



## Appeal Decision

Inquiry Held on 1, 2, 3, 4, 8 and 10 December 2020

Site visits made on 23 November and 14 December 2020

**by Peter Rose BA MRTPI DMS MCSI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> February 2021

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**Appeal Ref: APP/M2270/W/20/3247977**

**Land at Gate Farm, Hartley Road, Hartley, Cranbrook TN17 3QX**

- 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 Fernham Homes and Mr & Mrs N & S Wickham against the decision of Tunbridge Wells Borough Council.
  - The application Ref: 19/02170/OUT, dated 24 July 2019, was refused by notice dated 18 December 2019.
  - The development proposed is the erection of up to 27 dwellings, with associated access, parking and landscaping (and with all matters except access reserved).
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The appeal relates to an outline application with all matters reserved for subsequent approval except access.
3. Only three plans are submitted seeking formal approval: a 'Site Location Plan' referenced DHA/13382/01 and dated July 2019; a 'Land Use Plan' referenced DHA/13382/04 and dated July 2019 (the land-use plan); and an 'Access Design' referenced 13658-H-01 P2 and dated 9 July 2019. The application also includes an 'Illustrative Proposed Site Layout Plan' referenced DHA/13382/03 and dated July 2019 (the illustrative layout) and which, whilst not determinative, has helped inform my reasoning.
4. The appeal is supported by an agreement between the appellant and local planning authority made pursuant to section 106 of the Act and dated 17 December 2020.
5. The original description of the development refers to parking and landscaping but these remain as reserved matters to be approved and not forming part of this submission. As agreed with the parties at the Inquiry, I consider the appeal on that qualified basis.

## **Main issues**

6. The main issues are:

- the effect of the development upon the character and appearance of the appeal site and its surroundings, and including whether or not the scheme would conserve and enhance the natural beauty of the High Weald Area of Outstanding Natural Beauty (the AONB);
- whether or not the proposal would preserve the significance of nearby listed buildings;
- whether or not the scheme would provide safe and suitable access for all users.

7. Further issues identified in the Council's reasons for refusal included whether or not the development would make appropriate contributions in relation to:

- biodiversity;
- education<sup>1</sup>, youth facilities and the Cranbrook Hub;
- affordable housing;
- health facilities.

These matters, and others, are the subject of the s106 agreement and the Council has confirmed its previous objections in those regards are now resolved.

## **Reasons**

### ***Character and appearance and the AONB***

#### *Background*

8. The appeal site comprises some 1.48 hectares of agricultural land located in a prominent position in Hartley at the junction of Hartley Road (the A229) and Glassenbury Road (the B2085). The site falls within the High Weald AONB but beyond the Limits to Built Development (LBD) of Cranbrook as originally defined by the Tunbridge Wells Borough Local Plan Adopted March 2006 (the Local Plan) and updated by the Tunbridge Wells Borough Council Site Allocations Local Plan Adopted July 2016 (the SALP).
9. To the north-east is a substantial post-war housing development at Campion Crescent. On the opposite side of Hartley Road are the Hartley Dyke Commercial Centre, including Hartley Coffee House and Farmshop, Junior's Day Nursery and several other commercial premises. Farmland is overlooked to the south and further open land lies to the north. Some other buildings and dwellings are located on the west side of Glassenbury Road. The surroundings are generally characterised by a mixture of residential and commercial uses but within a wider and predominant setting of farmland, agricultural buildings and open countryside. There are several listed buildings in the vicinity of the appeal site, including Hartley Gate Farmhouse adjacent to the boundary.

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<sup>1</sup> The Council's reason for refusal refers to secondary education but the s106 clarifies the required provision to be for primary pupils

10. Hartley is not a physically distinct settlement in itself with an identifiable centre, and forms part of the wider area of Cranbrook. Historic mapping and other evidence indicate Hartley's origins around the Hartley Road/Glassenbury Road and Hartley Road/Swattenden Lane junctions in proximity to a number of ancient routeways and identify how this vicinity includes the appeal site. It shows that residential development has taken place to the north-east of the appeal site and to the south-west, but that the area around the appeal site itself has remained largely one of fields and farms.<sup>2</sup>

*AONB*

11. The High Weald AONB Management Plan 2019-2024 (the management plan) explains how the AONB is characterised by dispersed historic settlements of farmsteads and hamlets. The High Weald AONB is described as one of best-preserved medieval landscapes in north-west Europe.<sup>3</sup> The management plan sets out the vision of a landscape which retains its distinctive historic landscape character and beauty.<sup>4</sup>
12. The special characteristics of the AONB relevant to its designation are set out in the management plan's Statement of Significance. This defines the natural beauty of the High Weald with reference to five components of character that have made the High Weald a recognisably distinct and homogenous area for at least the last 700 years. In summary, these relate to: geology; dispersed historic settlement; a network of historic routeways; ancient woodland; and to field and heath (small, irregular and productive fields, bounded by hedgerows and woods, and typically used for livestock grazing).<sup>5</sup>

*Other landscape guidance*

13. At national level, the site forms part of National Character Area 122, the High Weald. At county level, the Landscape Assessment of Kent October 2004 similarly identifies Cranbrook within the Kentish High Weald. Its characteristic features are defined to include undulating gentle ridges, a jumble of small-scale fields, overgrown hedges and farm buildings.
14. The more local Tunbridge Wells Borough Landscape Character Assessment Supplementary Planning Document February 2017 (the Borough SPD) identifies the appeal site as part of 'Character Area 4: Cranbrook Fruit Belt'. It defines the settlement pattern of dispersed farmsteads and hamlets and the historic field arrangement as valued features and qualities.<sup>6</sup> The Borough SPD identifies the wider context of the High Weald AONB, and the need for valued features and qualities of the landscape to be conserved and enhanced.

*Significance of farmsteads*

15. Much attention was directed at the Inquiry to the issue of farmsteads. The authority's reasons for refusal do not make any reference to the need to retain the appeal site as a farmstead and nor is any such development plan policy cited to that specific effect.

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<sup>2</sup> See, for example, Mr Chard's Figures MDC 3a-3f and Ms Marsh's statement

<sup>3</sup> CD 5.1 p23

<sup>4</sup> CD 5.1 p5

<sup>5</sup> CD 5.1 p23

<sup>6</sup> CD 4.4 p53

16. Significant historical evidence has been provided, however, all making consistent reference to the site as a farmstead, including Kent County Council's Historic Environment Records.<sup>7</sup>
17. The Council's Local Plan Farmsteads Assessment Guidance for Tunbridge Wells Borough Supplementary Planning Document Adopted February 2016 (the Farmsteads SPD) defines a farmstead in the present tense and as 'the place where the farmhouse and working buildings of a farm are located'.<sup>8</sup> Various buildings have been present on the appeal site in the past, as have farming activities, but the site currently contains no farmhouse or associated working facilities. Whilst the definition states some farms have field barns or out-farms away from the main steading, there is little conclusive evidence as to where any such main steading might recently have been, and the nearby Hartley Gate Farmhouse itself has been in residential use for some considerable time.<sup>9</sup>
18. The appeal site contains no working buildings and the historic mapping shows how previous scattered structures have been eroded over time. The site does contain various disused and derelict agricultural structures in a state of general dereliction. These structures might generally be characterised as ruins and cannot properly and reasonably be interpreted as the current working buildings of a farm within the meaning of the Farmsteads SPD.
19. The direct relevance of the SPD is also qualified by its own terms. Its stated focus is upon traditional farmsteads.<sup>10</sup> It explains how traditional farmsteads with the least change to their overall form and fabric are the most likely to make a positive contribution to landscape character and how the best-preserved groups have the greatest potential to have special significance.<sup>11</sup>
20. I therefore find the SPD of limited direct relevance to the current composition of the appeal site. Nevertheless, the site has been acknowledged historically to have been a farmstead and I accept the likelihood of such a previous status. Further, the planning character of the appeal site is undoubtedly consistent with a wider prevailing pattern of farmstead settlement and of similar accompanying landscape.

