Land at Downlands Farm, Uckfield

Housing Land Supply and Affordable Housing Appendices

PINS Ref: APP/C1435/W/23/3321979
LPA Ref: WD/2022/1637

September 2023

gleeson land

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Appendix DV1

Land at Old Nursery House, The Street, Framfield appeal decision (APP/C1435/W/22/3301104)

The Planning Inspectorate

Appeal Decision

Hearing held on 1 December 2022

Site visit made on 2 December 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Appeal Ref: APP/C1435/W/22/3301104
Land at Old Nursery House, The Street, Framfield TN22 5PN

- 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 Inland Ltd against the decision of Wealden District Council.
- The application Ref WD/2021/0573/MAO, dated 3 March 2021, was refused by notice dated 1 April 2022.
- The development proposed is 'outline application (all reserved matters, aside from principal means of access) for up to 58 new homes (including 35% affordable housing), new access road, open space and soft landscaping'.

Decision

1. The appeal is allowed and planning permission is granted for 'outline application (all reserved matters, aside from principal means of access) for up to 58 new homes (including 35% affordable housing), new access road, open space and soft landscaping' at Land at Old Nursery House, The Street, Framfield, TN22 5PN in accordance with the terms of the application ref WD/2021/0573/MAO dated 3 March 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal relates to an application for outline planning permission. Approval is sought for the principal means of access to the site, but matters relating to appearance, landscaping, layout and scale are reserved for future consideration. I have considered the appeal on this basis, treating all details apart from those relating to the access to the site as illustrative.

3. The plans originally submitted as part of the planning application indicated that the proposed access arrangements would have included alterations to an existing access from the B2102 which currently serves Framfield Nursery. However, amended plans were submitted during the Council's consideration of the application to maintain the access serving Framfield Nursery as existing. The Council considered the application with regard to the amended plans, and I have determined the appeal on the same basis.

4. The appeal was lodged following the Council's refusal of the application. However, the Council confirmed prior to the Hearing that the Planning Committee North had resolved to withdraw the single reason for refusal, and it did not therefore defend its decision to refuse permission. In addition, a Statement of Common Ground submitted on 17 November 2022 ('the SoCG') set out that the Council and appellant agreed that the appeal should be

allowed. Nevertheless, interested parties, including Framfield Parish Council, have raised objections to the proposal in relation to the main issues that I have identified, as well as other matters that are considered below.

5. During the appeal, the appellant submitted a deed of agreement under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) ('the s106'). The obligations and undertakings within the s106 were discussed at the Hearing, and a signed and completed version of the agreement was submitted shortly after the Hearing closed.

Main Issues

6. The main issues are:
   i) Whether or not the development would be in a suitable location having regard to its location in the countryside outside of any development boundary, and accessibility to services, facilities and transport links;
   ii) the effect of the proposal on the landscape, character and appearance of the area; and
   iii) the effect of the proposal on the integrity of European Sites.

Reasons

Location

7. The appeal site is located to the south of Framfield, and comprises stables, a manège and an open field which has been used for grazing, together with an existing access from the B2102. Under Policy WCS6 of the Core Strategy Local Plan 2013 ('the CS'), the defined development boundary was removed from Framfield. Consequently, the site is within the countryside in planning policy terms, and the proposal would conflict with saved Policies GD2 and DC17 of the Wealden Local Plan 1998 ('the WLP') which generally restrict new development within countryside outside of defined development boundaries.

8. In addition, Policy WCS2 of the CS seeks broadly to concentrate growth at the urban areas, especially at Uckfield and Hailsham. There is to be some further growth at settlements within the rural area, but the rural areas strategy at Policy WCS6 of the CS does not propose additional development at Framfield. Although Policies WCS2 and WCS6 do not explicitly preclude housing development outside of the identified locations, the supporting text to WCS6 sets out that the policy confirms the overall level of housing development which will be provided for in the rural areas. In proposing development at Framfield, I therefore concur with the main parties that the proposal would be contrary to the distribution of growth indicated by Policies WCS2 and WCS6 of the CS.

9. The supporting text to Policy WCS6 advises that the overall strategy is to ensure appropriate development which protects, supports and increases the range and quality of facilities and services available to the rural areas, and which helps sustain rural living, reinforces the accessibility of settlements whilst meeting needs and community aspirations. Existing services in Framfield include a primary school, a public house, a church, a village hall and a recreation ground, and I am satisfied that these would be within reasonable walking distance of the appeal site, with possible routes using either footways along the B2102 and/or connections through the development to the north. Parts of these routes are unlit, but the proposal includes provision to improve

footpaths and footway connections in the vicinity of the site which would help to encourage and support pedestrian accessibility.

10. Future occupiers would need to travel to access services including shopping, healthcare, secondary schools and employment. These and other services and facilities to meet day to day needs would be available at Uckfield which would be within generally reasonable cycling distance of the appeal site. Much of the route though would involve relatively narrow and unlit sections of the B2102, and I consider that cycling would be unlikely to be an attractive option to all but the most confident cyclists.

11. However, there are bus stops in Framfield served by routes which offer connections to destinations including Uckfield as well as Heathfield. I acknowledge that the distance to these bus stops from the furthest parts of the site would be slightly beyond the 400m generally recommended in guidance produced by the Institute of Highways and Transportation, but not so significantly that I find walking would be unrealistic. I understand that there are currently no very early morning, evening or Sunday buses running through Framfield, and that there is only a limited Saturday service. Nevertheless, I was informed that East Sussex County Council has secured funding towards bus service improvements, and is looking to increase the frequency of the Uckfield service to hourly, and to extend services into the evening. In addition, the proposal includes a financial contribution towards the enhancement of bus services in the vicinity of the site, and I heard that a similar contribution had also been secured from a development at Blackboys. These contributions would further support improvements to services. I appreciate that the financial contribution made by the development would relate to a 5-year period and may not fully fund service improvements , but the development would also generate additional potential passengers that could help to sustain the viability of services in the longer-term. On this basis, I consider that bus services would offer future occupiers a realistic alternative to the private vehicle for at least some trips.

12. The appellant has also provided a Framework Travel Plan which sets out measures intended to support genuine choice of transport modes and to discourage car use, and the s106 includes provision for the preparation, implementation and monitoring of a further Travel Plan and measures to achieve Travel Plan objectives.

13. Given the above factors, I am satisfied that there would be opportunities for future occupiers of the site to access services by sustainable travel modes. I accept that walking, cycling or travel by bus may not be realistic options for all future occupiers or trips, and there would be likely to be some dependence on private vehicles. Even so, journeys to reach a wide range of services in Uckfield would be fairly short, helping to minimise the effect of travel by private vehicle. Moreover, the National Planning Policy Framework ('the Framework') recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The supporting text to Policy EN2 of the WLP similarly recognises that development within rural areas inevitably generates proportionally more car traffic than that in urban areas, but that set against this, development may support valuable local services and maintain viable communities.

14. In this respect, and in addition to the support for bus services, occupiers of the site would be likely to offer increased patronage and additional expenditure that could help to sustain and potentially grow local services in the rural area. This would accord with the Framework which outlines that housing should be located where it will enhance or maintain the vitality of rural communities, albeit that I acknowledge that a larger proportion of potential expenditure may well be focussed towards Uckfield.

15. In the context of the rural location of the site within a district which the CS notes is almost 93% rural areas, I find for these reasons that the proposal would have reasonable access to services and facilities and opportunities to reduce reliance on private vehicles. I find no material conflict with saved Policy EN2 of the WLP insofar as it seeks the efficient location of development in relation to existing development and public transport. The proposal would also comply generally with spatial planning objectives SPO7, SPO9 and SPO13 of the CS which seek, broadly and amongst other things, to reduce the need for travel by car, to support travel by sustainable transport modes and to minimise emissions of greenhouse gases. It would similarly accord with the Framework which seeks to actively manage patterns of growth and promote sustainable travel while also supporting the vitality of rural communities.

16. I therefore conclude that the proposal would be in a suitable location having regard to its accessibility to services, facilities and transport links. However, the location of the site within the countryside would result in conflict with saved Policies GD2 and DC17 of the WLP and with the distribution of growth indicated by Policies WCS2 and WCS6 of the CS. That said, I return to consider the weight to be given to this conflict as part of the planning balance below.

Landscape, Character and Appearance

17. The WLP identifies the site as part of the 'Low Weald' landscape character area type which is noted as having gently undulating topography and a more open landscape than the High Weald, with streams and gyhlls that flow towards rivers. A primarily agricultural landscape of traditionally mixed arable and pastoral farming, punctuated by woods, hedgerow trees and field boundary hedges, the WLP states that it retains a strong rural character and that the countryside is almost universally attractive and worth retaining for its own sake.

18. With reference to the more recent East Sussex Landscape Character Assessment 2016, the appeal site is part of Local Landscape Character Area 3: Upper Ouse Valley. This is described as countryside of low ridges and wider valleys covered by an intricate pattern of streams and woods. Key characteristics include the gently undulating terrain with broad valleys, heavily wooded landscape and abundant tree cover, small village settlements with distinctive churches, and a sense of tranquillity and remoteness away from the main settlements and roads. At a more local level, the Wealden Landscape and Settlement Character Assessment 2016 indicates that the site is part of the of the A4: Blackboys and Framfield character area. Distinctive characteristics of this area include a patchwork of small scale pastoral fields interspersed with woodland, tree-lined lanes, and a strong sense of tranquillity and remoteness.

