, but even this building's significance would only be slightly eroded by the proposed development. Nevertheless, there would be some, if limited, harm to the setting of the listed buildings due to the scale of the proposed development. This would cause less than substantial harm to the heritage significance of those assets. This is common ground and I agree, although I place the level of harm at the lower end of less than substantial,

rather than to the middle as set out by the Council. This is because of the limited effect of the proposal on the setting of the listed buildings, and because future reserved matters submissions could ensure that specific issues of typology, size and design of the proposals be appropriately considered to partially mitigate this harm.

57. The public benefits of the proposal include the provision of significant housing including specialist housing, improvements to traffic congestion through the cross-roads, biodiversity net gain, overall improvements to air quality, and short and long term economic effects. These factors are all expanded upon elsewhere in this Decision. The benefits would clearly outweigh the less than substantial heritage harm. There would be no conflict, therefore, with Paragraph 202 of the Framework.

Housing Land Supply

58. It is common ground that the Council cannot demonstrate a five-year supply of housing land. The degree of the under-supply is disputed, with the Council stating it sits at 4.89 years and the appellant that it is 3.08 years.

Need

59. The Council's Local Plan is more than five years old. In such circumstances, the 'standard method' for calculating housing need should be used. This gives rise to a need for 677 dwellings per annum (dpa). The Housing Delivery Test figures for the Council indicate a delivery rate over the past three years of 97% against this need figure. At the time of the inquiry, this figure was 85%, using the 2020 rather than the recently released 2021 housing delivery figures. It was common ground that an 85% delivery rate did not equate to significant under-delivery and therefore a 5% buffer was required. 5% is the minimum buffer and the recent improvement to housing delivery does not change this. The need is therefore 711 dpa.

60. The Council has consistently under-delivered housing. That remains the case despite the uptick in performance demonstrated by the latest housing delivery figures which, although improved from 85% to 97% over a three year average, are still below the target delivery rate. However, the PPG³ confirms that the 'standard method' accounts for past under-delivery, and, as established above, the level of under-delivery does not even trigger the 20% buffer, as set out at Paragraph 74 of the Framework. I do not, therefore, see a requirement to set a different need figure to that using the 'standard method' + 5% buffer.

Supply

61. The supply of housing is contested. The Framework is clear that for sites to be considered as 'deliverable', there must be a realistic prospect that housing will be delivered on them within five years, and for sites either without permission or with only outline permission this must be demonstrated through clear evidence. I take the disputed sites in turn below:
- The Gas Works - the site is not within the control of a developer, and, although a demolition notice has been served, there is a lack of information on any further remediation works that might be required. Associated with this, there is no clear evidence on timings or numbers of homes that could

³ Paragraph: 031 Reference ID: 68-031-20190722

be delivered on the site. The 70 dwellings should therefore be removed from the supply;

- The Former Plant and Tool Hire – a planning application is imminent, a developer is on board, and no site specific constraints have been highlighted. However, the imminent application is for 42 dwellings, not the 45 as used in the supply calculation, and therefore 3 dwellings should be removed from the supply;
 - Turners Pie Factory – no application has been made, there is no detail or certainty on the quantum of dwellings or clear evidence of material progress on the site. The 100 dwellings should therefore be removed from the supply;
 - Brick Kiln Farm – the site benefits from outline consent but no reserved matters application currently sits with the Council. There is no evidence of current involvement by a housebuilder. The 180 dwellings should therefore be removed from the supply;
 - Brook House - the Council has agreed to remove these 25 dwellings from the supply;
 - Springfield Nursery, Hawkhurst – this is part of the appeal site but it must be looked at independently of this for the purposes of the housing land supply calculation. The appellant has confirmed that the site could be delivered independently of the appeal scheme. It is relatively small scale and has a developer on board. The 24 dwellings should be retained in the supply;
 - Bassetts Farm, Horsmonden – a reserved matters application has been submitted, pre-commencement conditions have been submitted, and a housebuilder is on board. It is of a moderate size that should be able to be built relatively quickly, and no substantive evidence has been provided of any material site constraints. The 20 dwellings should be retained in the supply;
 - Land at Common Road, Sissinghurst - a reserved matters application has been submitted, a housebuilder is on board, it is of a moderate size that should be able to be built relatively quickly, and no substantive evidence has been provided of any material site constraints. The 18 dwellings should be retained in the supply; and,
 - Triggs Farm, Goudhurst – the site has outline consent but this is due to expire shortly. There is no concrete evidence of housebuilder involvement or on progress on the site. The 11 dwellings should therefore be removed from the supply.
62. I do not view the inclusion of a non-implementation discount rate for small scale developments to be justified, because these sites all benefit from full planning permission and there is no clear evidence that they would not be delivered within the five years. Moreover, the housing need figure already includes a buffer.
63. Prior notification applications are a very simple process which leads to deemed consent in the absence of a decision to the contrary by the Council. There is not a second stage of 'permission' to be granted and I treat them in a similar