#### *Assessment*

21. The Inquiry received significant technical evidence from both main parties relating to landscape and visual effects and reflecting relevant guidance and methodologies recommended by the Landscape Institute/Institute of Environmental Management and Assessment.<sup>12</sup> This included two previous Landscape and Visual Impact Assessments (LVIA's), a further updated submission in evidence by the appellants, critiques of the available submissions by the Council, and further work commissioned by the authority in conjunction with its emerging local plan.
22. The suggestion, as demonstrated by the now jointly agreed Appendix 10 to Mr Scully's proof, is that the appellants and the Council broadly agree the effect

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<sup>7</sup> See Ms Salter's proof

<sup>8</sup> CD 4.7 para 1.12

<sup>9</sup> Para 5.11 of Ms Davidson's proof

<sup>10</sup> CD 4.7 para 1.13

<sup>11</sup> Para 3.23

<sup>12</sup> Guidelines for Landscape and Visual Impact Assessment, Third Edition 2013 (GLVIA3)

that the proposed development would have on landscape character. In the first year post-development, the Council assesses the significance of the impact on the site to be moderate-to-high, and the appellants assess it to be moderate. Over time, the Council assesses the significance to have reduced to moderate, and the appellants assess that it has reduced to minor-to-moderate.

23. The Council offered no evidence to support the contention in its reasons for refusal that there would be a detrimental effect on the landscape setting of Cranbrook, and its landscape and biodiversity witness (Mr Scully) confirmed that the proposed development would not have any such implications.<sup>13</sup>

*i) The site as existing*

24. There is a marked contrast between the character and appearance of the site when viewed from its immediate external surroundings and when experienced from within.
25. Externally, the site is significantly enclosed by hedgerows and other planting and affords only restricted views through. Notwithstanding this historically rural character and setting, the site now outwardly contributes to an area of rather more mixed use and includes a number of modern and distinctly urbanising features. These include the adjacent Campion Crescent development, the built form of the commercial premises opposite, high voltage overhead cables, and other utility works and structures. These features are also set against Hartley Road with its now relatively high volumes of passing vehicular traffic.
26. I agree with the assessment set out in the Council-commissioned Cranbrook LVIA<sup>14</sup> (the Cranbrook LVIA) when stating that Hartley Road, Glassenbury Road, adjacent modern development and the nearby covered reservoir are detracting features.<sup>15</sup> The Intrusion Map set out in the Campaign to Protect Rural England Intrusion and Tranquillity Mapping exercises dated 2007 identifies the appeal site as falling within an 'Urban Area' and with accompanying characteristics of noise and visual disturbance.<sup>16</sup>
27. Internally, however, the character and appearance are far more tranquil and distinctly rural. The site is substantively enclosed and has relatively little public exposure. Aside from the redundant structures in one corner, the site reads as an undeveloped natural field offering a very strong sense of rural calm.
28. Whilst historic features have been lost, remnants of its past significance remain, including hedgerows and its generally unspoilt open rural character. It was also accepted at the Inquiry that only in very recent years had the site ceased to be used for livestock grazing, a feature consistent with one of the defined components of AONB significance.<sup>17</sup> The relatively harsh urban presence of Campion Crescent is also generally less prominent internally than in wider external views from the public domain.
29. The remaining disused and derelict agricultural structures do add to the agrarian character of the site and, whilst not of historic significance in themselves, do offer a poignant reminder of a former use and continuing

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<sup>13</sup> Mr Scully in cross-examination

<sup>14</sup> Tunbridge Wells - Landscape and Visual Impact Assessment of Proposed Allocation Sites within the High Weald AONB, Hankinson Duckett Associates, November 2020 (CD 3.16)

<sup>15</sup> CD 3.16 p12-15

<sup>16</sup> See Mr Chard's Figures MDC-4a and b

<sup>17</sup> CD 6.12 Photo 2 p9 and email from Mr Fleming dated 4 December 2020

character. Nevertheless, they are abandoned, most appear beyond repair, they are generally relatively modern, and offer little value in terms of local vernacular materials or form. Had an agricultural use continued in more recent years, the possibility is they might already have been either cleared or replaced.

30. Notwithstanding the relatively contained dereliction, I find the site overall displays appreciable natural beauty consistent with its significance and status as part of the AONB.

*ii) Proposed built form*

31. All matters of layout and design remain for further formal submission. The illustrative layout indicates possibilities for a courtyard-type development, and the appellants have acknowledged that details could be further evolved in consideration of reserved matters.
32. The Council confirmed at the Inquiry that it had no concerns regarding the proposed density of development.<sup>18</sup> The National Planning Policy Framework (the Framework) advises that planning policies and decisions should support development that makes efficient use of land.<sup>19</sup> Further, where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.<sup>20</sup>
33. Whilst the appeal scheme is presented as an opportunity to reflect the historic settlement pattern and to restore it, the extent of built form as proposed is clearly far greater than previously accommodated within the site. The aerial photography presented by the appellants at Figures MDC-8a-e and the Historic Mapping from 1839 through to 1973 presented at Figures MDC-3a-f all show a significantly less intense pattern of structures occupying a considerably smaller overall built footprint, and so contributing to and maintaining a very materially different planning character to that now proposed.
34. There would also be potential for a fairly exposed opening at the scheme's junction with Hartley Road so potentially affording significant views of urban development leading into the site. It also follows from the extent of built form that the character would be shaped by greater levels of domestic comings and goings compared to enclosed grazing land.

*iii) Proposed mitigation*

35. The development parameters set out in the land-use plan demonstrate how the impact of built form could be mitigated to some degree through appropriate design and landscaping. The scheme would include extensive landscaping and the plan shows how a significant proportion of the site would remain unbuilt.<sup>21</sup>
36. Existing historic boundary hedgerows would be retained and strengthened and possibilities would be considered for reinstatement of previous internal enclosures to support the historic field pattern. Proposed landscaping and

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<sup>18</sup> Mr Hazelgrove in answer to my question

<sup>19</sup> Framework para 122

<sup>20</sup> Framework para 123

<sup>21</sup> Mr Chard in cross-examination

ecology areas would be subject to a landscape and biodiversity management strategy to ensure appropriate implementation and maintenance.<sup>22</sup>

37. The scheme would also offer some opportunity to mitigate the existing relatively harsh boundary to Campion Crescent to the extent that such limited views exist from within the site to the north-east, and which both parties agreed is not particularly responsive in its design to the sensitivities of the AONB.