19. Based on my observations at my visit, the site is not of particular scenic quality, and I note that it has been in equestrian use rather than agriculture. Nevertheless, it is a predominantly open field which is largely free of built form on the valley slope to the south of Framfield. Together with its immediate

surroundings which retain features such as hedgerows, tree clumps and woodland, it is broadly representative of many of the characteristics of the host landscape, and it has an attractive and distinctive rural quality, albeit that modern housing to the north and development to the east are appreciable from the site. In my judgement, the assessment within the appellant's Landscape and Visual Impact Assessment ('LVIA') of the appeal site as of medium landscape quality, medium value, and medium sensitivity is reasonable.

20. The proposal would alter the site from a mostly open field to a housing development, with an inevitable and permanent change to the intrinsic character of the site and this part of the countryside which would be urbanising. However, the development would be well-contained by the existing development to the east of the site along the B2102, the development on Becketts Way to the north as well as by the woodland and vegetation boundaries to the south and west.

21. While the illustrative details suggest green space between the development and dwellings on Becketts Way, this is shown to include connections to the existing 'twitten' pathways into Becketts Way, and the separation would not be so large in the context of the site that I consider the development would be perceived as isolated or separate from Framfield. In addition, the illustrative details suggest that the development would be of lower density than built form to the north. Together with the considerable areas of green space within the site and around the boundaries, this would allow for a sensitive transition to the countryside setting. Moreover, I have no firm reason to find that it would not be possible to bring forward a sympathetic layout and buildings of a form, style and appearance that would respect the surrounding area at reserved matters stage. The development would not therefore be uncharacteristic in the receiving landscape, and notwithstanding the size of the site itself, I do not consider that the scale of the development would be unduly large relative to Framfield so as to overwhelm or dominate the existing settlement. Nor do I find that the proposal would meaningfully erode gaps between settlements so as to cause coalescence.

22. For these reasons, I consider that the proposal would result in only a minor and contained incursion into the countryside, and effects on the landscape and character of the area would be very localised and no more than moderate.

23. In terms of visual effects, the LVIA identifies that the topography of the area and vegetation mean that the development would be visible from only a relatively small area. The clearest views would be from the rights of way and existing development to the north of the site. However, it is proposed to largely retain vegetation to the site boundaries which would provide for some screening. In addition, the indicated green space to the northern part of the site could provide for a buffer that would help to further soften the visual impact of the development on these receptors, and the effect would reduce over time as suggested new planting matured. Given the topography and screening provided by vegetation and existing development, longer distance views would be limited and glimpsed. In combination with the distances involved, resulting visual effects on these views would be very limited. Noting also that the development would not be visible from within the High Weald Area of Outstanding Natural Beauty ('the AONB'), I am satisfied that the natural beauty and special qualities of the AONB would be conserved.

24. Interested parties have referred to a dismissed appeal relating to a stable building/tractor store on the site[1] where the development was found to contribute to urbanisation of open countryside at the fringe of Framfield, and to harm the character and appearance of the rural locality. For the reasons above, I find that the current appeal would also be urbanising, and that the proposal for development in the countryside would result in some harm to the landscape character and appearance of the area. This weighs against the proposal.

25. However, I find having regard to the specific merits of the development and evidence now before me that the harm would be very localised, and I am satisfied that a suitable layout and design of development could be brought forward at reserved matters stage to respect the character of adjoining development and local distinctiveness in accordance with saved WLP Policy EN27. Over time, it would therefore assimilate well into the landscape. On this basis, it would not cause unacceptable harm to the setting of Framfield, and I further find given the localised and modest degree of harm that the character of the wider Low Weald landscape would be conserved overall as sought by saved WLP Policy EN8.

European Sites

26. European Sites designated under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') include Special Areas of Conservation ('SACs') and Special Protection Areas ('SPAs'). In circumstances where a proposal is likely to have a significant effect on a European Site, the Habitats Regulations impose a duty on the competent authority to consider implications for the conservation objectives of the Site within the framework of an Appropriate Assessment ('AA'). This duty would now fall to me.

Lewes Downs SAC and Pevensey Levels SAC and Ramsar Site

27. The Lewes Downs SAC is an important orchid site designated for the presence of semi-natural dry grasslands and scrubland facies on calcareous substrates. The Pevensey Levels SAC is designated for the presence of Ramshorn Snail, while the Pevensey Levels Ramsar site is listed for the assemblage of wetland plants and invertebrates, and for aquatic plants, freshwater molluscs, aquatic beetles and dragonflies. The conservation objectives for both SACs seek broadly to ensure that the integrity of the site is maintained or restored, including by maintaining or restoring the extent, distribution, structure and function of qualifying natural habitats and the habitats of qualifying species.

28. The appellant's Ecological Appraisal includes a 'Technical Appendix: Document to Inform a Habitats Regulations Assessment'. This outlines that there would be no likely significant effect on the Lewes Down SAC or on the Pevensey Levels SAC and Ramsar Site through habitat fragmentation and loss, urbanisation and recreational disturbance, hydrology and water quality or air quality effects as a result of the proposal, either alone or in combination with other plans and projects. The Council similarly confirmed at the Hearing that it considered there would be no likely significant effect on these sites. I have no firm reason to take a different view, and I am satisfied having regard to the evidence before me that likely significant effects on the Lewes Down SAC and the Pevensey levels SAC and Ramsar Site can be screened out.

[1] Appeal ref APP/C1435/C/11/2150502

Ashdown Forest SAC

29. The appeal site is around 6.9km from the Ashdown Forest SAC which is designated for the presence of European dry heath, North Atlantic wet heaths and great crested newts. The conservation objectives for the SAC seek broadly to ensure that the integrity of the site is maintained or restored, including by maintaining or restoring the extent, distribution, structure and function of qualifying natural habitats and the habitats of qualifying species.

30. Given the distance to the SAC, the proposal would not result in habitat loss or fragmentation, and the evidence before me indicates that the SAC qualifying habitats and species are not identified as vulnerable to recreational disturbance and nor would they be affected by drainage or water quality. Natural England has provided supplementary advice on conserving and restoring the SAC which outlines that the heathland habitat is sensitive to changes in air quality, and that exceedance of critical values for air pollutants may modify its chemical substrate, accelerate or damage plant growth, altering its vegetation structure and composition and causing the loss of typical heathland species.

31. One source of atmospheric pollution that could affect the SAC heathland habitat is vehicle emissions, and the Council has identified a potential impact pathway from increased traffic flows associated with the development on roads through, or adjacent to, the SAC. However, supplementary advice on conserving and restoring site features published by Natural England in 2019 highlighted expected future improvements to air quality and levels of nitrogen deposition as a result of improvements in vehicle technology and manufacture standards. The advice further outlined that nitrogen levels from additional transport associated with expected housing development in the surrounding areas would fall below the level that would reduce species richness on the SAC, even if the expected declining trend in nitrogen failed to materialise.

32. In addition, the Council published an emerging Local Plan in 2019 seeking to deliver, amongst other things, 14,228 homes. The emerging Local Plan has since been withdrawn, but the evidence before me indicates that Natural England were satisfied that the quantum of growth envisaged would not adversely affect the SAC through air quality impacts, and further that this conclusion could be reached without need for mitigation measures. The appeal proposes a quantum of growth considerably below that identified in the since withdrawn emerging Local Plan.

33. For these reasons and from the evidence before me, I am satisfied that likely significant effects on the Ashdown Forest SAC can be screened out, and that the proposal would not adversely affect the integrity of the European Site.

Ashdown Forest SPA

34. The Ashdown Forest SPA is designated for the presence of Dartford Warbler and Nightjar. The conservation objectives for the SPA seek broadly to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the aims of the Wild Birds Directive, including by maintaining or restoring the extent, distribution, structure and function of qualifying natural habitats and the habitats of qualifying species.

35. The evidence before me indicates that the SPA is vulnerable to recreational disturbance through damage to the qualifying species' habitat, and disturbance

to ground nesting birds. At a distance of around 6.5km from the SPA, the appeal site is within the area that surveys have shown most visitors to the SPA originate from. The development could therefore contribute additional visitors to the SPA, resulting in an increase in recreational pressure. This pressure, particularly when taken in combination with other plans and projects, could cause harm to the qualifying features of the SPA to the detriment of its conservation objectives.

36. In order to mitigate potential recreational effects of development on the SPA, the appellant proposes a financial contribution towards provision of Suitable Alternative Natural Greenspace ('SANG') according to a per dwelling tariff. The SANG contribution would be used to improve the visitor experience at the strategic SANG at Uckfield in order to displace recreational trips from the SPA. The Council has confirmed that the SANG has capacity to accommodate the recreational impact arising from the proposal, including sufficient parking which is not charged for. In addition, a contribution is proposed towards Strategic Access Management and Monitoring ('SAMM'), also on a per dwelling tariff basis. This would go towards monitoring of effects on the SPA and measures to manage these effects including education, access management as well as directing visitors towards SANG sites.

37. The contributions towards SANG and SAMM are secured through the s106 which also includes obligations on the Council to use the contributions for the purposes of mitigation of additional recreational pressures from the development on the SPA. I consider that the intended mitigation would be properly secured. I also consider having regard to the evidence before me that the contributions would be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. They would accordingly meet the tests for obligations set out at Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 ('the CIL Regulations') which are also reflected within the Framework, and I have taken them into account.