way to full planning permissions. There is no substantive evidence before me that the identified supply from this category would not be delivered within five years. The dwellings from this process should therefore remain in the supply calculation.

64. The windfall rates adopted by the Council are cautious, with a 20% reduction on historic rates for small sites and a substantial reduction from 139 dpa to 25 dpa for large sites. I view these assumptions as reasonable and robust.

Conclusion

65. The five year need for housing, including the 5% buffer, is 3,554 homes. The Council's evidence is that the supply is 3,504 homes. However, as set out above, I have discounted 389 of these homes from the supply. The supply figure for the purposes of this appeal is therefore 3,115 dwellings. This equates to a housing land supply of 4.38 years.

Neighbour Letters

66. Several hundred letters of objection were received. The letters of objection raised various concerns in addition to those addressed above, including: the adverse effect on the living conditions of neighbours by reason of noise, disturbance, overlooking, loss of privacy, and overshadowing; inability of existing infrastructure to cope with the new residents, for example doctors surgeries are oversubscribed, public transport is strained, local schools are full; there is no parking in the village to sustain this volume of additional residents; and, land ownership issues.
67. Where relevant, I have dealt with these issues in my Decision. I particularly note that a s106 Planning Obligation (see below) secures mitigation for many of the effects on local infrastructure. No substantive evidence has been provided of unacceptable harm to living conditions. The proposal would provide car parking and this would be controlled by the submission of future reserved matters and/or condition discharge applications, leaving the Council in control of securing suitable parking provision so that there would not be unacceptable levels of overflow car parking.
68. Letters of support have also been received, particularly noting the improvements to Cranbrook Road from the proposed stopping-up of the road. I have covered this elsewhere in my Decision.

PLANNING OBLIGATION

69. A draft s106 Planning Obligation was considered in detail at the inquiry. Following this, a final, agreed document (the s106) was engrossed on 21 October 2021.
70. The s106 secures 35% of the dwellings to be affordable housing, of which 60% would be social rented units and 40% intermediate units (where the rent does not exceed 80% of the market rate). It also secures up to eight self-build plots on site, subject to a marketing period of 18 months, after which, in agreement with the Council, these plots can revert to normal units.
71. The s106 further secures open space of at least 4.6 ha, including a public park of at least 2.8 ha, several play areas, and a nature trail.

72. The provision of necessary community facilities is secured. This would either be through a community facility as part of the proposal or, through the use of a contribution towards either a community centre, a sports pavilion or upgrade works, or playing pitches or upgrade works.
73. A number of further measures and contributions are proposed and secured through the s106. However, as these are required to mitigate the effect of the proposal on community facilities, health facilities, traffic congestion generated by the proposal, waste facilities, and education facilities, they attract no positive weight in the planning balance.