*iv) Summary of findings*

38. The Council's planning witness and the authority's landscape and biodiversity witness each confirmed to the Inquiry there was no objection to the principle of a housing development on the appeal site.<sup>23</sup> A similar conclusion was reached by the CLVIA.
39. Nevertheless, notwithstanding the existing urbanising influences described, farmstead character and appearance are the distinctive features of the wider tapestry of AONB sites and to which the appeal site also positively contributes. The evidence shows a significant number of other historic farmsteads in the immediate vicinity of the appeal site<sup>24</sup>, and how they all make for a pattern of dispersed layout distinctive to the Weald and as part of a series of interlocking spaces and small fields.<sup>25</sup> This high density of historic farmsteads is a key and distinctive characteristic of the AONB.<sup>26</sup>
40. The legacy of its previous use, including the site's open, natural form and remaining hedgerows, are characteristic of farmsteads and of the wider significance of the AONB. The appeal site may not technically be a farmstead in its existing composition and disuse, but it still contributes physically and visually to a not dissimilar and distinctive pattern of character and appearance.
41. I agree the relatively enclosed and contained nature of the site and the absence of some of the traditional Farmstead SPD characteristics do serve to limit the overall contribution of the site. The Council similarly acknowledged that the impact of the scheme would be 'limited and localised'<sup>27</sup>, and the site's relatively enclosed form would also help to contain the visual effects of any development. The Council further accepts that only two of the five elements of AONB character would be impacted by the scheme: settlement, and field and heath.<sup>28</sup>
42. Whilst the site may have potential for reintroduction of some sensitive built form, a reasonable balance still has to be struck in relation to the legibility and distinctiveness of the AONB.
43. The extent of housing proposed would effectively create a continuing sweep of built form from Campion Crescent through to the historically significant Glassenbury Road/Hartley Road junction. Up to 27 dwellings would appear incongruous and overwhelming relative to the predominant rural farmstead

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<sup>22</sup> Appendix 6 to Mr Chard's proof

<sup>23</sup> Mr Scully and Mr Hazelgrove in answer to my questions

<sup>24</sup> See maps attaching to History of Hartley and Turnden by Dr N Bannister, and in Hartley, Cranbrook Desk-based Landscape Assessment

<sup>25</sup> Ms Marsh's note and accompanying evidence of Dr Bannister

<sup>26</sup> CD 5.1 p31

<sup>27</sup> Mr Scully in cross-examination

<sup>28</sup> Mr Scully in cross-examination and proof at para 3.28

character which still distinguishes the contribution of the site to its surroundings. The extent of housing would inevitably mean that the sensitivities and natural beauty of the AONB would, at best, appear as distinctly subordinate and secondary features. The historic settlement pattern would not be restored but undermined.

44. The scheme would thereby be contrary to Objective S2 of the management plan which seeks to protect the historic pattern and character of settlement, and to Objective S3 which looks to ensure development reflects the character of the High Weald in its scale, layout and design. Objective FH2 also seeks to maintain the pattern of small irregularly shaped fields bounded by hedgerows as a key component of the medieval landscape.
45. Details of reserved matters would have no significant bearing upon, and would not serve to otherwise offset, the overwhelming extent of built development proposed and the corresponding harm likely to arise from up to 27 dwellings.
46. Section 85 of the Countryside and Rights of Way Act, 2000 requires me to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The Framework similarly advises that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan, and by recognising the intrinsic character and beauty of the countryside.<sup>29</sup> It further requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, and which have the highest status of protection in relation to these issues.<sup>30</sup>
47. A development of up to 27 houses would be excessive in extent relative to the sensitivities of the AONB and would intrude jarringly across the wider pattern of settlement and landscape which predominantly characterises the area and to which the site contributes. Rather than integrating and complementing, the scheme would have an unduly urbanising and transformative effect upon this important corner of the AONB and so eclipse the natural beauty of the site and its contribution to its surroundings. The legibility and distinctiveness of the appeal site would be lost, and its relationship to the wider significance of the AONB would thereby be compromised.
48. As such, the scheme falls very significantly short of both the statutory duty and of the accompanying Framework expectations. Notwithstanding the mitigation proposed, the harm arising is a matter to which I attach considerable weight.

*v) Conclusions against development plan policy*

49. The scheme would, by virtue of the extent of built development proposed, be significantly harmful to the character and appearance of the appeal site and its surroundings, and would fail to conserve and enhance the natural beauty of the AONB. It would thereby be contrary to Policies EN1 and EN25 of the Local Plan and contrary to Core Policies 4 and 14 of the Tunbridge Wells Borough Local Development Framework Core Strategy Development Plan Document Adopted June 2010 (the Core Strategy). These seek, amongst other things, to ensure that design of proposals, including scale and site coverage by buildings, should respect the context of the location, should have a minimal impact on the

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<sup>29</sup> Framework para 170

<sup>30</sup> Framework para 172



landscape character of the locality, and that both the designated High Weald AONB and the landscape as a whole should be conserved and enhanced.

### **Listed buildings**

#### *Background*

50. Reference has been made to six listed buildings in the vicinity of the site.

#### *Site 1: Hartley Gate Farmhouse, Hartley Road (Grade II)*

51. Hartley Gate Farmhouse (the farmhouse) lies immediately adjacent to the appeal site and would be set against the development in views from Hartley Road.

52. The farmhouse dates from the seventeenth century and comprises a timber-framed house in-keeping with its High Weald farmstead setting. Whilst the house may have had only limited functional association with farming and with the appeal site itself<sup>31</sup>, and may or may not have been built to function as a farmhouse, the building and surrounding fields remain an evocative reminder of the importance of scattered, small-scale rural buildings and of the accompanying distinctive character of the AONB. The open rural setting forms part of that significance, along with the architectural and historic value of the building itself.

53. Notwithstanding the mitigation proposed and various modern works undertaken to the rear, the scheme would lead to some erosion of the asset's rural setting. The development would cause harm to the building's significance by undermining an appreciation of the interest and legibility of the asset against its historically exposed setting to the side and rear.

54. Viewed in its wider context, the appeal site is only one aspect of the farmhouse's setting which is also significantly shaped by its prominent road-side position. As those other elements of its setting which also contribute to its significance would remain unaltered, and aside from its unaffected architectural and historic value, I consider the harm would be limited.

55. The harm would be less than substantial and at a relatively low level that would not seriously affect the significance of the designated asset. Nevertheless, this less than substantial harm still needs to be weighed against public benefits<sup>32</sup> and I return to this balance later in my decision.

56. In contrast to its current concerns, I also note that no similar heritage objection appears to have been raised by the authority in a decision in December 2017 relating to another proposal for housing development at the adjacent site to the north-east and which also fronts Hartley Road.<sup>33</sup>

#### *Site 2: Bull Farmhouse, Glassenbury Road (Grade II), and*

#### *Site 3: Barn 50 yards north of Bull Farmhouse, Glassenbury Road (Grade II)*

57. The significance of these assets arises as seventeenth century timber-framed agricultural buildings and mainly reflects their architectural and historic value. Setting is a part of their significance but in the context of a small and relatively

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<sup>31</sup> Para 5.11 of Ms Davidson's proof

<sup>32</sup> Framework para 196

<sup>33</sup> Appeal Ref: APP/M2270/W/18/3203543

self-contained collection of historic farmstead buildings to the west of Glassenbury Road.