38. An interested party has queried the effectiveness of SANG and SAMM. However, both are well-established measures which have been found to be effective as a general approach elsewhere. In addition, the SANG at Uckfield is much closer to the appeal site than the SPA, and I heard that visitor surveys carried out on behalf of the Council demonstrate that the mitigation measures are being successful in diverting visitors from the Ashdown Forest SPA. There is also provision through the SAMM contribution for monitoring to ensure continued effectiveness. Natural England has agreed the SANG and SAMM tariffs, and considers that they will effectively mitigate potential recreational impacts of the development. As the Government's advisor on nature conservation, and with responsibility for and significant experience in relation to these matters, I attach great weight to their advice, and do not find there to be compelling reasons to depart from their view that the mitigation would be effective and reliable in preventing harmful effects of the development on European Sites.

39. For these reasons and having regard to the mitigation secured through the s106, I concur with the AA undertaken by the Council that the scheme would not adversely affect the integrity of the SPA. Natural England has reviewed the Council's AA, and confirmed that providing the agreed mitigation is secured, it

is satisfied that the AA can ascertain that there will be no adverse effect on the integrity of the European Site in view of its conservation objectives.

40. I am satisfied that the AA undertaken by the council in relation to the SPA is suitably thorough and its conclusions rigorous and robust, and new information or evidence does not lead me to a different conclusion. As the competent authority for the purposes of the Habitats Regulations, I have therefore adopted the Council's AA in my determination of the appeal, and I conclude that the proposal would not harm the integrity of the SPA, either alone or in combination with other plans and projects.

Conclusion on European Sites

41. For the reasons given above and subject to the measures secured within the s106 to mitigate effects of the development on the Ashdown Forest SPA, I conclude that the proposal would not harm the integrity of any European Sites. The proposal would therefore accord with Policy WCS12 of the CS and saved Policies EN1, EN7 and EN15 of the WLP which together and amongst other things seek to safeguard designated nature conservation sites and avoid adverse effects on the integrity of the Ashdown Forest SPA and SAC.

Planning Obligations

42. I have considered the obligations within the submitted s106 in light of the tests within the CIL Regulations, and having regard to the evidence before me. This evidence includes a CIL Infrastructure Compliance Statement provided by the Council which sets out the justification for seeking the obligations and their accordance with the tests within the CIL Regulations.

43. In addition to the SANG and SAMM contributions which I have already considered, the s106 provides that 35% of dwellings would be affordable. This would be necessary to meet requirements at Policy AFH1 of the Wealden Affordable Housing Delivery Local Plan 2016. It would also be directly related to the development proposed and fairly and reasonably related in scale and kind to it.

44. There is provision that 5% of dwellings would be self-build or custom-build. Although this is not a development plan requirement, the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) require the Council to keep a self-build and custom housebuilding register, and establish a duty on relevant authorities to have regard to the register and to give permission to enough suitable serviced plots of land to meet the demand in their area. The Framework also advises that policies should reflect housing needs, including of people wishing to commission or build their own homes. The evidence before me indicates that there is unmet demand for self-build and custom-build housing in the area currently, and I am satisfied that provision as part of the development would be necessary. The Council advised that the 5% requirement reflects the scale of unmet need, and I have no firm reason to doubt that it would be directly related to the development proposed and fairly and reasonably related in scale and kind to it.

45. Further obligations would secure the provision and future management and maintenance of green infrastructure within the development; highway works including improvements to public footpaths, bus stops and footways along the B2102, and new crossing points; a travel plan and provision for auditing; and

financial contributions towards bus services and a Traffic Regulation Order. Although a Travel Plan would not normally be required for a development of this scale, it would help to encourage use of more sustainable modes of transport which would accord with the Framework, and which I consider would be necessary given the location of the site and my conclusions on the first main issue. On the basis of the evidence before me, I consider that all of these obligations would be required to address the impacts of the development, and I am satisfied that they would in each case be necessary to make the development acceptable in planning terms, directly related to the development proposed and fairly and reasonably related in scale and kind to it.

46. I find in light of the supporting information and evidence that is before me that each of the obligations in the s106 would comply with Regulation 122(2) of the CIL Regulations and the tests which are reflected in the Framework, and can be given weight. I have therefore taken them into account.

Other Matters

47. The appeal site is within the wider setting of the Framfield Conservation Area ('the CA') which includes a number of listed buildings, and there are further listed buildings in the vicinity of the appeal site at Framfield Grange and Grange Farm House. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the listed buildings and their setting or any features of special architectural or historic interest which they possess. I have also considered whether or not there would be harm to the significance of the CA through development within its wider setting.

48. However, the site is not part of the immediate setting of the listed buildings or the CA, and the topography of the area together with the presence of vegetation and intervening development means that these heritage assets do not have a direct visual relationship with the site. There is also no firm information to indicate any functional relationships or associative connections with the site. As a result, and given the lack of intervisibility between the site and the listed buildings and CA, I agree with the main parties that the proposal would preserve the setting and significance of these heritage assets.

49. The development would generate traffic, but the substantive evidence before me indicates sufficient capacity within the highway network to accommodate flows so that there would not be a significant increase in congestion. Although interested parties have commented that surveys were undertaken during the COVID-19 pandemic when traffic levels were lower and I note references to existing parking on The Street which causes a bottleneck, the survey data indicates considerable spare capacity to accommodate vehicle movements. East Sussex County Council ('ESCC') as the highway authority consider that the effect of additional vehicle flows on the highway network would be acceptable, and I have no firm reason to conclude differently.

50. The access to the site from the B2102 would be close to the existing access which serves Framfield Nursery and Old Nursery Cottage. Interested parties have raised concerns that there would be potential conflict between vehicles associated with the development and traffic accessing the adjacent Nursery site. I have also had regard to other concerns, including that visibility for vehicles turning into or out of the site would be poor resulting in danger and increased potential for collisions, noting comments referring to past incidents

that have occurred in the vicinity of the site. In doing so, I have noted a road safety audit submitted by an interested party, although it is not clear that this audit was conducted having regard to the full details of the access now proposed including swept path analyses.

51. However, the B2102 is not a trunk road or motorway, and surveyed 85th percentile vehicle speeds past the site were also less than 40mph. Because the design standards indicated by the Design Manual for Roads and Bridges guidance would not therefore be directly applicable, I do not consider a failure to fully comply with these standards to be compelling evidence that the access would be unacceptable. I appreciate that the surveyed 85th percentile vehicle speeds were above the existing 30mph speed limit and only slightly below 40mph, but the s106 provides for works to the existing highway including improvements to and additional chevrons and hazard marker posts, and additional warning signs. I have no firm reason to doubt the appellant's evidence that implementing such measures would be likely to be effective in reducing vehicle speeds.

52. Swept path analysis shows that refuse vehicles would be able to turn into and out of the site without incursion to the opposite carriageway of the B2102. The proposed access arrangements are also supported by independent road safety audit information which shows that the access would operate safely. This would be subject to the maintenance of vegetation to the east of the B2102 opposite the access to ensure necessary visibility, but this could be achieved within the highway boundary. The s106 also includes provision for implementation of parking restrictions by way of the Traffic Regulation Order Contribution which could address the recommendation within the audit for parking restrictions around the site access.

53. In addition, the appellant carried out a manual traffic count of the access serving Framfield Nurseries showing very low vehicle flows during two 24 hour survey periods, none of which were ordinary goods vehicles or heavy goods vehicles. An interested party has disputed these findings, but even on the basis of around 150 movements a week which they asserted was more usual, vehicle flows would still be very low. It was also suggested to me that potential for growth in operations at the Nursery could increase traffic further in future. However, I have no firm details to demonstrate likely levels, nor can I be sure that this would occur. In any event, even if existing or future traffic (including larger vehicle) movements using the Nursery access were higher than suggested by the appellant, I saw that intervisibility between the site access and the Nursery access is good. Accordingly, I do not consider this would be likely to result in conflict to the detriment of highway safety. Any delays associated with vehicles waiting for traffic using the adjacent site or Nursery access would be short, and given the likely levels of movements associated with the appeal proposal, would not in my assessment be likely to result in significant congestion nor in other severe impacts on the highway network.

54. The highway authority is satisfied that the necessary visibility splays can be achieved, and has not objected to the proposal on grounds of highway safety, advising that its initial concerns had been overcome. I give significant weight to its position as the relevant statutory consultee, and from the evidence before me find no compelling reason to disagree with its views. Accordingly, I consider that there would not be unacceptable impacts on either the highway network or the safety of highway users.

55. Interested parties refer to existing pressure on local services and infrastructure. However, the proposal would make CIL contributions which could fund local infrastructure provision. No concerns or objections have been raised by ESCC as the local education authority, and there is no substantive evidence before me to demonstrate that the proposal would otherwise place undue pressure on education or other services, nor that it would result in a requirement for additional capacity that could not be met.

56. I have noted particular concerns in relation to sewerage capacity. I was informed that the existing pumping station to the west of the site discharges to a nearby ditch when it cannot cope with storm flows, and that there had been an extended period during which effluent had to be removed by tanker causing significant noise and disruption to local residents. However, Southern Water is responsible for providing appropriate network capacity, and has considered potential additional flows from the development, advising that it would provide any network reinforcement necessary to mitigate additional flows associated with the development. A planning condition has been recommended to require a scheme for foul drainage works taking account of necessary works to upgrade infrastructure, and Southern Water would be able to plan and implement any necessary network upgrades alongside development to ensure that adequate capacity was in place to drain the development. Any discharges from the pumping station would be subject to permitting by the Environment Agency. There is also no detailed evidence that providers of other utility services would be unable to make provision to adequately supply the development without unacceptable impacts on existing connections in the area.

