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## Tunbridge Wells Borough Council Local Plan - Hearing Statement

Project: Tunbridge Wells Borough Council Local Plan 2020 - 2038

Subject: Hearing Statement
On behalf of: Mr and Mrs Tucker

Date: June 2022

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## **CONTENTS**

A.	SUMMARY AND CONCLUSION	3
B.	RESPONSE TO MATTER 7, ISSUE 5 QUESTIONS	4

### A. SUMMARY AND CONCLUSION

- 1. This Hearing Statement to the emerging Tunbridge Wells Local Plan 2020-2038 ("the Local Plan") has been prepared by DLBP on behalf of Mr and Mrs Tucker, residents of Bayford House, Sandhurst, and Mr and Mrs Leach, residents of Sharps Hill Oast, Queen Street, Sandhurst.
- 2. This statement primarily relates to the allocation at AL/SA2 of the Local Plan, which concerns the land at Sharps Hill Farm, Queen Street, Sandhurst, Cranbrook, Kent TN18 5HR ("the site"). The site is proposed to be allocated for residential development within Royal Tunbridge Wells Council's ("the Council") emerging Local Plan.
- 3. A Regulation 19 Representation was made in June 2021, which objected the Council's overall strategy for Sandhurst and in particular to the proposed allocation at AL/SA2 and
- 4. It remains our position that the Local Plan is unsound as it has not been positively prepared, will not be effective, is not justified and is inconsistent with national policy. With respect to the proposed allocation at AL/SA2, this has ignored recent and pertinent evidence in the form of a decision by a Planning Inspector in November 2021 to reject an outline application to develop this site for up to 16 units.
- 5. The Inspector's decision is notable in that the Council did not have a full five year housing land supply, rendering the restrictive policies in the Local Plan as out-of-date and triggering the presumption in favour of sustainable development. But even with the presumption engaged and the weight afforded to the benefits to the additional housing proposed being significant, the Inspector judged that the development of this site would:
  - cause harm to designated heritage assets; and
  - cause permanent harm to the intrinsic character and beauty of the countryside and the landscape and scenic beauty of the AONB which has the highest status of protection in relation to these issues.
- 6. This decision has not been reflected in the emerging Local Plan and it must be. It demonstrates that there is no possible way that this site can be developed without causing harm to designated heritage assets and having a significant and permanent harm on the character and beauty of the countryside and the landscape and scenic beauty of the AONB. The effect of this in our view is that the site must be removed from the emerging Local Plan to ensure that it is positively prepared, will be effective, is justified and is consistent with national policy.
- 7. This Hearing Statement responds to questions Q4 Q8 as part of Matter 7, Issue 5 Sandhurst, of the Inspector's Matters, Issues and Questions for Stage 2 of the Local Plan examination.

### B. RESPONSE TO MATTER 7, ISSUE 5 QUESTIONS

# Q4. What is the current position regarding planning application Ref 19/01493/OUT?

- 8. Outline planning application 19/01493/OUT for the 'residential development of up to 16 no. dwellings with associated parking, amenity and landscaping' at Site AL/SA2 was made to the Council in June 2019. The application as originally made was for the development of the site for 31 dwellings. During the course of the application, the scale of the development was reduced to 16 dwellings.
- 9. The application was in outline with matters of the layout, scale and appearance reserved. But an indicative site plan was submitted with the application indicating how the 16 dwellings would likely be laid out.
- 10. The application was refused planning permission by the Council on 5 February 2021 due to:
  - causing harm to the High Weald Area of Outstanding Natural Beauty (AONB);
  - causing harm to designated heritage assets;
  - having limited benefits that did not outweigh the harms; and
  - constituting "unsustainable development" not in accordance with the Council's development plan and the National Planning Policy Framework (the Framework).
- 11. The refused application was the subject of an appeal. The appeal was rejected by the Planning Inspector on 5 November 2021. The Planning Inspector's decision is attached at **Appendix 1**.
- 12. The Inspector's view was that the development of the site would lead to harm to the designated heritage asset of Bayford House and to the non-designated heritage asset of Sharps Hill Oast on the 'less than substantial' scale.
- 13. In undertaking the planning balance assessment, the Inspector concluded at paragraph 23 that public benefits of development of the site where the Council could not (and cannot) demonstrate a full five year land supply would not:
  - ...outweigh the public and permanent harm to the intrinsic character and beauty of the countryside and the landscape and scenic beauty of the AONB which has the highest status of protection in relation to these issues. This leads me to conclude that the proposal is unacceptable.
- 14. It is evident from the above that:
  - no planning permission exists for the development of the site and all attempts to develop have failed, with the decision at the local level and the Planning Inspector