58. Bull Farm lies on the opposite side of Glassenbury Road to the appeal site. The intervening road-side frontages create a strong sense of enclosure and are heavily planted. This leaves little direct opportunity to appreciate the Bull Farm listed buildings from within the appeal site other than in fairly glimpsed views.
59. The elements of setting which contribute most to the significance of these assets include their curtilages and immediate surrounds, their relationship with Glassenbury Road, and their group value. The orientation and position of the buildings relative to the appeal site mean those key views which best reveal their significance would be unaffected by the appeal scheme.
60. In relation to Sites 2 and 3 I also note reference made to the Council's previous assessment of an earlier proposal for development on the western side of the current appeal site adjacent to Glassenbury Road. This included demolition of derelict agricultural buildings and construction of four detached dwellings (Application Ref: 17/00795). Whilst withdrawn prior to decision, the wording of the Committee Report dated 14 February 2018<sup>34</sup> notes that there are several listed buildings in close proximity to the site but, due to the distances involved and intervening vegetation and road, it was not considered that the proposal would be harmful to their setting.
61. The appeal scheme would result in a change within the wider surrounds of assets at Sites 2 and 3, but their immediate settings and accompanying significance would be unaffected and no harm would be incurred.

*Site 4: Hartley Farmhouse, Hartley Road (Grade II), and*

*Site 5: Hartley House, Hawkhurst Road (Grade II), and*

*Site 6: Hill Cottages, 1 and 2 Hawkhurst Road (Grade II)*

62. These listed buildings lie further away from the appeal site and in contrasting locations. The parties agree no harm would be incurred to each. The three assets are physically and visually separated from the appeal site and, from an assessment of the evidence before me, I have no reason to disagree.

*Summary of findings, and conclusions against development plan policy*

63. The Framework advises that heritage assets are an irreplaceable resource, and requires them to be conserved in a manner appropriate to their significance.<sup>35</sup> When considering the impact of a proposed development on the significance of a designated heritage asset, it requires great weight to be given to the asset's conservation, and irrespective of harm.<sup>36</sup>
64. The harm I have identified to the farmhouse would be less than substantial. Nevertheless, the scheme would not preserve the significance of the listed building and would thereby be contrary to Policy EN1 of the Local Plan and to Core Policy 4. Amongst other things, these seek to ensure that proposals should respect the context of the site, that the Borough's heritage assets should be conserved and enhanced, and that special regard be given to their settings.

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<sup>34</sup> CD 5.12 para 10.37

<sup>35</sup> Framework para 184

<sup>36</sup> Framework para 193

## **Access**

65. The proposal involves a single point of vehicular and pedestrian access to and from Hartley Road as detailed on the 'Access Design' drawing referenced 13658-H-01 P2. This would lie between Hartley Road's two existing junctions with Swattenden Lane and Glassenbury Road.
66. Much reference was made at the Inquiry to issues around three particular pieces of evidence: the appellants' Transport Assessment dated July 2019 (the TA)<sup>37</sup>, a Road Safety Audit Stage 1 dated 19 July 2019 (the Audit)<sup>38</sup>, and the appellants' subsequent Road Safety Assessment dated 28 February 2020 (the Assessment)<sup>39</sup>.
67. The Council's objections relate to a number of specific issues arising from the Audit and to other associated concerns.

### *Problem 3.3.3 (insufficient distance for the left/right stagger movement between Swattenden Lane and the proposed access)*

68. The Audit suggested left/right traffic movement between Swattenden Lane and the access road could lead to collisions. The recommendation was that queuing lengths should be checked to ensure any waiting vehicles on Hartley Road do not impede safe visibility for such movements.
69. Whilst available data primarily assesses capacity at the junctions and relies upon the surveys in the TA for one day only, there is little in that evidence to suggest any issue with queuing. The TA demonstrates that the existing junction operates well within capacity before development, that it would do so after, and that there are no queues of any consequence.<sup>40</sup>
70. The highway authority's anecdotal statements were not substantiated in any detail, and no alternative survey data was presented.
71. The highway authority accepted at the Inquiry that the junction stagger distances comply with design guidance. The minimum distance should be 60m and the distance proposed is 75m.<sup>41</sup> This would appear to be consistent with the minimum distance identified by Highways England's Road Layout Design CD 123 Geometric Design of At-Grade Priority and Signal-Controlled Junctions.<sup>42</sup> A similar distance is identified in the Kent Design Guide.<sup>43</sup>

### *Problem 3.3.4 (insufficient distance between the proposed access and Glassenbury Road)*

72. This issue concerns the Audit's suggestion of insufficient distance between junctions. The suggestion is that the proposed access would mean two closely spaced junctions on the same side of the carriageway. The proximity of the access road and Glassenbury Road/Hartley Road junctions and the low number of vehicle movements at the access road could mean south-west bound vehicles on Hartley Road that indicate right for the access road might be

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<sup>37</sup> CD 6.10

<sup>38</sup> CD 6.9

<sup>39</sup> CD 8.5 Appendix F

<sup>40</sup> CD 6.10, p22-23

<sup>41</sup> Mr Lulham's proof Appendix G para 4.18

<sup>42</sup> CD 5.18

<sup>43</sup> CD 4.1.2 Creating the Design Step 3 - Designing for movement

mistaken by other road users for the right turn manoeuvre into Glassenbury Road. The concern is that such confusion could lead to collisions.

73. The highway authority accepted at the Inquiry that the stagger distance between Glassenbury Road and the proposed access would comply with design guidance.<sup>44</sup> I have little further evidence to justify the concern raised.

*Associated concerns - accident data*

74. The 5-year accident data up until 30 September 2018 identifies four incidents between the Glassenbury Road/Hartley Road and Swattenden Lane/Hartley Road junctions. These involved two incidents at each junction.
75. The evidence provided does not suggest any particular pattern of causation or necessarily direct relevance to the proposed access, and there were no incidents identified since August 2017.
76. I am not convinced this accident record for a priority intersection between an A-class primary route subject to a 40mph speed limit and a B-class secondary route should be cause for concern, and nor is it indicative of road users experiencing any inherent difficulties with the highway layout.

*Associated concerns - pedestrian facilities and lane widths*

77. This part of Hartley Road is not well served by footpaths. It contains partial, narrow footways and set against relatively fast-moving traffic, including lorries. Whilst this is a relatively intimidating pedestrian environment, there is no suggestion of any pedestrian incidents in the vicinity of the proposed access and the Audit had no outstanding concerns in this regard beyond provision of dropped kerbs. The existing lane width in Hartley Road would remain post-development at 3.0m and would not directly infringe any guidance.<sup>45</sup>
78. The current access plan would introduce a 1.8m wide pedestrian refuge and would only provide a 1.8m wide footway on the northern side of Hartley Road.
79. The highway authority suggests a pedestrian with a buggy or a wheelchair user would be discouraged from using the proposed refuge. The Assessment<sup>46</sup> accepts that with a lane 3m wide the width of the refuge should normally be 2m to allow for a pedestrian pushing a pram or for a wheelchair user, with a margin for error, moving onto and stopping on the refuge. It further explains how this could be achieved possibly with a widening of the carriageway. I also note that guidance requires a minimum standard of 1.2m and 1.5m for wheelchair users and a preference for 2.0m.<sup>47</sup>
80. The widths of existing pavements appear not to have been maintained over time and it was not disputed that the available space could be increased simply by further maintenance of the vegetation.<sup>48</sup>
81. I consider the presence of kerbs in the design of the refuge would afford some further protection to the island. The refuge would also in itself serve to visually