57. A number of representations refer to existing flooding locally including at the site access and on Becketts Way, and to an overland flow which crosses the site. However, the Council, and ESCC as the Lead Local Flood Authority, are satisfied in principle that sufficient drainage capacity can be accommodated as part of the development and that flood risk would not be unacceptably increased. Planning conditions have been recommended to require full details of drainage works and the overland flow which is to be retained on the site including restrictions on discharges from the site to surface or ground water, as well as details of future management and maintenance of the drainage. These conditions would mitigate flood risk as well as potential adverse water quality impacts, and I have no firm reason to reach a different conclusion to the Council and ESCC.

58. The proposal is also supported by an Ecological Appraisal which includes details of protected species surveys undertaken, as well as measures to mitigate the effects of development and enhance biodiversity. Subject to planning conditions to require further details and implementation of the identified mitigation and enhancement measures, there would not be unacceptable harm to wildlife or biodiversity.

59. The majority of trees and hedgerows at the site are indicated to be retained, and while some would be removed including to provide for access, these do not make a significant contribution to the character or appearance of the area. There would also be replacement planting as part of development which would be able to mitigate vegetation losses.

60. Occupiers of neighbouring dwellings would have views of the development. Subject though to new buildings being appropriately scaled and located as part

of the reserved matters, I am satisfied that suitable relationships could be achieved to ensure the proposal would not cause unacceptable loss of light, outlook or privacy. The proposal includes pedestrian connections from the site into Becketts Way, but there is no substantive information to show that use of this route by occupiers of the development would increase crime, and provision for parking within the site would be considered as part of reserved matters. Lighting on the site could be controlled by a planning condition, and in view of the residential nature of the proposal and its scale and relationship with nearby properties, I also consider that the development would be unlikely to result in noise or disturbance that would cause meaningful harm to nearby occupiers' living conditions. There would be potential for disturbance during the construction period, but any effects would be short-term, and could be mitigated by careful construction management with details secured by a planning condition.

61. I note comments referring to other permitted or ongoing developments in the area, including a large scheme to the south of Uckfield. However, the evidence before me indicates that current requirements for housing are not being met, and there is no firm information to show that the proposal taken cumulatively with other development in the area would result in unacceptable impacts that would warrant dismissal of the appeal. I have also noted that the appeal site was not considered suitable for housing within the Strategic Housing and Economic Land Availability Assessment 2019 which was prepared to inform the draft Wealden Local Plan. However, this was prepared in the context of a lower annual housing requirement than would currently apply. Moreover, I have considered the appeal having regard to the specific merits of the development now proposed and the evidence before me.

62. I have taken into account the representations made by interested parties including Framfield Parish Council, but I am satisfied that none of the other matters raised would result in a level of harm that would justify dismissal of the appeal, either individually or collectively, and they do not alter my findings on the main issues.

Planning Balance

63. Although I heard from an interested party that the Council has granted planning permissions in excess of requirements, the Council is currently unable to demonstrate a five year supply of deliverable housing. It suggests that the supply position is 3.66 years. The appellant considers the supply position to be 2.78 years, and asserts that a number of sites within the 'major development with outline planning permission' element of the Council's identified supply should be excluded as they were not permitted during the relevant base period, or would not be deliverable as defined by the Framework and Planning Practice Guidance. In the absence of further substantive evidence from the Council to demonstrate that these sites would be deliverable and should appropriately be considered as part of the identified supply, I lean towards the appellant's view. Even if I were to accept the Council's position though and find the supply to be 3.66 years, it is common ground between the main parties that the shortfall is substantial, and I agree with this assessment.

64. In the absence of a five year supply of deliverable housing, the Framework indicates that the policies which are most important for determining the application are deemed to be out-of-date. As a consequence, and irrespective

of the reasons for the current shortfall, the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework is engaged. There are no policies in the Framework that protect areas or assets of particular importance which would provide a clear reason for refusing the development, and the presumption therefore provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

65. The location of the site within the countryside would result in conflict with saved Policies GD2 and DC17 of the WLP, and the proposal would be contrary to the distribution of growth indicated by Policies WCS2 and WCS6 of the CS. However, the proposal would accord with the Framework insofar as it seeks to actively manage patterns of growth and promote sustainable travel while also supporting the vitality of rural communities. Furthermore, saved Policies GD2 and DC17 provide a level of blanket protection for the countryside, and I agree with the main parties that this is inconsistent with the Framework's more nuanced approach of recognising the intrinsic character and beauty of the countryside. These policies of the WLP and CS were also prepared in the context of the lower level of housing that was required at the time that the plans were prepared. In the absence of a 5 year supply, current housing requirements are not being met, and a rigid application of these policies would frustrate attempts to address the deficit in housing supply. Accordingly, I agree with the main parties that these policies are out of date, and I afford limited weight to the conflict with them.

66. I have also found that there would be some harm to the overall landscape and the character and appearance of the area. Although I have found no material conflict with saved Policies EN8 or EN27 of the WLP, this would be contrary to the Framework insofar as it seeks development that recognises the intrinsic character and beauty of the countryside. Nevertheless, the harm would be modest and localised, and the development would assimilate well with its surroundings over time. Moreover, it is clear that requirements for housing are not currently being addressed within the built-up areas, and the adverse effects of the proposal largely stem from the almost inevitable consequences of development on open countryside.

67. Conversely, the proposal for up to 58 dwellings on the site would make a relatively small, but nevertheless important contribution to reducing the housing supply shortfall. The Council has proposed a shorter than usual timescale for implementation of any permission granted, and I have little reason to doubt the appellant's comments at the Hearing that there are no obstacles to delivery and that the development would be brought forward within a reasonable time period. With regard to the Framework which includes objectives seeking to significantly boost the supply of housing, I afford substantial weight to the benefit of additional housing delivery.

68. In addition, the evidence before me shows that delivery of affordable housing in the district has been substantially below the level of identified need for at least the last few years, and the main parties agree that there is an acute need for more affordable homes in Wealden. The proposal includes 35% affordable housing which would provide for up to 20 affordable homes, and I afford substantial weight to this benefit. I also give significant weight to the provision

for 5% of dwellings as self-build or custom-build which would contribute to meeting needs.

69. There would be direct and indirect economic benefits of the development, both short-term during construction and longer-term on occupation. These would include employment opportunities in construction and the supply chain, as well as expenditure by future occupiers. Spend in the rural area may be fairly limited given the available services, but there would still be a contribution to the economy, and the Framework indicates that significant weight should be placed on the need to support economic growth and productivity. That said, employment opportunities would be largely temporary, and I am not persuaded that tax revenues would be a benefit of the proposal as they would reflect additional demand placed on services. In addition, I have not been provided with evidence to show how new homes bonus would confer a benefit directly related to the development. I therefore give moderate weight to the economic benefits of the proposal. In addition, I give moderate weight to the proposed contribution to bus service improvements which would be a benefit to the wider community who may also rely on these services, and could also potentially encourage new users.

70. The proposal includes green infrastructure and open space on areas that are currently inaccessible to the public, including close to dwellings on Becketts Way which could be of benefit to the existing community, particularly given improvements to footpath connections. However, the provision would in part be required to address the landscape and visual impacts of the proposal and to make the development acceptable in planning terms, and I was advised at the Hearing that a recent assessment identifies that there is no longer a quantitative shortfall in open space provision locally. These factors limit the weight that I afford to this as a social benefit. Even so, the green infrastructure could play a role in supporting biodiversity, and the appellant has proposed a biodiversity net-gain overall which could be secured by a planning condition.

71. Taking account of all of the above, the modest adverse impacts of the development would not in my judgement come close to significantly and demonstrably outweighing the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development set out in paragraph 11(d) of the Framework therefore applies and indicates that permission should be granted. Although the proposal would conflict with the development plan when it is read as a whole, the harm would be limited, and would in my assessment be outweighed by material considerations including the Framework which indicate that a decision should be taken contrary to the development plan.

Conditions

72. I have considered suggested conditions in light of the discussion and amendments proposed at the Hearing, and against the tests at paragraph 56 of the Framework. Where necessary, I have made minor amendments for clarity, brevity or to ensure compliance with the relevant tests including to omit unnecessary prescription of details that would be a matter for the Council to consider as part of the assessment of future submissions. I have also combined some conditions in the interests of succinctness.

73. I have attached conditions relating to the submission of reserved matters and the time limits associated with this (1, 2, 3), and a condition specifying the

relevant plans (4) for the avoidance of doubt and in the interests of certainty. The time limit conditions are shorter than standard owing to the pressing need for housing that the proposal would help to address, and the appellant has agreed to these. I have also imposed a condition to require that 65% of the dwellings are market housing (5) which is necessary to ensure CIL contributions towards the provision of infrastructure. However, it is not necessary to require details of the location of the market dwellings since this would be apparent through the Affordable Housing Scheme required under the s106.

74. A condition regarding archaeological investigation (6) is necessary to safeguard heritage assets of archaeological interest. A condition to require a Construction Management Plan (7) to include details of delivery and construction working hours is necessary in the interests of highway safety and the living conditions of nearby occupiers, while a condition regarding the protection for retained trees (8) is necessary to safeguard these trees and in the interests of the character and appearance of the area. Conditions regarding surface water drainage (9) and future management and maintenance of this drainage (10) are necessary to ensure adequate provision and that flood risk would not be increased. I have also imposed a condition relating to the delivery of biodiversity net gain (11) which is necessary to ensure that this suggested benefit of the development is realised, and conditions relating to contamination (12, 13, 14) which are necessary to safeguard health and the environment. To ensure that they are effective and that details which could affect how development is carried out are satisfactory, it is necessary for the requirements of Conditions 6 through 12 to be addressed prior to the commencement of development.