- confirming that the harms associated with the development would not outweigh the limited benefits;
- harm would be caused to the designated heritage asset of Bayford House and the nondesignated heritage asset of Sharps Hill Oast through the development of the site. This is clear because the Inspector's decision was based on the original application being in outline, and hence assessing no particular plan but having to take into account the site would be developed; and
- permanent harm to the intrinsic character and beauty of the countryside and the landscape and scenic beauty of the AONB would be caused by the development of the site.

# Q5. How has the proposed area of residential development been established? What is it based on and is it justified?

15. The Council's 'Consultation Statement for Submission Local Plan (Part 2 of 2) Summaries of Main Issues Raised at Regulation 19 October 2021' (CD1.134b) sets out that the site was assessed through the Strategic Housing and Economic Land Availability Assessment (SHELAA) process. Page 354 of the document goes on to state that:

The developable area and site capacity has drawn on the site characteristics and context and is informed by the Council's LVIA [Landscape and Visual Impact Assessment] work.

The refusal of planning reference 19/01493 (currently at appeal) has been considered. However, a different scheme indicating a different scale, site layout/mix of units may be considered suitable for the site.

- 16. However, the allocation site and the proposed area of residential development appear to be based on the refused planning application 19/01493/OUT, and in particular on the 'block plan' submitted with this application originally for 31 dwellings with these spread from the north east of the site through to the south west. The original block plan is attached at **Appendix 2**.
- 17. The allocation of proposed area of residential development has therefore appeared to be predicated on a planning application that was refused at application stage and subsequently dismissed at appeal. The allocation of the site has not been informed by the justification of the area in the Council's evidence base, and has only been brought forward as an allocation due to the application at the site.
- 18. An extension of the settlement edge at the allocated site would entail an extension of the Limits to Built Development (LBD) boundary. At criteria (d) of the 'LBD Topic Paper for Pre-Submission Local Plan (February 2021)' (CD.3.82), it requires that an extension of LBD boundaries would "have no adverse impact on designated areas of national and local landscape archaeological, geological, ecological or heritage importance".

- 19. In the LBD Topic Paper the Council note criteria (d) as a pertinent consideration at site AL.SA2, suggesting that it supports the allocation of the site. The proposed residential development would significantly encroach on the rural setting and residential amenity of the existing heritage assets Bayford House and Sharps Hill Oast, both of which share a considerable length of boundary with the proposed site. This, among other considerations, has been acknowledged by the Council, and subsequently by a Planning Inspector at appeal, where it has been confirmed that development on the site would result in adverse impacts on the AONB and designated heritage assets.
- 20. It cannot therefore be considered that criteria (d) is satisfied. By allocating the site the Council are therefore in direct contradiction with the SHELAA and the criteria for LBD Extensions. The allocation for residential development must be considered unjustified.
- 21. The 'Consultation Statement for Submission Local Plan (Part 2 of 2)' responds to objections raised for the allocated sites in the emerging Local Plan. The main issues raised for Policy AL/ SA2 regarded the development in the AONB, the visual and heritage impacts of development, and the site's inclusion in the Limits to Built Development (LBD). Responding to this objection, the Council stated that:

It is considered appropriate to retain the site allocation and to incorporate it into the proposed LBD for Sandhurst, as per the LBD methodology.

22. This cannot constitute a sufficient response to matters raised at Regulation 19 stage, and further represents a lack of justification for residential development at the site.