THE AONB AND EXCEPTIONAL CIRCUMSTANCES

74. In this section, and the next, I have adopted the following ascending order of weighting – limited, moderate, significant, substantial, great.
75. The proposal comprises major development in an AONB. Paragraph 177 of the Framework states that such development should only be allowed in exceptional circumstances and where it is in the public interest. Determining this should include an assessment of the following:

a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy

76. Providing more housing is one of, if not the most important, aspiration of local and national planning policy. As established above, the Council is failing to meet its housing land supply target. The shortfall is relatively modest but still equates to 439 dwellings. Addressing this shortfall and providing more housing is therefore important. In this regard, the Council has started to undertake measures, including using additional resources to discharge planning conditions and to negotiate s106 agreements. It has also engaged Homes England to investigate how they could help to progress stalled sites. However, there is not yet any substantive evidence that these measures are materially improving housing land supply. In this context, the appeal proposal for up to 374 homes would be a significant contribution to supply, and I place substantial positive weight on the proposed housing.
77. The s106 secures that 35% of the dwellings would be affordable, at a ratio of 60% social rented and 40% intermediate. The proposal therefore meets the requirements of Policy CP6 of the CS, in this regard. Policy H3 of the emerging LP sets a target of 40% of the total number of proposed dwellings be affordable. However, this is an emerging policy that will be the subject of further consultation. The evidence base informing the policy is more up-to-date than the evidence base informing the adopted policy. However, it has yet to be fully tested at an Examination-in-Public and cannot be relied upon fully. No compelling reason has been provided that the proposal needs to provide more than the adopted policy requirements in this regard. I therefore place substantial positive weight on the proposed affordable housing provision.
78. Up to eight plots for self-build housing are proposed, as secured through the s106. A need for 518 self-build units has been identified and is agreed between the Council and the appellant. The provision of self-build units to meet demand is encouraged at Paragraph 62 of the Framework. However, the Council do not have a forensic assessment of how this need is being met, pending further

research, and convincing evidence of the completion of self-build units has not been provided. However, only eight units are proposed. I therefore place significant positive weight on the proposed self-build housing provision.

79. The description of development includes reference to a C2/C3 care home. A condition could secure this provision, including a restriction on the age of occupants and the number of units to be provided. The appellant has indicated their willingness to accept such a condition. Subject to this condition, the provision of such specialist accommodation would provide useful accommodation in its own right and would also free-up some existing normal housing by allowing existing standard class C3 accommodation to be vacated and placed back into the market. The provision of elderly people's housing to meet demand is encouraged at Paragraph 62 of the Framework. I place significant positive weight on this provision.
80. The proposal includes the new road, which is a benefit that goes beyond mitigating its own traffic generation. However, development is not currently blocked by the traffic congestion issues at the cross-roads. Since 2017, 153 dwellings have been consented in Hawkhurst. Further dwellings are currently being considered through applications and appeals with no highways reason for refusal. Alternative mitigation measures to a new road could also unlock further development potential in the area, as shown by the Turnden case⁴ where improvements to signals at the cross-roads have justified the traffic implications of the 165 proposed new homes. However, it is clear that development of the scale proposed by the appeal, or similar, would not be possible in this area without substantial mitigation, such as the new road detailed in the appeal proposals. The improvements to traffic congestion over and above the traffic generated by the proposals would also inevitably unlock development potential on other sites in the area at some point, even if that stage has not yet been reached. I therefore place significant positive weight on the proposed traffic congestion benefits from the new road and associated works.
81. Permitting the proposal would provide a boost to the local economy, both in the short-term through construction, and in the long-term through the jobs to be created at the health centre and care home, and also the expenditure by future residents in the local economy. There would be some theoretical loss of employment opportunities from the golf club, if it were to re-open, and also actual loss of existing employment from the other community and business interests which currently operate on the site such the squash courts and the market that is held in the car park. However, there would be an overall benefit to the local economy due to the scale of the proposal. I place moderate positive weight on this.

b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way

82. The Borough is heavily constrained by the AONB (70% of the Borough) and to a lesser extent by the Green Belt (5% in addition to the AONB land). The Council acknowledge that some land within the AONB will need to come forward to meet its housing need. It has allocated 82 ha of such land in its emerging LP.