75. I have imposed a condition requiring the construction of the access junction from the B2102 in advance of other works taking place (15) to ensure adequate access during construction as well as on occupation. However, I do not consider that a condition relating to the access gradient would be necessary given that the design detail and standard of the access would be a matter for the Agreement with the Highway Authority under section 278 of the Highways Act 1980 that would be required by the s106.

76. A condition relating to foul drainage (16) is necessary to ensure that there would be adequate provision to serve the development, and further conditions relating to the overland flow which is to be retained (17), surface water outfall (18) and discharge to groundwater or surface water (19) are necessary in the interests of flood risk and water quality. A condition to require water and energy efficiency measures (20) is necessary in the interests of environmental sustainability. Conditions regarding wildlife management (21), lighting design (23) and to require works in accordance with the recommendations of the Ecological Appraisal submitted with the application (24) are necessary in the interests of biodiversity, the character and appearance of the area and the living conditions of neighbouring occupiers. Finally, I have attached conditions to address air quality which are necessary in the interests of health and the natural environment (22, 25).

77. Further conditions were suggested relating to the details of roads, footways and parking within the site, and requiring a landscape management plan. However, these relate to the layout and landscaping of the development, and so can be addressed in the consideration of future reserved matters applications for these aspects or through the imposition of conditions on a

reserved matters approval. These conditions are therefore unnecessary, and I have not imposed them.

78. An additional condition was put forward at the Hearing to require development in general conformity with the parameter plans. However, I am concerned that reference to 'general conformity' could be insufficiently precise as to what would be required. The Council would also be able to consider the details of any proposal as part of a future reserved matters application, and from the information that is before me, I do not consider that such a condition would in this case be necessary. I have not therefore imposed it.

Conclusion

79. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

SCHEDULE OF CONDITIONS

1) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of two years from the date of the grant of this outline permission.

3) The development hereby permitted shall commence not later than the expiration of one year from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans:
2833.1-A-1000-PL Rev C (Location Plan) 15 March 2021
1904062-16 (in Technical Note Access Arrangements) 22 July 2021,
1904062-17 (in Technical Note Access Arrangements) 22 July 2021,
1904062-18 (in Technical Note Access Arrangements) 22 July 2021 and
1904062-TK04 B (in Technical Note Access Arrangements) 22 July 2021.

5) The development shall include 65% of dwellings as market dwellings.

6) No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a Written Scheme of Investigation which has first been submitted to and approved in writing by the Local Planning Authority.

   No part or phase of the development hereby permitted shall be first occupied until the archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that part or phase has been completed in accordance with the programme set out in the approved Written Scheme of Investigation,

and the post investigation assessment has been submitted to and approved in writing by the Local Planning Authority.

7) No development shall take place, including any ground works or works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Construction Management Plan shall include details of;
   a) the anticipated number, frequency and types of vehicles used during construction,
   b) the method of access and egress and routeing of vehicles during construction,
   c) the parking of vehicles of site operatives and visitors,
   d) the loading and unloading of plant, materials and waste,
   e) the storage of plant and materials used in construction of the development,
   f) the erection and maintenance of security hoarding,
   g) wheel washing facilities,
   h) works to mitigate the impact of construction upon the public highway (which may include the provision of temporary Traffic Regulation Orders),
   i) details of public engagement both prior to and during construction works,
   j) scheme for the control of noise and dust,
   k) delivery hours and construction phase working hours, and,
   l) measures to manage flood risk, both on and off the site, during the construction phase.

8) No development shall take place, including any groundwork preparation, until a detailed, scaled Tree Protection Plan ('TPP') and related Arboricultural Method Statement have been submitted to and approved in writing by the Local Planning Authority. The TPP and Arboricultural Method Statement shall include details of the specification and location of exclusion fencing, ground protection and any construction activity that may take place within the Root Protection Area of trees shown on the TPP including installation of service routings and site access. All works shall be carried out in accordance with the approved details.

9) No development shall take place until a detailed surface water drainage system has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall incorporate the following:
   a) Detailed drawings and hydraulic calculations which shall take into account the connectivity of the different surface water drainage features. The calculations shall demonstrate that surface water runoff from the proposed development shall be limited to greenfield runoff rates for rainfall events, including those with a 1 in 100 (plus climate change) annual probability of occurrence. An allowance for urban creep (recommended 10% increase in impermeable area) shall be incorporated within the calculations.
   b) Details of the outfalls of the proposed surface water attenuation structures and how they connect into the watercourses including cross sections and invert levels, and details of the receiving watercourse's connectivity with the wider watercourse network.

c) The detailed design of the surface water attenuation structures which shall be informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1m unsaturated zone between the base of the drainage structures and the highest recorded groundwater level. In the event that this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system shall be provided.
d) Details of the measures proposed to manage exceedance flows.
e) Details of measures to prevent the discharge of surface water from the site onto the public highway and, similarly, to prevent the discharge of surface water from the highway onto the site.
f) Details of how existing overland surface water flows have been retained.
g) Retention of existing watercourses on site within a communally maintained space.

The drainage shall be provided in accordance with the approved details, and the development shall not be occupied until evidence (including as built drawings and photographs) has been submitted to and approved in writing by the Local Planning Authority showing that the drainage system has been constructed in accordance with the approved details and drainage designs.

10) No development shall take place until a maintenance and management plan for the entire surface water drainage system approved under condition 9 has been submitted to and approved in writing by the Local Planning Authority. The maintenance and management plan shall include the following:

a) details of who will be responsible for managing all aspects of the surface water drainage system, including piped drains, and
b) evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development.

The development shall thereafter be maintained and managed in accordance with the approved plan for the lifetime of the development.

11) No development shall take place until a biodiversity enhancement strategy has been submitted to and approved in writing by the Local Planning Authority demonstrating how at least a 10% net gain in biodiversity can be delivered. The development shall be carried out in accordance with the approved details.

12) No development below ground level shall take place until an investigation and risk assessment to assess the nature and extent of any contamination on the site, whether or not it originates on the site, has been undertaken in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority.

A written report of the findings of the investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority, and shall include:

a) a survey of the extent, scale and nature of contamination;
b) an assessment of the potential risks to:
    i. human health
    ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes
    iii. adjoining land

iv. ground waters and surface waters
v. ecological systems
vi. archaeological sites and ancient monuments;

c) an appraisal of options for remediation (where necessary) and proposal of the preferred option(s).

13) Where the written report of the findings of the investigation and risk assessment pursuant to condition 12 identifies that remediation is necessary, no development below ground level shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historic environment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The approved remediation scheme shall thereafter be carried out in accordance with its terms prior to the commencement of development, other than that development required to carry out remediation, and the Local Planning Authority shall be given two weeks' written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

14) In the event that contamination that was not previously identified is found at any time when carrying out the development hereby permitted, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of Condition 12, and, where remediation is necessary, a remediation scheme shall be prepared in accordance with the requirements of Condition 13. The investigation and risk assessment and remediation scheme shall be submitted to and approved in writing by the Local Planning Authority, and thereafter carried out in accordance with the approved details.

15) The access works at the junction of the site with the B2102 shall be constructed in accordance with the details shown on approved plan nos 1904062-17 (in Technical Note Access Arrangements) 22 July 2021 and 1904062-18 (in Technical Note Access Arrangements) 22 July 2021 prior to the commencement of any other development hereby permitted.

16) No preparation of ground levels of the development hereby permitted shall take place until a scheme for the provision and implementation of foul drainage works has been submitted to and approved in writing by the Local Planning Authority. The foul drainage works shall be implemented in accordance with the approved details, and any works required to upgrade the infrastructure sufficiently to provide adequate capacity for the development shall be implemented, before the buildings to which the foul drainage works relate are first occupied.

17) No preparation of ground levels of the development hereby permitted shall take place until details showing that the proposed site levels have been designed in a way that seeks to maintain the existing surface water overland flow through the site to the existing ordinary watercourse have been submitted to and approved in writing by the Local Planning Authority. The surface water flow route shall have safe flood depths and hazard rating within the site.

    If circumstances arise where the overland flow path requires diversion, details of the proposed diversion of the existing surface water overland flow route through the development shall be submitted to and approved in writing by the Local Planning Authority including 2-dimensional surface water hydraulic modelling. This shall demonstrate that the expected surface water depths upstream and downstream of the development will not be increased. The diverted surface water flow route shall have safe flood depths and hazard rating within the site.

18) No construction of any surface water outfall shall take place until the results of a survey investigation of the condition of the watercourses which will take surface water runoff from the development, and details of any improvements required to their condition together with a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority. Any required improvements to the condition of the watercourses shall be implemented in accordance with the approved details and timetable.

19) There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways. Prior to being discharged into any watercourse, surface water sewer or soakaways system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies and silt traps to BS 5911:1982 (or an equivalent standard if replaced) with an overall capacity compatible with the site being drained.

20) No preparation of any groundworks or foundations for the development hereby permitted shall take place until full details of water and energy efficiency measures, the promotion of renewable energy and sustainable construction as part of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to occupation and thereafter so retained.

21) No preparation of ground levels for the development hereby permitted shall take place until a wildlife management plan has been submitted to and approved in writing by the Local Planning Authority. The wildlife management plan shall include as appropriate detailed proposals for the protection of bats, birds, reptiles, great crested newts and badgers, and measures for the mitigation of any harm to them likely to be caused by the development. The development shall be carried out in accordance with the approved details.