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<sup>44</sup> CD 7.1 identifies an agreed distance of 'approximately 59 metres' between centre lines

<sup>45</sup> Confirmed by Ms Parker in cross-examination

<sup>46</sup> Para 4.22

<sup>47</sup> CD 5.21 para 15.3.2

<sup>48</sup> Mr Lulham and Ms Parker in cross-examination

narrow the carriageway at this point, so encouraging approaching traffic to slow slightly to the benefit of local road safety.<sup>49</sup>

82. I also note the highways authority's apparent endorsement of lane widths of approximately 3.0m in the accommodation of pedestrian refuges in circumstances elsewhere.<sup>50</sup>

*Associated concerns - swept paths*

83. The submitted swept path analysis for refuse vehicles demonstrates that an appropriate vehicle could exit the site and be safely aligned for the refuge well before arriving at the island itself.<sup>51</sup>

*Other*

84. The Assessment demonstrates that vehicle generation would be less than ten cars an hour<sup>52</sup> and it is further agreed there is no issue in terms of highway capacity.<sup>53</sup>
85. Comparisons have been drawn with the appeal decision relating to a new access to serve proposed housing at the adjacent site to the north-east.<sup>54</sup> Whilst that decision considered similar accident data, the main issue on which the appeal was dismissed was the inability to provide appropriate visibility splays to the kerb in accordance with guidance. No objections have been raised by the highway authority regarding visibility splays from the access in this appeal scheme.

*Summary of findings, and conclusions against development plan policy*

86. The A229 is a busy classified road. It reflects the accompanying dangers and relatively harsh pedestrian environment that might be expected, and improvements can always be made. Nevertheless, the evidence presented demonstrates the local highway network has no particular design flaws, and is capable of withstanding the relatively modest increase in vehicle and pedestrian movements that would arise from the scheme without incurring further undue additional risks or inconvenience. I also note possibilities for further detailed refinements to the scheme, particularly in terms of facilities for pedestrian movement, and which were discussed at the Inquiry in relation to a possible planning condition should the appeal be allowed.
87. The Framework requires that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.<sup>55</sup> The evidence against the proposed scheme falls significantly short of such a threshold.
88. I therefore conclude that the proposal would provide safe and suitable access for all users and would not be contrary to Policy TP4 of the Local Plan to the extent that it seeks, amongst other things, to ensure that proposals provide a

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<sup>49</sup> As identified by the Road Safety Assessment at para 4.21 and implicitly recognised in appeal decision Ref: APP/M2270/W/18/3203543

<sup>50</sup> Mr Lulham's rebuttal statement p3 Table 1

<sup>51</sup> And confirmed by Mr Lulham in cross-examination

<sup>52</sup> CD 6.10 Table 5-5

<sup>53</sup> Confirmed by Ms Parker in cross-examination

<sup>54</sup> Appeal Ref: APP/M2270/W/18/3203543

<sup>55</sup> Framework para 109

safely located access with adequate visibility and that the traffic generated by the proposal would not compromise the safe and free flow of traffic or the safe use of the road by others.

***Other impacts, including biodiversity, education, youth facilities, the Cranbrook Hub, affordable housing and health facilities***

89. The s106 agreement sets out contributions by way of mitigation in relation to off-site biodiversity, primary education, youth facilities, the Cranbrook Hub, NHS Healthcare, and sustainable transport, and arrangements for affordable housing.
90. Core Policy 1 seeks, amongst other things, for development to be delivered in a managed way that meets the Borough's known development needs. Policy CS4 of the Local Plan seeks to ensure the availability of adequate primary or secondary school provision necessary to serve development. Policy R2 of the Local Plan requires for new residential development to provide appropriate recreation open space for youth and adult use.
91. I return to affordable housing and biodiversity as separate matters in my consideration of the scheme's benefits, but otherwise find the mitigation set out in the s106 agreement addresses the outstanding impacts and that the scheme would thereby be compliant with Core Policy 1 and with Policies CS4 and R2.

**Other considerations**

***The Cranbrook LVIA (the CLVIA)***

92. The Inquiry heard how the Council had commissioned the CLVIA as an independent, professional review to help inform its response to Regulation 18 consultations in connection with the emerging Tunbridge Wells Borough Council Local Plan (the emerging local plan). That version of the emerging local plan at the time of the Inquiry identified the appeal site as part of a larger allocation CRS 6 extending both sides of Glassenbury Road. The overall description of proposed development was '90 dwellings (including land at Bull Farm), plus employment (B1/B2/B8), and community uses'.
93. The CLVIA divided the wider site into areas 6A and 6B with the appeal site falling in the southern part of the former. It confirmed that Parcel CRS 6B, to the west of Glassenbury Road, is highly sensitive and is generally not suitable for development. It also recommended protection of the northern fields within the original allocation and retention of their rural character and land use.
94. An assessment was made of effects of the allocation against the representativeness of AONB qualities and against character components of the management plan. It found there would be no effect of the allocation upon geology, and no loss of woodland. It suggested development would be partly consistent with the settlement pattern and whilst the historic routeways would not be changed, there would be some urbanising effect.<sup>56</sup> Although panoramic views are identified from within the allocation, it confirmed how public views into the site itself are difficult to perceive from the wider landscape due to the effect of topography, surrounding development and vegetation.<sup>57</sup>

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<sup>56</sup> CD 3.16 p14-15

<sup>57</sup> CD 3.16 p12

95. The CLVIA found that the southern part of parcel 6A had some 'limited' potential for development<sup>58</sup> subject to various caveats, including that the northern half is enhanced and that the characteristic hedgerow boundaries are retained and protected, and that the design of the proposed development responds positively to the historic farmsteads on and adjacent to the site.
96. It recommended that the draft allocation should be split, with a reduced housing allocation to the east of Glassenbury Road broadly corresponding to the appeal site and land beyond the appeal site, and an employment allocation retained within the redeveloped agricultural buildings associated with Bull Farm.
97. The Inquiry heard that Council officers intended to support draft allocations to meet the Council's up-to-date housing needs on sites elsewhere in the Borough and without the appeal site or the larger proposed draft allocation of which it formed a part, and subsequent Council decisions have followed.<sup>59</sup>
98. Nevertheless, and whilst recommendations have not been pursued in relation to this site, the CLVIA still retains some significance to the appeal and cannot be unduly discounted. The context is of an up-to-date, professional assessment of the potential to accommodate major development in Cranbrook and elsewhere and submitted to the Inquiry by the Council as local plan evidence. It specifically assessed the appeal site and found some favour in its development potential.

#### ***Relationship to possible development of other land***

99. The Inquiry heard unchallenged oral evidence from the appellants of previous overtures by Council officers to withdraw the appeal scheme post-submission in favour of a more comprehensive, larger-scale development as then anticipated by the emerging local plan allocation.
100. No case was substantiated, in either planning or highways terms, as to why any potential for development of the appeal site could only be considered in the context of a wider development.