⁴ Land Adjacent To Turnden, Hartley Road, Cranbrook, Kent TN17 3QX; Ref 20/00815/FULL

83. I acknowledge the difficulties placed on the Borough through the AONB and Green Belt designations. However, the Borough does also include significant areas that are not so constrained and may be more suitable for development, such as in and around Tunbridge Wells. The remaining 25% of the Borough equates to thousands of hectares most of which is more suitable for large scale development, whether allocated or not, as well as the 82 ha of land identified in the AONB for smaller scale, but still cumulatively substantial, development.
84. I am satisfied that development of the scale proposed in Hawkhurst would not be possible without improvements to traffic congestion at the cross-roads. Although amendments could be made to the cross-roads themselves, these would not improve traffic congestion to the extent that development of the scale proposed would be acceptable in traffic terms. There are no alternatives before me to the new road proposed as part of the proposed development. However, the proposal is for large scale development that would harm the AONB. The correct forum for establishing the need for such development is through a comprehensive review of the entire Borough, not just Hawkhurst, as is being carried out as part of the emerging LP. Development of the scale proposed, and which would harm, the AONB should not be granted permission without such an exhaustive and comprehensive review process.
85. For example, the comprehensive review process may conclude that only smaller scale development is required in and around Hawkhurst as part of the Borough's overall strategy for meeting its housing requirements. As it stands, this is precisely the approach adopted by the Council and the appeal site is not allocated for housing in the emerging LP, save for a small part of it where it overlaps with the Springfield Nurseries site. This document has limited weight at this time, but it still provides an important outline of the Council's emerging approach to allocating sites in the AONB.
86. Overall, in the absence of a fully comprehensive or detailed Borough-wide assessment to justify departing either from this emerging site allocation position, or simply to justify the identified harm to the AONB from the proposal, it has not been demonstrated that there are not suitable alternatives to meeting the Council's identified housing requirement.

c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated

87. As established above, there would be harm to the AONB, both through harm to the character and appearance of the appeal site, and also through harm to some of the key characteristics of the AONB.
88. At the detailed design stage, landscaping and the treatment of boundaries could partially mitigate the harm, and this could be secured by condition and through the reserved matters stages. There would also be an improvement over time, if managed correctly, to the proposed landscaping as the trees and hedgerows matured. However, this could not overcome the fundamental harms caused by the large scale proposed development and extensive engineering works required for the provision of 374 homes and a new road, amongst other works.
89. The harm from the 'northern parcel' would be greater than that from the 'southern parcel'. I have given consideration to whether a split decision could

be issued, with only the 'southern parcel' and the new road to be approved. However, there would still be harm from the 'southern parcel' works, particularly from the proposed road. In addition, both parcels of land are required to be developed to cross-fund the construction of the new road, and a permission solely for the 'southern parcel' would not be viable.

Overall

90. I recognise that the identified benefits in relation to housing matters, both directly from the proposed housing and in terms of the benefits from the new road, would clearly be in the public interest. However, the reality is that the circumstances of the housing shortfall, including challenges around providing for affordable housing, self-build, custom-build, and care home housing, are not unusual. The other benefits identified are commonplace and do not add significantly to the balancing. Overall, my view is that these considerations do not together present exceptional circumstances. I conclude that when they are balanced against the harm to the landscape and scenic beauty of the AONB that I have identified, a development of this scale in this location would not be in the public interest. Consequently, the proposal does not comply with Paragraph 177 of the Framework.

PLANNING BALANCE AND CONCLUSION

91. The starting point for reaching a conclusion on the provisions of Paragraphs 176 and 177 of the Framework is that *great weight* should be given to conserving and enhancing the landscape and scenic beauty of an AONB, which has the highest status of protection in relation to these issues. As such, the scale and extent of development within these areas should be limited, and planning permission should be refused for major development other than in exceptional circumstances.
92. There would be benefits from the proposal. These include: substantial benefits from the housing and affordable housing; significant benefits from the proposed self-build housing, care home, and improvements to traffic congestion over and above mitigation at the cross-roads from the new road; moderate benefits to the local economy, and from the proposed publicly accessible areas of open space which would benefit the wider community as well as the new residents; and, limited benefits from the overall improvement to air quality, the upgrade to the nearby footpath WC172 which would benefit the wider community as well as the new residents, and from the biodiversity net gain.
93. Set against that, not only have I found harm to the character and appearance of the area generally but more significantly, I have found that the development would fail to preserve or enhance the landscape and scenic beauty of the AONB. Whilst I have recognised the efforts to moderate these impacts through layout and green infrastructure, this would not significantly address the effects of the degree of physical and visual intrusion that I have identified.
94. The Council cannot demonstrate a five year housing land supply. As a consequence, the policies most important to my determination of the appeal are out of date. However, Paragraph 11di) of the Framework sets out that where the application of policies within the Framework that protect areas of particular importance provide a clear reason for refusing the development, then the so called 'tilted balance' in favour of granting planning permission, which