# Q6. What is the justification for requiring development in the south-west corner of the site to be 'low density'? Is it clear to users of the Plan what is required here?

23. Paragraph 5.782 of the Submission Version Local Plan states that (emphasis original):

The <u>site lies within the AONB and the</u> wider landscape to the north, south, and west is rural in character, with some loosely-spaced dwellings fronting Queen Street to the west of the site.

24. The Council's LIVA (CD3.96i) notes that:

There are glimpses of trees tops within the south-western part of the site, from the footpath located at a local high point to the south-west of the site. The listed dwelling to the north-west of the site is visible from this viewpoint location.

The southwestern field has some relationship with the agricultural landscape to the south.

- 25. Under proposed mitigation measures, the LVIA suggests these induce the requirement to "Promote a soft edge to the south of the settlement".
- 26. From a landscape perspective, it is clear that the Council recognise the potential for the harm to the site and wider area, with particular focus on the higher density of the southern

edge. The Council's approach is that this impact can be mitigated through requiring development in the south-west corner to be low density. However, this assessment and conclusion was made before the Planning Inspector's decision on the appeal. It is important to note that whilst the application was in outline, it was supported by an indicative site planthis was amended for the 16 unit scheme. Unlike the original 31 unit scheme, the revised indicative plan (attached at **Appendix 3**) shows that no development would take place in the south on the site. Rather, the appeal scheme was based on the south of the site being a mixture open space and broadleaf woodland. The Planning Inspector's assessment of the impact of the proposed development is set out in paragraphs 8 to 12. These set out that (emphasis added):

The built up area of Sandhurst adjoins the site. The stream, which broadly forms the site boundary, forms a clear division between the extent of residential development on Stream Pit Lane and the undeveloped land of the majority of the appeal site.

Furthermore, there is rural land to the south and west, including the historic farm buildings of Sharps Hill Oast and Bayford House. On the opposite side of Queen Street there is a transition from the built up part of Sandhurst to the countryside. Taken together these surroundings contribute to the land's pastoral setting. As such, the site clearly appears as being within the countryside. Additionally, it lies outside the Limits to Built Development of Sandhurst and is therefore in the countryside for the purposes of the development plan.

The proposed development would bring a large residential development to this rural site. This would result in a significant loss of the open, green character of the land. Consequently, this would harmfully erode the positive contribution this site makes to the landscape and scenic beauty of the AONB and significantly erode the intrinsic countryside character and beauty of this land.

Significant boundary treatment and planting is proposed, albeit that landscaping would be a reserved matter. Nevertheless, given the number of dwellings, even with notable soft boundary treatment, these are likely to be perceived from within the AONB including from Queens Street, the nearby public right of way and houses, particularly in the winter months. As such this harm would be experienced. Given the character of the site and its surroundings, the proposed development would not form an obvious infill between areas of built development.

Consequently, the proposed development would have a harmful effect on the character and appearance of the AONB and the countryside. Therefore, it would be contrary to Core Policies 4 and 14 of the Tunbridge Wells Borough Core Strategy June 2010 (the Core Strategy) and Policies LBD I, EN I and EN25 of the Tunbridge Wells Borough Local Plan March 2006 (the Local Plan). Together these policies seek to conserve and enhance locally distinctive character with specific reference to the AONB, landscape character and the quality of the countryside amongst other things.

- 27. The Planning Inspector's decision is clear that even with the south of the site being undeveloped (and so presumably meeting the somewhat opaque requirement to be 'low density'), the development would still be harmful to the character of the countryside and to the AONB. In these terms, the Council's requirements for the development cannot be achieved.
  - Q7. Does site allocation AL/SA2 represent major development in the AONB, and if so, is it justified? How have the potential impacts of development on the character and appearance of the area, including the AONB, been considered as part of the plan-making process?
- 28. Case law confirms that the following must be considered when defining a 'major development':
  - not subject to a rigid set of requirements, and as such a matter for the decision maker;
  - must have regard to nature, scale and setting; and
  - must consider the potential adverse impacts on the purposes of the area.
- 29. Whilst it is acknowledged that in relative terms a development of up to 15 dwellings is small, in the context of the size for the settlement and the potential impacts, it is considered that the allocation could be classified as a major development.
- 30. Whether the allocation is classified as a major development or not, the Council has not given appropriate consideration to the potential adverse impacts on the character of the area or the AONB. The High Weald AONB is defined by its dispersed historic settlements and peaceful, farmed landscapes of pasture and open arable fields. The open rural farmland characteristic is pertinent to the scenic beauty of the AONB.
- 31. The Council's 'Consultation Statement for Submission Local Plan (Part 2 of 2) Summaries of Main Issues Raised at Regulation 19 October 2021' sets out that:

There remains a need, however, for great weight to be given to conserving and enhancing the AONB, which has been a consideration in the decision to allocate the site.

- 32. We agree with the first part of this sentence, but do not consider that the second part is accurate.
- 33. Firstly, the evidence that confirms that harm will be caused to the AONB through the development of the site was identified at the planning application stage. Paragraph 10.54 of the report prepared by officers for the Planning Committee set out that:

Any development at this site would significantly reduce the overall openness of the area which is considered to contribute positively to its character. The site forms part of an important approach to the village of Sandhurst within an attractive rural landscape.

- 34. The Planning Committee considered the nature of the harms of the 16 unit scheme on the AONB and ultimately judged that they would be too high, thus refusing the application.
- 35. The Planning Inspector also took this view, with the relevant paragraphs on this matter referred in response to the previous question. Paragraph 23 of the Planning Inspector's decision concluded by noting the "permanent harm to the intrinsic character and beauty of the countryside and the landscape and scenic beauty of the AONB which has the highest status of protection in relation to these issues."
- 36. The developer's Regulation 19 Representation undertook an assessment, based on the 16 units proposed, to address the impacts on the AONB. A Zone of Theoretical Visibility (ZTV) was produced, which is suggested to demonstrate that the site is far from highly visually exposed in the landscape, and as such there would be limited impact on the AONB. This assessment is the same document as was submitted with the original application which was refused and subsequently dismissed at appeal, where it was concluded that the impact on the AONB outweighed any considerations in favour of the application.
- 37. No new evidence has been presented by the developer to address the concerns of the Council's Planning Committee, and shared by the Planning Inspector. Rather, the Planning Inspector's decision is clear and unequivocal evidence that there will be harm to the countryside and AONB from the development of the site, and this harm cannot be addressed through an alternative layout or design. In fairness to the Council, this is evidence that was not available at the time the Local Plan was submitted because the appeal decision followed this. But the appeal has now been determined and the conclusions of the Planning Inspector must be considered and respected. The effect of this is that the allocation must be removed from the Local Plan.
  - Q8. What potential impacts will the proposed allocation have on the significance of designated heritage assets, having particular regard to the Sandhurst Conservation Area and the Grade II listed Bayford House? How have heritage assets been taken into account in the preparation of the Plan?
- 38. As has been noted above, the Planning Inspector identified the impacts the development on the site would have on the designated heritage assets, noting that the proposal would "fail to preserve or enhance the setting of Bayford House and Sharps Hill Oast". These harms were based on:
  - the planning application being in outline but for up to 16 dwellings; and
  - the indicative site plan indicating a more constrained layout with larger areas of open space and less development closer to Bayford House and Sharps Hill Oast.
- 39. As noted above, the 'LBD Topic Paper for Pre-Submission Local Plan (February 2021)' requires that an extension of LBD boundaries would "have no adverse impact on designated"

Hearing Statement

areas of national and local landscape archaeological, geological, ecological or heritage importance". As the Planning Inspector has found that a development of up to 16 units would have an adverse impact on heritage assets, it is clear that this criteria has not been satisfied.

### **Appeal Decision**

Site Visit made on 22 September 2021

### by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 05 NOVEMBER 2021** 

# Appeal Ref: APP/M2270/W/21/3271259 Sharps Hill Farm, Queen Street, Sandhurst, Cranbrook, Kent TN18 5HR

 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 Jarvis Homes against the decision of Tunbridge Wells Borough Council.
- The application Ref 19/01493/OUT, dated 9 November 2020, was refused by notice dated 5 February 2021.
- The development proposed is residential development of up to 16 no. dwellings with associated parking, amenity and landscaping.

#### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

- 2. Outline planning permission is sought but with access to be considered at this stage. I have determined the appeal on this basis.
- 3. Reference is made to the Pre Submission Local Plan which allocates the appeal site for 10-15 dwellings. However, this plan has not been independently examined and there may be unresolved objections to this policy. As such, I am not satisfied that the policies will be adopted in the form they are put to me. Therefore, limited weight is afforded to this emerging plan.
- 4. A Unilateral Undertaking (UU) has been provided. This will be dealt with in more detail later in this decision.

#### **Main Issue**

- 5. The main issue is the effect of the proposed development on the character and appearance of the area with particular respect to:
  - the countryside setting and the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB)
  - the setting of nearby heritage assets including the Sandhurst Conservation Area (CA), Grade II listed Bayford House and the non-designated heritage asset Sharps Hill Oast.

### Reasons

Character and Appearance - AONB and countryside setting.

6. The majority of the appeal site is open land with grassland, hedging, mature trees and a limited number of small rural outbuildings. This results in a scenic

verdant rural appearance to the land. The site is overgrown but its recent use as a paddock is evident. There is a single storey dwelling with a small domestic garden on the north-westerly side of the site which is previously developed land. However, given its modest size and the nature and extent of the separation from the village of Sandhurst, it appears as an individual building within the rural area.

- 7. The AONB, and the Hawkhurst Wooded Farmland Landscape Character area, are characterised by dispersed historic settlements, ancient routeways, and a peaceful, managed, farmed landscape of pasture and open arable fields. The open rural farmland characteristics described are distinctive and distinguishing features of the landscape and scenic beauty of the AONB in this respect.
- 8. The built up area of Sandhurst adjoins the site. The stream, which broadly forms the site boundary, forms a clear division between the extent of residential development on Stream Pit Lane and the undeveloped land of the majority of the appeal site.
- 9. Furthermore, there is rural land to the south and west, including the historic farm buildings of Sharps Hill Oast and Bayford House. On the opposite side of Queen Street there is a transition from the built up part of Sandhurst to the countryside. Taken together these surroundings contribute to the land's pastoral setting. As such, the site clearly appears as being within the countryside. Additionally, it lies outside the Limits to Built Development of Sandhurst and is therefore in the countryside for the purposes of the development plan.
- 10. The proposed development would bring a large residential development to this rural site. This would result in a significant loss of the open, green character of the land. Consequently, this would harmfully erode the positive contribution this site makes to the landscape and scenic beauty of the AONB and significantly erode the intrinsic countryside character and beauty of this land.
- 11. Significant boundary treatment and planting is proposed, albeit that landscaping would be a reserved matter. Nevertheless, given the number of dwellings, even with notable soft boundary treatment, these are likely to be perceived from within the AONB including from Queens Street, the nearby public right of way and houses, particularly in the winter months. As such this harm would be experienced. Given the character of the site and its surroundings, the proposed development would not form an obvious infill between areas of built development.
- 12. Consequently, the proposed development would have a harmful effect on the character and appearance of the AONB and the countryside. Therefore, it would be contrary to Core Policies 4 and 14 of the Tunbridge Wells Borough Core Strategy June 2010 (the Core Strategy) and Policies LBD1, EN1 and EN25 of the Tunbridge Wells Borough Local Plan March 2006 (the Local Plan). Together these policies seek to conserve and enhance locally distinctive character with specific reference to the AONB, landscape character and the quality of the countryside amongst other things. They also seek to concentrate development within the limits to built development.