22) No construction of the roof of any dwelling hereby permitted shall take place until a scheme for onsite/off site emissions off setting mitigation measures (in accordance with the development damage costs calculated within the submitted Air Quality Assessment (or any amended Assessment provided with the reserved matters detailing the number of dwellings to be provided) has been submitted to and approved in writing by the Local Planning Authority. The emissions off setting mitigation measures shall be provided in accordance with the approved details before the development is first occupied.

23) No floodlighting, security lighting or other external means of illumination shall be provided, installed or operated in the development, except in accordance with a detailed scheme which has first been submitted to and approved in writing by the Local Planning Authority, including details of predicted light levels at neighbouring residential properties. The scheme shall be implemented in accordance with the approved details and retained thereafter.

24) The development shall take place in accordance with the recommendations set out within the Ecological Appraisal March 2021 authored by Aspect Ecology Ltd (dated 5 March 2021). The approved details shall thereafter be retained.

25) The development shall take place in accordance with the recommendations set out within the Air Quality Assessment authored by Entran Limited (revision 1.2 dated 9 March 2021). The approved details shall thereafter be retained.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Zack Simons	of Counsel
Oliver Bell BSc, MSc, MRTPI	Nexus Planning
Ian Dix BSc (Hons), MSc, CMILT, MCIHT	Vectos
Alistair Baxter CEcol, CIEEM, MSc, MA(Oxon), BA (Hons)	Aspect Ecology
Keith Lancaster BA (Hons), MALA, LPC	Gateley Legal
Jon Seymour BA(Hons), PGDipLA, CMLI	ACD Environmental Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Declan Redman BSc (Hons), MA	Wealden District Council

INTERESTED PARTIES:

Keith Brandon	Framfield Parish Council
Mike Gadd	Wealden Green Spaces
Ashley Jones	
Bernard Lillywhite	
Allen Rollings	(on behalf of Peter Tipping)
Peter Tipping	Framfield Nursery
Tony Wills	

DOCUMENTS SUBMITTED AT THE HEARING

1 Ashdown Forest Special Protection Area (SPA) Strategic Access Management and Monitoring Strategy Tariff Guidance, submitted by the Council

2 Wealden District Council Local Plan Community Infrastructure Levy Background Paper 2: SANGS and SAMMS, submitted by the Council

DOCUMENTS SUBMITTED FOLLOWING THE HEARING

1 Signed and executed planning obligation dated 20 December 2022, submitted by the appellant.

Appendix DV2

Hallam Land Management Ltd v SoS for DCLG [2018] EWCA 1801

Neutral Citation Number: [2018] EWCA Civ 1808

Case No: C1/2017/3339

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE ADMINISTRATIVE COURT
PLANNING COURT
MR JUSTICE SUPPERSTONE
[2017] EWHC 2865 (Admin)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 31 July 2018

Before:

Lord Justice Davis
Lord Justice Lindblom
and
Lord Justice Hickinbottom

- -

Between:

Hallam Land Management Ltd. **Appellant**

- and -

(1) Secretary of State for Communities and Local Government
(2) Eastleigh Borough Council **Respondents**

- -
- -

Mr Thomas Hill Q.C. and Ms Philippa Jackson (instructed by **Irwin Mitchell LLP**)
for the **Appellant**
Mr Zack Simons (instructed by **the Government Legal Department**)
for the **First Respondent**
Mr Paul Stinchcombe Q.C. and Mr Ned Helme (instructed by **Eastleigh Borough Council**)
for the **Second Respondent**

Hearing date: 3 May 2018

- -

Judgment Approved by the court or handing down (subject to editorial corrections)

Lord Justice Lindblom:

Introduction

1. In deciding an appeal against the refusal of planning permission for housing development, how far does the decision-maker have to go in calculating the extent of any shortfall in the five-year supply of housing land? That is the central question in this appeal.

2. With permission granted by Lewison L.J. on 6 March 2018, the appellant, Hallam Land Management Ltd., appeals against the order of Supperstone J., dated 16 November 2017, dismissing its application under section 288 of the Town and Country Planning Act 1990 by which it had challenged the decision of the first respondent, the Secretary of State for Communities and Local Government, in a decision letter dated 9 November 2016, dismissing an appeal under section 78 of the 1990 Act. The section 78 appeal was against the refusal by the second respondent, Eastleigh Borough Council, of outline planning permission for a development of up to 225 dwellings, a 60-bed care home and 40 care units, the provision of public open space and woodland, and improvements to Hamble Station, on land to the west of Hamble Lane, in Hamble.

3. The site of the proposed development is about 23 hectares of pasture, on the Hamble Peninsula, between the Hamble River and Southampton Water. It is not within any settlement, nor allocated for development in the Eastleigh Borough Local Plan Review (2001-2011), adopted in 2006. The settlements of Bursledon, Netley and Hamble lie, respectively, to the north, the west and the south. Because it is in the "countryside", the site is protected by policy 1.CO of the local plan. And because it lies within the Bursledon, Hamble, Netley Abbey Local Gap, it also has the protection of policy 3.CO.

4. An inquiry into the section 78 appeal was held by an inspector appointed by the Secretary of State on four days in June 2015. On 24 June 2015, the second day of the inquiry, the appeal was recovered by the Secretary of State, because it involved a proposal for "residential development of over 150 units … , which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities". In his report, dated 26 August 2015, the inspector recommended that the appeal be dismissed. The Secretary of State subsequently received a large number of further representations, some of them in response to letters he sent to the parties on 15 April 2016 and 29 June 2016. In those representations the Secretary of State received the parties' comments on two decisions of inspectors on appeals in which the supply of housing land in the council's area had been assessed – first, an appeal relating to a proposed development of up to 335 dwellings on land at Bubb Lane, Hedge End, which was dismissed on 24 May 2016, and secondly, an appeal relating to a proposed development of up to 100 dwellings on land at Botley Road, West End, which was allowed on 7 October 2016. In his decision letter on Hallam Land's appeal the Secretary of State largely agreed with the inspector's conclusions and accepted his recommendation.

5. The challenge to the Secretary of State's decision was made on four grounds. The first and second grounds went to his failure – unlawfully, it was said – to ascertain the extent of the shortfall against the five-year housing land supply in the council's area, and to provide adequate reasons for his relevant conclusions. The third and fourth grounds asserted that his decision was inconsistent with the conclusions on housing land supply and the weight to be given to policy 3.CO in an inspector's report, dated 25 August 2016, in an appeal relating to a proposed development of up to 680 dwellings on land at Winchester Road, Boorley Green. Supperstone J. rejected all four grounds.

The issues in the appeal

6. The appeal before us raises two main issues:

   (1) given that the council could not demonstrate the requisite five-year supply of housing land under government policy in the first National Planning Policy Framework ("NPPF"), published in March 2012, whether the Secretary of State established the shortfall with sufficient precision, and whether his relevant reasons were adequate; and
   (2) whether the Secretary of State erred in law in deciding Hallam Land's appeal without having regard to the inspector's report on the Boorley Green appeal.

7. These issues raise no question of law that has not already been amply dealt with in a series of cases on the meaning of relevant policies in the NPPF, and on the importance of consistency in planning decision-making.

NPPF policy

8. We are not concerned in this appeal with the policies in the revised NPPF, which was published on 24 July 2018. I shall refer only to the policies in the first NPPF, as if they were still extant.

9. Paragraph 47 of the NPPF states:

> "To boost significantly the supply of housing, local planning authorities should:
> …
> • identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements …
> …".

Paragraph 49 states:

> "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

Paragraph 14 contains the Government's policy for the "presumption in favour of sustainable development". It explains that:

> "…
> For decision-taking this means:
> • approving development proposals that accord with the development plan without delay; and
> • where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
> – any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
> – specific policies in this Framework indicate development should be restricted."

The inspector's report

10. In his report the inspector noted, under the heading "The Case for the Council", that the council "acknowledge that they are not currently able to demonstrate a 5 year housing supply, as required by NPPF para 47" (paragraph 22). It was the council's case, however, that "the proposal is contrary to development plan policies which are not out of date, and is not the sustainable form of development for which there is a presumption in favour", and that "[even] if the presumption in NPPF para 14 was engaged, the negative aspects of the scheme, including the landscape impact and the loss of openness, would significantly and demonstrably outweigh the benefits" (paragraph 41).

11. Summarizing the case for Hallam Land, under the heading "The Case for the Appellants", he referred (in paragraph 62) to the uncontested evidence of its planning witness, Mr Usher:

> "62. The need for housing is demonstrated in Mr Usher's proof … , which has not been challenged by the Council, and which reflects the conclusions of the Local Plan Examination that the draft is unsound for failing to make adequate provision. The Council accept that they cannot demonstrate a five year supply, the level being shown by the appellants to be 2.92 years, or 1.78 years if the need for affordable housing is included."

Because the council would "not be able to meet its housing land requirements without the loss of significant areas of countryside…", it was "inevitable that there will be a change to the open and undeveloped character of such land". This was "not, of itself, an adequate ground to resist the development when there is no 5 year land supply, nor an up to date development plan" (paragraph 65).

12. In his conclusions the inspector identified the "main issues" as being "i) the effect of the development on the character and appearance of the countryside and its role in separating settlements, and ii) whether any harm would be outweighed by the potential benefits of the development, including a supply of market and affordable housing, and the improvement of station facilities" (paragraph 88).