would otherwise have been engaged, does not apply. Therefore, in light of Footnote 7, given my conclusion in respect of the AONB, this case falls to be determined on the ordinary unweighted planning balance, to which I now turn.

95. The benefits in this case, substantial though they are, are not sufficient in this instance to outweigh the great weight to be afforded to the harm to the AONB, and the other harms set out above.

96. I therefore conclude, on balance, that the appeal be dismissed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

For the Local Planning Authority:

Emaline Lambert, of Counsel. She called:

Kevin Hope MRTPI	Principal Planner, Tunbridge Wells Borough Council
David Scully CMLI	Landscape and Biodiversity Officer, Tunbridge Wells Borough Council
Tanya Kirk CMLI	Director, Hankinson Duckett Associates
Nick Ireland	Director, Icen Projects
Joanna Kirk	Director, Kairus Ltd

For the Appellant:

Hashi Mohammed, of Counsel. He called:

Paul Lulham CMILT	Director, DHA
Jonathan Buckwell MRTPI PIEMA	Director, DHA
Eleanor Trenfield CMLI	Director, ETLA
Helen Lucking MIEEM BES	Director, Corylus Ecology
David Bedford MRTPI	Director, DHA

For the Hawkhurst Parish Council and The Campaign to Protect Hawkhurst Village:

Philip Robson, of Counsel. He called:

Clare Escombe	Chairman, Hawkhurst Parish Council
Mike Hibbert	Managing Director, TTHC

Interested Parties:

Peter Brudenall	Local resident
John Hunt	Local resident
Simon Spanswick	Local resident

ANNEX B: DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY

- ID1 HDA3 Overlay Referencing Tree Survey Data Drawing, Ref 0139-L022 Rev 2
- ID2 Trees To Be Removed As a Result of the Relief Road Schedule
- ID3 Photograph Schedule
- ID4 Highways England Email, dated 19 August 2021
- ID5 Statement by Peter Brudenell
- ID6 Presentation Slides by Peter Brudenell
- ID7 Planning Committee Report for Turnden Planning Application Ref 20/00815/FUL, dated 27 January 2021
- ID8 Mr Hunt Various Submissions
- ID9 Highways England Email, dated 23 September 2019
- ID10 Highways England Email, dated 22 July 2020
- ID11 Rother District Council Objection, dated 8 January 2021
- ID12 Essex County Council Objection, dated 13 August 2020
- ID13 Statement of Common Ground between Kent County Council and Vectos, Turnden Phase 2
- ID14 ES Volume 2, Appendix 4.1 Transport Assessment by DHA, Turnden Phase 2
- ID15 Hansard Quote from the Minister of Housing Regarding the Housing Delivery Test, dated 6 September 2021
- ID16 Email Regarding Delivery Timescales for The Gas Works Site, from Richard Hopkinson Architects, dated 26 August 2021
- ID17 Email Regarding Application Timescales for the Former Plant & Tool Hire Site, from Ridge, dated 31 August 2021
- ID18 Landscape Betterment Plan by LDA Design Ref 6958_SK_017E, Turnden Phase 2
- ID19 TWBC Infrastructure Delivery Plan, dated March 2021
- ID20 Simon Spanswick Speaking Notes
- ID21 Final Biodiversity Position Statement, dated 13 September 2021
- ID22 Highways Definition Plan, by Kent County Council
- ID23 Visibility Splay Plan
- ID24 Site Assessment Sheets for Hawkhurst Parish, Strategic Housing and Economic Land Availability Assessment – Regulation 18 Consultation, dated July 2019
- ID25 Peter Brudenell Email, dated 17 September 2021
- ID26 ES Volume 2, Appendix 2.1 Development Specification, dated April 2020