### Character and Appearance - Heritage

- 13. The significance of the Sandhurst CA as a whole, appears to derive from the traditional layout and buildings within the historic settlement. Beyond the CA boundary is an area of more modern development before reaching the open rural land which surrounds the village, including the appeal site. However, given the distance from the CA boundary, the nature of its separation with a large area of housing separating the two, the appeal site does not contribute to the significance of the CA and does not form part of its setting.
- 14. Bayford House is a Grade II listed historic farmhouse, built in the early 17th Century with 19th and 20th century additions. It is listed for its traditional external appearance. Sharps Hill Oast is a non-designated heritage asset and was an outbuilding linked to the farmland associated with Bayford House. Its significance therefore includes its historic use and relationship with the original farmhouse. Sharps Hill Oast consequently has a moderate degree of heritage significance meriting consideration in planning decisions, although it has no statutory protection. Both Bayford House and Sharps Hill Oast are now in residential use with separate accesses and grounds, although due to their proximity and boundary treatment these two properties are still experienced together.
- 15. Given their associations with the historic farm on this site, the surrounding open land makes a positive contribution to the appreciation of these properties' historic function. The farm use has since been lost, however the farmhouse appearance of the listed building and the appearance of the Oast are nevertheless related to their traditional open setting.
- 16. The proposed development would introduce a considerable amount of built development closer to Bayford House and Sharps Hill Oast, undermining the openness of their traditional farmstead setting. However, the proposed development would not result in the direct loss of any of the historic materials or architecture in place on these buildings. The scale of the impact on these heritage assets would therefore be minor.
- 17. Therefore, the proposal would fail to preserve or enhance the setting of Bayford House and Sharps Hill Oast, contrary to Core Policy 4 of the Core Strategy which requires the conservation and enhancement of heritage assets. However, there would be no conflict with Policy EN5 of the Local Plan, as I have not identified any harm to the setting of the CA.

### Heritage Balance

- 18. The Framework advises that heritage assets are irreplaceable and should be conserved in a manner appropriate to their significance and that any harm requires clear and convincing justification. In terms of the Framework the harm to Bayford House would be less than substantial. Nevertheless, this is a matter of considerable weight and importance. Paragraph 202 of the Framework requires me to weigh this harm against the public benefits of the scheme.
- 19. The proposed development would provide 16 dwellings which would contribute to the Government's aim to significantly boost the supply of housing, and 40% of the dwellings would be affordable which exceeds the 35% requirement set out in Core Policy 6 of the Core Strategy. This would make increased residential use of this site and is said to represent the optimum viable use. Given the scale

- of the proposed development, and the provision of an indicative 6 affordable housing units, the public benefits associated with the development are moderate.
- 20. Accordingly, taking all the above into account, these moderate benefits would outweigh the minor harm to the setting of the Listed Building. As such, the appeal scheme would be in accordance with the Framework in this regard.

### **Planning Balance**

- 21. The Council cannot demonstrate a 5 year supply of deliverable housing sites, and it states that in April 2020 it had a 4.83 year supply. Therefore, notwithstanding whether policies relating to the Limits to Built Development are out of date, paragraph 11(d) of the Framework is engaged. However, as set out above, the application of policies relating to an Area of Outstanding Natural Beauty provides a clear reason for refusing the development proposed. This is the case notwithstanding my conclusion in relation to heritage matters. Consequently, the presumption in favour of sustainable development does not apply in this case.
- 22. A UU is provided which secures contributions towards Children's Recreation, Pavilion Car Park, Community Learning, Primary Education, Waste and Youth Services. Some of the facilities to be upgraded would be used by the wider public. Nevertheless, any planning obligation would be required to mitigate the impacts of the proposed development and associated population increase. As such these matters are neutral in the balance. Even if the site were to fall into neglect, its largely undeveloped green nature would remain and consequently this would be unlikely to be notably harmful.
- 23. The provision of new homes would provide social and economic benefits, particularly as some would be affordable. These factors in the scheme's favour attract moderate weight. However, they would not outweigh the public and permanent harm to the intrinsic character and beauty of the countryside and the landscape and scenic beauty of the AONB which has the highest status of protection in relation to these issues. This leads me to conclude that the proposal is unacceptable.

#### **Conclusion**

24. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

H Miles

**INSPECTOR** 



**PLANNING** 

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