13. He said that "[the] proposal would not fall within any of the specified uses in Local Plan policy 1.CO …". He concluded that there was "no doubt that a development of this scale would diminish the Local Gap both physically and, to some degree, visually, contrary to policy 3.CO …", and that "[in] these respects it would not comply with the development plan" (paragraph 90). He went on to find that "there are grounds to conclude that policy 1.CO may be regarded as out of date, but that there is not justification for giving any substantial reduction to the weight applied to policy 3.CO" (paragraph 96).

14. Under the heading "The Benefits of the Proposal" he noted that Hallam Land had particularly emphasized "the supply of market and affordable housing to meet an acknowledged need, and the provision of facilities for Hamble Station" (paragraph 107). He continued (in paragraph 108):

> "108. The Council acknowledge that they are not able to demonstrate more than a four and a half years supply of deliverable housing land, and it is the appellants' view that the actual level is significantly less. It is not necessary for this report to carry out a detailed analysis of the housing land supply position, which is better left to the Local Plan

> examination, where all the evidence is available to the inspector. However, it can be said that there is a material shortfall against the five year supply required by NPPF para 47, and that there is evidence of an existing need for affordable housing. In these circumstances, the provision of up to 225 homes, 35% of which would be affordable, would be a significant advantage arising out of the scheme. It is also the case that the new dwellings would meet sustainable construction and accommodation standards, and be of a mix to satisfy a wide range of housing needs. In these respects, the development would help meet the NPPF objectives of boosting significantly the supply of housing, and delivering a wide choice of high quality homes. …".

He accepted that "[the] choice of accommodation would also be boosted by the provision of 100 care and extra care spaces", and that "such accommodation would be likely to release a supply of existing, under-used homes to meet the general housing demand" (paragraph 109).

15. Bringing his conclusions together under the heading "Sustainability and Overall Conclusions", the inspector said (in paragraph 116):

> "116. When assessed against the criteria in para 7 of the NPPF, the supply of market and affordable housing, along with care facilities, would make a significant contribution to meeting the social role of sustainability, complemented by the provision of public open space, although, in the latter case, at the expense of the loss of the rural character of the public footpath crossing the site. The additional population and employment opportunities would assist the economic life of the area, as would the supply of homes in an area with an acknowledged shortfall. There would be the environmental and community benefits arising out of the station improvements (but having regard to the Council's alternative scheme), any spin-off advantages for traffic and pollution levels, from the off-site highway works, and the environmental and ecological aspects of the landscaping proposals."

He accepted that "[on] balance, this is a reasonably sustainable location in terms of accessibility" (paragraph 117). His final conclusion, however, went against the proposal. He found that "the loss of the gap between the surrounding settlements, involving the physical intrusion into an area of countryside, and contributing to the coalescence of those settlements, and loss of independent identity" would be contrary to policy 3.CO of the local plan and corresponding policies in the NPPF; that "[the] countervailing benefits of the scheme, as well as compliance with other development plan policies … would not outweigh the harm that this loss of separation would cause"; and that "[taken] as a whole, the proposal does not amount to the form of sustainable development for which there is a presumption in favour" (paragraph 118).

The decision in the Bubb Lane appeal

16. The inspector in the Bubb Lane appeal concluded (in paragraph 45 of his decision letter):

> "45. The evidence before me does not support EBC's view that it is 'a whisker' away from demonstrating a five year supply of deliverable housing land. Notwithstanding EBC's considerable efforts to improve housing provision, something in the order of a four year supply at the time of this Inquiry indicates that EBC has a considerable way to go to demonstrating a five year supply of deliverable sites. There is no convincing evidence that measures currently taken have been effective in increasing the rate of housing

delivery. The scale of the shortfall is a significant material consideration in determining this appeal. The contribution that the appeal scheme would make to the housing supply, and particularly to affordable housing provision in the area in accordance with EBLP Policy 74.H, would be a significant benefit of allowing the appeal."

Under the heading "Planning balance", the inspector concluded that "some weight can be given to the conflict with EBLP Policy 2.CO, arising from the harm that would result from the proposal to the separation of settlements …", but that "this weight is limited because of the significant shortfall in housing supply, and the lack of convincing evidence that EBC's efforts to address this are proving effective" (paragraph 52). He went on to say that, "[given] the current scale of the housing shortfall, the provision of additional market and affordable housing would be a significant benefit of the proposal" (paragraph 55). But he concluded, finally that "[in] my judgement, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole" (paragraph 57).

The decision in the Botley Road appeal

17. In the decision letter on the Botley Road appeal, the inspector stated these conclusions on "Housing land supply" (in paragraphs 18 and 19 of his decision letter):

"18. In conclusion, the final calculation taking a requirement figure of 1,120dpa, or 5,602 dwellings over the 5 year period, there is a 4.25 years' supply of housing land. Even on the Council's most favourable calculations, taking the Council's approach to the buffer and with its suggested contributions from all the disputed sites, the supply would still only be 4.71 years, but the evidence indicates that this is unlikely to be achievable.

19. There is therefore a significant shortfall in the amount of deliverable housing land, amounting to some 833 dwellings. The Leader of the Council gave evidence of the impressive efforts the Council had made to underpin housebuilding confidence following the recession, but this does not seem to have been translated into the provision of enough housing land. Net completions for the two years 2014/15 and 2015/16 amounted to less than one year's requirement. Referring to recent outline approvals, the Council said that it was making progress towards improving housing supply; recent permissions might enable it to exceed the OAN to a degree this year. Even if that happens, it is still well short of the requirement for the year. There is a significant shortfall to be made up, and the evidence that the gap might be closing quickly enough is far from convincing. The Council is not, as it claims, on the cusp of achieving a 5 year supply of deliverable housing land."

Under the heading "Effect on the countryside and the strategic gap", he noted (in paragraph 27) that "planning permission has been granted for a number of sites which have included dwellings in the strategic gaps", and went on to say:

"27. … But the Council's argument that present needs can be met substantially within the land outside the gaps is wholly unconvincing; even with the permissions on gap land, there is still no 5 year housing land supply and without them, even on the Council's unduly optimistic housing land supply calculations, there would only be 3.4 years' supply of housing land. On the contrary, the evidence is that the gaps are a factor in limiting the choice of sites available for the provision of housing, and that breaches of

> the strategic gap policy have proved necessary and will prove necessary to cater to meet current housing needs."

In his "Conclusion" the inspector said (in paragraph 52):

> "52. There is a significant shortfall in the supply of deliverable housing land for the next 5 years and no convincing evidence that the gap is diminishing to the extent that it will be made up within a reasonable time by identified deliverable sites. There is also severe under-delivery of affordable housing. The scheme would deliver up to 100 dwellings including up to 35% affordable homes and, although it is in the countryside and in a defined strategic gap, would cause little practical harm. In a situation where there is a pressing need for housing and affordable housing, and where both saved Policies 1.CO and 2.CO are out of date, the adverse impacts of the scheme to the landscape, the countryside and the strategic gap, and the other impacts of the scheme discussed above, would be slight and would not significantly and demonstrably outweigh the benefits. Indeed, even if saved Policy 2.CO were not accepted as being a policy relevant to the supply of housing, and not out-of-date, the considerable benefits of the scheme, weighed against the limited harm, would indicate a decision other than in accordance with that policy."

The post-inquiry representations

18. The further representations made by Hallam Land and by the council after the inquiry largely concerned the status of policies 1.CO and 3.CO of the local plan for the purposes of NPPF policy, in the light of this court's decision in *Suffolk Coastal District Council v Hopkins Homes Ltd.* [2016] EWCA Civ 168, which was handed down on 17 March 2016, and the weight to be given to those policies in the absence of a five-year supply of housing land.

19. In its further representations dated 15 April 2016, in response to the Secretary of State's letter of the same date, the council asserted that it was now "able to demonstrate a 4.93 year supply" of housing land (paragraph 2.7.2(1)), and that "the action which has been taken to address the shortfall has been both considerable and effective" (paragraph 2.7.2(2)). In further representations dated 5 May 2016, Hallam Land rejected the council's suggestion that it now had a housing land supply of 4.93 years (paragraph 5). On 11 May 2016 the council submitted additional representations, referring to the planning permissions it had granted for housing development since the inquiry (paragraph 2.8 and Appendix 5), and contending that Hallam Land had failed to recognize "the wide range of measures being taken by the Council to boost housing supply" (paragraph 2.9). Hallam Land responded to those representations with further representations of its own, dated 24 May 2016, and took issue again with the council's argument that there was now a housing land supply of 4.93 years. That figure was "not based upon an up to date SHMA", was "not tested", and was "not reflective of unmet need in adjacent areas" (paragraph 8). Its case, it said, "had always been that there remains a substantial shortfall" and it "[continued] to rely upon its evidence and submissions as submitted to the inquiry" (paragraph 10). The council was "still unable to demonstrate a 5YHLS, even against its own target (which is not accepted to be correct)". Also on 24 May 2016, the council sent the inspector's decision letter in the Bubb Lane appeal to the Secretary of State, drawing his attention to it as a relevant decision.

20. On 17 June 2016 the council made yet further representations, "in order that the decision can be taken upon the best and most up-to-date information …" (paragraph 1.1). It now resiled

from its previous concession that policy 3.CO was a policy "for the supply of housing", and, in the absence of a five-year supply of housing land, "out of date" (paragraphs 2.4 and 3.1 to 3.5). It said it would shortly provide "an updated position in respect of its housing land supply reflecting further (recent) changes of circumstance, including its agreement for the purposes of another inquiry [in the Botley Road appeal] (and in the light of the conclusions of the Bubb Lane Inspector) that the full objectively assessed needs for Eastleigh should be taken to be 630 dwellings per annum" (paragraph 4.1). The council provided its promised "Update on Housing Land Supply" on 23 June 2016. This referred to the conclusion of the inspector in the Bubb Lane appeal that "the OAN for Eastleigh was 630dpa", which had now been reflected in the statement of common ground for the imminent inquiry into the Botley Road appeal (paragraphs 2.1 and 2.2). The council's evidence for that inquiry explained that "on its preferred approach [it] is able to demonstrate a 4.86 year supply" (paragraph 2.3). Its position therefore remained that although it could not demonstrate a five-year supply of deliverable housing sites, it was "very close to being able to do so" (paragraph 2.4).