#### ***Housing land supply***

101. Both main parties agree, based upon the Tunbridge Wells Borough Council Five-Year Housing Land Supply Statement 2019/2020 (September 2020)<sup>60</sup>, that the Council can only demonstrate a required 5-year housing land supply (5YHLS) of 4.83 years. No other detailed evidence has been presented to question the extent of available supply.
102. The improved position relative to 1 April 2019 (from 4.69 years to 4.83) is noted. Notwithstanding the Council's agreed 5YHLS figure and the progress it is seeking to make in housing delivery through its emerging local plan, I also note that the annual housing delivery target within the last monitoring year was missed by 204 units.<sup>61</sup>

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<sup>58</sup> Conclusions para 3

<sup>59</sup> See Mr Hazelgrove's email of 5 February 2021

<sup>60</sup> CD 5.6

<sup>61</sup> CD 7.1 Statement of Common Ground para 6.4.4, and Mr Bedford's proof para 3.4.22

### ***Constraints upon possibilities for development of alternative sites***

103. The Council accepts that the level of housing need in the Borough is significant and that it is highly likely that some additional housing sites within the AONB will be required. It further concedes that there is very limited scope for developing sustainably located housing for Cranbrook outside the AONB.<sup>62</sup>
104. The Inquiry heard how the emerging local plan is now proceeding to identify possibilities for housing development elsewhere in the AONB.<sup>63</sup> The appellants' indication was that some 50 AONB sites are under consideration for approximately 2,500 homes. The Tunbridge Wells Borough Council (TWBC) Local Plan Exhibition Summary Leaflet September 2019 confirms there is little scope for growth outside the High Weald AONB or the Metropolitan Green Belt and which together cover some 75 per cent of the Borough.<sup>64</sup>
105. The Inquiry was told by the Council how officers' intentions to abandon the CRS 6 allocation meant that local housing need can now be met in some other, but as yet unspecified way. The Inquiry cannot compare alternative sites in the absence of detailed evidence. That would also remain as a matter for full and proper review as part of the local plan processes.
106. It also does not follow that a decision not to take an allocation of the appeal site forward necessarily yields an 'irresistible' inference that other less sensitive sites do exist within the AONB and would so provide alternative scope for delivering the required 5YHLS. I attach little weight to this assertion as it reflects matters which would remain to be fully tested and demonstrated. Besides, even if that were to prove to be the case, the Framework still seeks to significantly boost housing supply and the 5YHLS threshold is not set as a maximum.<sup>65</sup>

### ***Market housing***

107. There is no dispute that the scheme would be consistent with the requirement of the Framework that, in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs.<sup>66</sup> I also have regard to the recent publication of the government's Housing Delivery Test: 2020 measurement dated 19 January 2021 and the parties' comments in that regard. In the context of the Council's 5YHLS and latest test results, and the housing expectations of the Framework, I attach moderate weight to the benefit of market housing.

### ***Affordable housing***

108. The Council's Sevenoaks & Tunbridge Wells Strategic Housing Market Assessment September 2015<sup>67</sup> found the Borough would require 341 affordable homes per annum to meet its housing needs. The more recent Borough of Tunbridge Wells Housing Needs Study July 2018<sup>68</sup>, prepared to accompany work on the emerging local plan, found there is a net annual imbalance of 443

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<sup>62</sup> Mr Hazelgrove's proof paras 7.22-7.25

<sup>63</sup> Mr Hazelgrove and Mr Bedford in cross-examination

<sup>64</sup> CD 11.10

<sup>65</sup> Framework para 59

<sup>66</sup> Framework para 77

<sup>67</sup> CD 3.8

<sup>68</sup> CD 3.19



affordable dwellings across the Borough. This is further adjusted by the Council's Tunbridge Wells Borough Council Housing Needs Assessment Topic Paper for Draft Local Plan - Regulation 18 Consultation August 2019<sup>69</sup> which concludes affordable housing need over a 15-year period to be 391 dwellings/year.

109. In terms of past delivery relative to the identified need, Table 26 of the Tunbridge Wells Borough Council Authority Monitoring Report 2018/19 December 2019<sup>70</sup> outlines the overall completion rates for affordable units. It identifies an average delivery rate of just 82.5 affordable units per annum for the period from 2006 to 2019.
110. The provision of 35% of the dwellings as affordable housing would help to meet a clear and pressing need. Of the affordable units, 60% would be housing for rent and 40% intermediate housing. The s106 agreement also requires the appellant not to occupy more than 40% of the open market dwellings until the affordable housing units have been completed and transferred to a registered provider.
111. Core Policy 6 seeks to ensure affordable housing will be provided as a proportion of the total number of dwellings on sites capable of delivering 10 dwellings or more. Developments on sites providing affordable housing will generally be required to provide 35% of the total number of dwellings as affordable homes.<sup>71</sup> The proposal is fully compliant with Core Policy 6 and would thereby provide an appropriate contribution of affordable housing. I attach moderate weight as a benefit.

### ***Prospects for early delivery***

112. The site is immediately available and the appellants anticipate early delivery of the development if approved.<sup>72</sup> The appellants are prepared to reduce the submission period for reserved matters to 2 years to underline that commitment. This is significant in a heavily constrained area without an up-to-date development plan in relation to housing need and at least an 18 month period from the Inquiry before a new plan is in place.<sup>73</sup> I have also noted the appellants' various references to the Council's previous record of below-target housing delivery.<sup>74</sup> I attach modest weight as a benefit.

### ***Location***

113. The site is located some distance from the Cranbrook LBD, and therefore away from the most sustainable parts of nearby settlement.
114. In terms of public transport, there are bus stops within walking distance of the site providing services to Maidstone Town Centre, Loose, Staplehurst, Cranbrook and Hawkhurst. Staplehurst, approximately 10km to the north of the site, provides a regular train service to London. The scheme would be moderately well located for local schools and close to the local but limited

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<sup>69</sup> CD 3.4

<sup>70</sup> CD 5.5

<sup>71</sup> The Council's Affordable Housing Supplementary Planning Document October 2007 sets out further details of how the policy is intended to operate (CD 4.2)

<sup>72</sup> Mr Bedford in answer to my question

<sup>73</sup> The Tunbridge Wells Borough Council Local Plan Local Development Scheme identifies an adoption date of June 2022, and confirmed by Mr Hazelgrove in cross-examination

<sup>74</sup> For example, Mr Bedford's proof, p16

range of services and facilities opposite. Limited footpath links along this part of Hartley Road contribute to a relatively unsympathetic pedestrian environment and there is little accommodation for cyclists.

115. Aside from those matters which would be addressed through the proposed mitigation, there is no suggestion from the Council that a proposal for up to 27 homes would be excessive relative to other existing facilities serving Hartley or their accessibility.
116. The Framework<sup>75</sup> requires that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. It notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
117. The appeal site is clearly not an isolated rural location, but neither is it particularly accessible other than by car. My assessment is the scheme enjoys a moderately sustainable location.

### ***Ecology***

118. The proposal includes a commitment to net biodiversity gain consistent with the Framework.<sup>76</sup>
119. The appellants are also committed to retaining all existing vegetation where possible.
120. The development would need to be carried out under a Natural England European Protected Species mitigation licence due to the presence of great crested newts elsewhere in nearby ponds. There is no suggestion that a licence would not be forthcoming and no harm nor impediment is identified in that regard.<sup>77</sup>
121. It is also agreed by both parties that the measures set out in the appellants' Corylus Ecology Protected Species Report<sup>78</sup> would provide an appropriate package of mitigation.
122. The development would thereby conform with Core Policy 4 to the extent that it seeks, amongst other things, to avoid net loss of biodiversity and pursue opportunities for biodiversity enhancements. Given the land available, I attach modest weight to the benefit of net gain.

### ***Economic factors***

123. The economic benefits of development would include investment in construction and related employment for its duration, and an increase in subsequent local household expenditure and demand for services.
124. The Framework requires that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages

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<sup>75</sup> Framework para 103

<sup>76</sup> CD 7.1 para 8.4, and para 170 of Framework

<sup>77</sup> CD.7.1 paras 8.4.2-8.4.3, and CD 6.8

<sup>78</sup> CD 6.8

to grow and thrive, especially where this will support local services.<sup>79</sup> The scheme would be consistent with this aim and I attach modest weight to these economic factors as a benefit.

125. I disregard any suggestion of financial contributions to the local authority through Council tax receipts or similar as a possible benefit of the scheme. The Planning Practice Guidance (the Guidance) states that whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms.<sup>80</sup> Further, it advises that it would not be appropriate to make a decision based on the potential for a development to raise money for a local authority or other government body. I therefore attach no weight in this particular regard.

### ***Proactive engagement***

126. Reference was made by the appellants to various dissatisfaction towards both the local planning authority and the highways authority in their attitude and response to the proposal. In particular, the Inquiry was reminded that the Framework requires authorities to approach decisions on proposed development in a positive and creative way.<sup>81</sup> They should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, and decision-makers at every level should seek to approve applications for sustainable development where possible.
127. Those criticisms were not accepted by the authorities but, nonetheless, they concern matters of service/procedure and not of planning substance, and this decision focuses upon the particular merits of the cases otherwise advanced by the parties.

### ***Other concerns raised by local interested parties***

128. Local interested parties have raised a number of issues, most of which are reflected in the Council's reasons for refusal and are addressed as above.
129. A concern has been raised regarding loss of agricultural land. The Council confirmed it had no objection in this regard given the limited size of the site<sup>82</sup>, and I have no reason to disagree.
130. A number of detailed points relevant to local interested parties would be addressed as part of any subsequent scheme or though associated conditions if a permission were to be granted.

### ***Other decisions***

131. I have had regard to all other decisions referred to in evidence, but none dissuade from me from the particular findings I have reached in the specific circumstances of this proposal as identified.

### ***Section 106 agreement***

132. The main parties confirmed at the Inquiry they were satisfied with the form and content of the agreement as a deed. I find the agreement to be compliant

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<sup>79</sup> Framework para 78

<sup>80</sup> Para 011 Reference ID: 21b-011-20140612

<sup>81</sup> Framework para 38

<sup>82</sup> Mr Hazelgrove in answer to my question and para 7.18 of his proof

with Regulation 122 of the Community Infrastructure Regulations 2010 (as amended) and to be generally fit-for-purpose. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

### **Summary of benefits**

133. The scheme would provide up to 27 units of much-needed housing and 35% would be units of similarly required affordable housing. Delivery would be in the context of a slight shortfall in 5-year housing land supply. Further, the scheme is considered to be immediately deliverable and in a moderately sustainable location. The scheme would involve a net biodiversity gain. There would also be economic benefit as described above, and the proposal would re-engage currently unused land.
134. Rather than bland<sup>83</sup>, the benefits would be real and distinct, and amount to significant collective weight in favour of the scheme.

### **Assessment against the development plan as a whole**

135. It follows from my assessment of the main issues and other considerations, that the policies which are most important for determining this appeal include those already discussed.
136. The parties have identified 15 policies most important for the determination of this application.<sup>84</sup> Of these, 5 are not referenced in the Council's reasons for refusal.
137. Of the 15, I have identified conflict with Policies EN1 and EN25 of the Local Plan and with Core Policies 4 and 14.
138. I find Policies EN1 and EN25 of the Local Plan and Core Policy 4 up-to-date insofar as they relate to the need for the proposal to respect the context of the site, to have a minimal impact on the landscape character of the locality, and to conserve and enhance the AONB and the landscape as a whole. The same applies to Policy EN1 and to Core Policy 4 insofar as the Borough's heritage assets should be conserved and enhanced, special regard should be had to their settings, and proposals should respect the context of the site.
139. Whilst Policy EN25 refers to sites outside the LBD, it does not preclude development beyond that area and its substance relates to a general need to safeguard landscape character and the built environment in rural parts of the Borough. Core Policy 14 is out-of-date, not just in terms of its underlying housing need but also in seeking to protect the countryside for its own sake contrary to the wording of the Framework.<sup>85</sup> Nevertheless, it still seeks to maintain the local distinctiveness of particular localities and to enhance biodiversity.
140. I apply full weight to Policies EN1 and Core Policy 4 and limited weight to Policy EN25, and very limited weight to Core Policy 14. Core Policy 4 also weighs in favour of the scheme in relation to biodiversity enhancements.
141. Of the other policies, whilst Core Policy 6 is out-of-date in relation to housing land supply, other aspects remain relevant including recognising the need for

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<sup>83</sup> As described by the Council in closing

<sup>84</sup> CD 7.1 section 5. The parties confirmed CP 8 is missing an asterisk

<sup>85</sup> Framework para 170

affordable housing. Core Policy 6 weighs in favour of the scheme in that regard. LBD1 deals with restraints to development. Whilst cited by the authority in its decision notice, the policy is out-of-date in relation to both housing need and the expectations of the Framework and can attract only very little weight.

142. I also find Policy TP4 out-of-date insofar as it again refers to the LBD and seeks to preclude additional access onto primary and secondary routes in such areas. I attach very little weight. Whilst Core Policy 1 is out-of-date in terms of its underlying database and relationship to the LBD, it still commits the Council to meeting known development needs and identifies general priorities and opportunities for development. I attach limited weight. Policies R2 and CS4 are each relevant to matters of mitigation, are up-to-date and attract full weight in those regards.
143. Most of the other 15 policies, whilst relevant and generally not out-of-date, have a secondary importance relative to the main issues in dispute and are either broadly neutral, are not conflicted, or remain to be fully addressed through further submissions of reserved matters and other details. For those reasons, I attach only relatively limited weight in determining the principle of this outline proposal for AONB land.
144. This includes Policy TP3 and Core Policy 3 which deal with general transport implications, Policy TP5 which concerns vehicle parking, Core Policy 5 which addresses sustainable design and construction, and Core Policy 8 which refers to general provision of open space and other matters.

### ***Summary of accord and conflict***

145. I find the overall basket of most important policies described to be reasonably up-to-date, subject to the detailed qualifications identified.
146. The Framework requires I attach great weight to conserving and enhancing landscape and scenic beauty in the AONB, and to preserving and enhancing the farmhouse as a designated heritage asset. The statutory duties in these regards under s85 and s66 are matters of considerable importance and weight. In that context, I find the corresponding weight attaching to the conflict with Policy EN1 and Core Policy 4, and the lesser weight in connection with conflict arising from Policies EN25 and Core Policy 14, to be such that the proposal cannot be said to accord with the development plan as a whole.

### **Conditions**

147. I have found the development to be unacceptable for the reasons identified. In accordance<sup>86</sup> with the advice of the Framework, I have considered whether use of conditions could serve to make otherwise unacceptable development acceptable. Given the nature of the harm I have identified relative to the substance of this particular scheme, I find conditions would not serve such a purpose.

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<sup>86</sup> Framework para 54

## **Planning balances and related matters**

### ***Heritage balance***

148. The farmhouse would not be preserved<sup>87</sup> and this is a matter to which I attach considerable importance and weight.
149. The Framework requires that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.<sup>88</sup>
150. Given the relatively low level of harm I have found in relation to the farmhouse and the significant housing and other positive attributes I have identified from the scheme, I find the heritage harm arising would be outweighed by the public benefits identified. Accordingly, the Framework does not provide a clear reason for refusing the development proposed in this specific regard.

### ***Paragraph 172 and implications for the tilted balance***

151. Paragraph 11 d)i. and Footnote 6 of the Framework disapply the tilted balance under paragraph 11 in circumstances whereby AONB Framework policies provide a clear reason for refusing the development proposed.
152. Framework policies include in the first part of paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.<sup>89</sup> The Framework further states that the scale and extent of development within these designated areas should be limited.
153. The second part of the paragraph applies to major development and states that planning permission should be refused other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Footnote 55 then clarifies for these purposes that interpretation of 'major development' is a matter for the decision maker, taking into account a scheme's nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
154. Appendix 3 of the Council's Distribution of Development Topic Paper for Draft Local Plan - Regulation 18 Consultation September 2019 sets out an assessment of the development potential of the Borough's AONB Sites.<sup>90</sup> The appeal site falls within a broad classification of 'Cranbrook and Sissinghurst'. Two other sites with more than 27 dwellings have each been identified by the Council as 'Not Major'. These are site CRS 3 with a development of 30-35 dwellings and site CRS 5 proposed to accommodate 35-45 dwellings. Reference has also been made by the appellants to AONB appeal decisions elsewhere where similar conclusions have been reached.<sup>91</sup>

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<sup>87</sup> Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>88</sup> Framework para 196

<sup>89</sup> See *Monkhill Limited v Secretary of State for Housing, Communities and Local Government*, Waverley Borough Council [2019] EWHC 1993 (Admin), 2019 WL 03322065, and *R. (on the application of Monkhill Limited) and the Secretary of State for Housing, Communities and Local Government and Waverley Borough Council*, Neutral Citation Number: [2021] EWCA Civ 74, Case No: C1/2019/1955/QBACF

<sup>90</sup> CD 3.3

<sup>91</sup> APP/X0415/W/18/3202026, APP/C1625/W/17/3175953 and APP/U1430/W/17/3184449

155. Despite the adverse impact the scheme would have on the purposes for which the area has been designated and defined, basic considerations of nature, scale (absolute numbers of dwellings) and of local consistency in decision-making do not lead me on those terms to regard the appeal scheme as major development.
156. Nevertheless, and notwithstanding the countervailing benefits in favour of the scheme as already identified, there would still be overriding harm arising from the extent of development proposed in the particular circumstances of this proposal. The scheme would therefore be contrary to the great weight expected to be given to the conservation and enhancement of the landscape and scenic beauty of the AONB, and to the accompanying duty under s85. Whilst not major development, the proposal would thereby still conflict with the protective policy set out in the first part of paragraph 172.
157. It further follows that, as the benefits and other factors are insufficient to outweigh the far greater harm identified, there is a clear reason for refusing the development proposed within the terms of paragraph 11d)i. The tilted balance is therefore not engaged, and the application remains to be determined in accordance with the statutory duty under section 38(6)<sup>92</sup>.

### ***Final planning balance***

158. Section 38(6) requires this appeal to be determined in accordance with the development plan, unless material considerations indicate otherwise.
159. I find the scheme does not accord with the development plan as a whole, and the conflicts and harm arising in those regards are not offset by the far lesser weight of other material considerations. Accordingly, material considerations in this instance do not lead me to a decision other than in accordance with the development plan and planning permission should be refused.

### **Conclusion**

160. For the reasons given above I conclude that the appeal should be dismissed.

*Peter Rose*  
INSPECTOR

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<sup>92</sup> Planning and Compulsory Purchase Act 2004

## **INQUIRY DOCUMENTS**

The following documents were submitted and accepted by the Inquiry:

### **On behalf of the local planning authority:**

Opening submissions by Ms Lambert

David Scully Appendix 10 (but subsequently updated)

Site plans relating to appeal decision APP/M2270/W/18/3203543 for Land adjacent to Hartley Gate Farmhouse, Hartley Road, Cranbrook, Kent dated 5 July 2019

Errata sheet accompanying proof of evidence of Richard Hazelgrove

Front page to CD 3.16

Closing submissions by Ms Lambert, including copy of Monkhill Limited v Secretary of State for Housing, Communities and Local Government, Waverley Borough Council [2019] EWHC 1993 (Admin), 2019 WL 03322065

### **On behalf of the appellant:**

Opening submissions by Mr Westmoreland Smith

Undated note from Ms Davidson submitted as part of the round-table discussion on 1 December and relating to heritage methodology

Appeal decision APP/M2270/W/20/3245562 relating to Springfield Nurseries, Cranbrook Road, Hawkhurst, Cranbrook, TN18 5EE dated 30 November 2020

Closing submissions by Mr Westmoreland Smith

### **Jointly on behalf of the local planning authority and appellant:**

Email from Mr Bedford dated 9 December 2020 confirming agreed arrangements for unaccompanied site visit

Updates to possible conditions from Mr Hazelgrove and Mr Bedford dated 9 December 2020

Agreed modifications to David Scully Appendix 10 Landscape effects Table V3 10 December 2020 and accompanying emails

Summary of s106 agreement dated 10 December 2020

Completed s106 agreement dated 17 December 2020

### **On behalf of local interested parties:**

Undated note from Sally Marsh, Co-Director of High Weald AONB Partnership, submitted on 1 December 2020

Emails from Mr Fleming, local resident, dated 2 December 2020, and 4 and 6 December 2020



## **APPEARANCES**

### **For the local planning authority:**

Emmaline Lambert of Counsel,  
instructed by Head of Mid-Kent Legal Services

She called:

Debbie Salter - Conservation and Urban Design Officer,  
Tunbridge Wells Borough Council

David Scully - Landscape and Biodiversity Officer,  
Tunbridge Wells Borough Council

Margaret Parker - Senior Development Planner (Transport),  
Kent County Council

Richard Hazelgrove - Principal Planning Officer,  
Tunbridge Wells Borough Council

### **For the appellant:**

Mark Westmoreland Smith of Counsel,  
instructed by David Bedford of DHA Chartered Town Planners and Development  
Consultants

He called:

Sara Davidson - Director, Heritage Collective

Matthew Chard - Partner, Barton Willmore LLP

Paul Lulham - Director of Transport Planning, DHA Chartered Town Planners  
and Development Consultants

David Bedford - Director of Planning, DHA Chartered Town Planners and  
Development Consultants

### **Interested persons:**

Sally Marsh - Co-Director, High Weald AONB Partnership

Philip Govan - local resident, and Chair of 'Hartley: Save Our Fields'