21. In representations dated 19 July 2016, in response to the Secretary of State's letter of 29 June 2016, Hallam Land attacked the council's "volte face" on the status of policy 3.CO (paragraphs 4 to 12). It also made clear that it did not accept the council's "latest attempt to revise its case on the extent of its 5YHLS …", and that it maintained the position it had taken in the representations it had submitted in May 2016 (paragraph 13).

22. In a letter dated 13 October 2016 to Mr Barber, the Secretary of State's decision officer, Barton Willmore, on behalf of Hallam Land, asked him to draw to the Secretary of State's attention the inspector's decision in the Botley Road appeal, "in order that he is fully appraised of the recent approach of one of his senior Planning Inspectors … in relation to a series of identical issues which he will now be considering when making a decision …" in this case. Barton Willmore pointed out that the inspector had rejected "the proposition that [the council] can meet its housing land requirements without impinging upon land which is designated as gap", and had concluded that policy 2.CO "is a relevant policy for the supply of housing". They argued that an "identical conclusion" must follow for policy 3.CO in this case. They referred to "the principle often expounded by the Courts that it is desirable that there be consistency in planning decision-making". It was therefore "highly important", they said, that the Botley Road decision, "relating to a virtually identical issue", was "formally before the Secretary of State" in this appeal. They also emphasized the fact that the inspector's decision letter dealt directly with the issue of housing land supply, "exposing a significant shortfall in deliverable housing land, amounting to some 833 dwellings". They quoted paragraph 27 of the decision letter in full, and also the inspector's conclusion in paragraph 52 that "there is a significant shortfall in the supply of deliverable housing land for the next 5 years and no convincing evidence that the gap is diminishing to the extent that it will be made up within a reasonable time by identified deliverable sites".

23. The council did not respond to those representations, but in an e-mail to the Secretary of State dated 3 November 2016, drew his attention to the inspector's decision in an appeal relating to proposed housing development on a site at Hamble Lane – the Botley Road appeal – and, in particular, what he had said about policy 2.CO, "which also applies to Saved Policy 3.CO". But it said it did not intend to provide further submissions on this point, and was drawing the inspector's decision to the attention of the Secretary of State "in the interests of full disclosure".

The Secretary of State's decision letter

24. In his decision letter the Secretary of State said that he agreed with the inspector's conclusions, "except where stated", and his recommendation (paragraph 3).

25. He referred to the representations he had received after the inquiry, including those made in response to his letters of 15 April 2016 and 29 June 2016, in the light of the judgment of this court in *Hopkins Homes Ltd.*. He confirmed that those representations had been circulated to the parties (paragraphs 5 and 6). He then referred (in paragraph 7) to the further representations he had received in October and November 2016:

> "7. The Secretary of State has also received representations from Barton Willmore dated 13 October 2016, and from Eastleigh Borough Council dated 3 November to which he has given careful consideration. The Secretary of State has also received other representations, set out at Annex A, to which he has given careful consideration. He is satisfied that the issues raised do not affect his decision, and no other new issues were raised to warrant further investigation or necessitate additional referrals back to the parties."

He said that, "[in] reaching his decision", he had "taken account of all the representations and responses referred to in paragraphs 5-7" (paragraph 8).

26. When he came to "The Policy Context" he concluded that policies 1.CO and 3.CO of the local plan were both "out-of-date" (paragraphs 14 to 16). But he went on to qualify this conclusion (in paragraph 17):

> "17. The Secretary of State has considered carefully the Inspector's analysis at IR93-100 on the matter of whether Policy 3.CO would be out of date through no longer meeting the development needs of the Borough, and whether there is justification for reducing the weight applied to that policy. The Secretary of State acknowledges that its weight should be reduced because he has found it to be out-of-date, but taking into account its consistency with the Framework, its role in protecting the Local Gap and the limited shortfall in housing land supply, he concludes that he should still afford significant weight to Policy 3.CO."

27. As for "The Benefits of the Proposal", he said this (in paragraph 19):

> "19. The Secretary of State notes the Inspector's comment (IR108) that at the time of inquiry the Council were not able to demonstrate more than a four and a half years supply of deliverable housing land, and that there is evidence of an existing need for affordable housing. Whilst the Secretary of State notes that the Council are now of the view that they are able to demonstrate a 4.86 year supply, he agrees with the Inspector that the provision of up to 225 homes, 35% of which would be affordable, would be a significant advantage arising out of the scheme, and it would help meet the objectives of the Framework by boosting significantly the supply of housing and delivering a wide choice of high quality homes. The Secretary of State notes too that the choice of accommodation would also be boosted by the provision of 100 care and extra care spaces (IR109)."

28. On the proposal's "Sustainability" he said (in paragraph 25):

> "25. In terms of sustainability, the Secretary of State agrees with the Inspector's conclusion (IR116) that, when assessed against the policies in the … Framework taken as a whole, the supply of market and affordable housing, along with care facilities, would make a significant contribution to meeting the social role of sustainability, complemented by the provision of public open space (although he acknowledges that the latter is at the expense of the loss of the rural character of the public footpath crossing the site). Furthermore, he agrees that the additional population and employment opportunities would assist the economic life of the area, as would the supply of homes in an area with an acknowledged shortfall. In addition, he recognises, like the Inspector, the environmental and community benefits arising out of the station improvements identified at paragraphs 20-21 above. For the reasons given by the Inspector at IR117, the Secretary of State concludes that, on balance, this is a reasonably sustainable location in terms of accessibility."

29. Under the heading "Planning balance and overall conclusion" the Secretary of State said (in paragraphs 29 to 36):

> "29. For the reasons given above, the Secretary of State concludes that the proposal is not in accordance with the development plan policies 1.CO and 3.CO and is not in accordance with the development plan as a whole. He has gone on to consider whether material considerations indicate that the proposal should be determined other than in accordance with the development plan.
>
> 30. The Secretary of State notes that in their letter of 23 June 2016, the Council updated their position on the supply of deliverable housing land, now claiming to be able to demonstrate a 4.86 year supply. In the absence of a 5-year housing land supply, and having concluded that policies 1.CO and 3.CO are relevant policies for the supply of housing, the presumption in favour of sustainable development is engaged, meaning that permission should be granted unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits.
>
> 31. He considers that the provision of market and affordable housing in an area with an acknowledged shortfall, along with care facilities in this case carries substantial weight in favour of the development. The additional population and employment opportunities would assist the economic life of the area, as would the supply of homes in an area with an acknowledged shortfall, to which he gives moderate weight. The environmental and community benefits arising out of the station improvements carry moderate weight in favour of the proposal.
>
> 32. Set against the identified positive aspects is the environmental and social damage which would arise out of the loss of the gap between the surrounding settlements, involving the physical intrusion into an area of countryside, and contributing to the coalescence of those settlements, and loss of independent identity. The Secretary of State considers that this would be contrary to those policies of the Framework which apply the principle of recognising the different roles and character of different areas, and this carries significant weight against the proposal. He further considers that the loss of "best and most versatile" agricultural land carries moderate weight against the proposal.

33. The Secretary of State also considers that the appeal site performs a function which is specific to its location and which would be permanently undermined by the development.

34. The Secretary of State considers overall that the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits.

35. The Secretary of State has taken into account the wide range of judgments and appeal decisions referred to in the inquiry and the post-inquiry representations but, having considered all the matters raised, he concludes that none is of such weight as to alter the balance of his conclusions.

36. Overall he concludes that there are no material considerations which indicate that he should determine the case other than in accordance with the development plan. The Secretary of State therefore concludes that your client's appeal should be dismissed."

He therefore agreed with the inspector's recommendation and dismissed the appeal (paragraph 37).

The Boorley Green appeal decision

30. In a decision letter dated 30 November 2016, about three weeks after he had issued his decision on Hallam Land's appeal, the Secretary of State allowed the Boorley Green appeal. The inquiry into that appeal had taken place in May 2016. The inspector's report, though dated 25 August 2016, was released only with the Secretary of State's decision letter, in the normal way. Like the site in Hallam Land's appeal, the Boorley Green site is in the "countryside", protected by policy 1.CO of the local plan, and also within an area protected under policy 3.CO, the Botley-Boorley Green Local Gap.

31. The inspector in the Boorley Green appeal concluded that the supply of housing land in the council's area was "very close to 4 years", observing that this was consistent with the conclusion reached on this question by the inspector in the Bubb Lane appeal – that there was "something in the order of a four year supply" (paragraph 12.16 of the Boorley Green inspector's report). He found that "the HLS is around 4 years". He said that, at this level, it "falls well short of that required and has done for many years …" (paragraph 12.45). He concluded that "the benefits of housing and AH, particularly where the supply is significantly below 5 years and the history of delivery is poor, warrant considerable weight …" (paragraph 12.47). He described the shortfalls in land for housing and affordable housing as "substantial" (paragraph 12.55).

32. In his decision letter, under the heading "Housing supply", the Secretary of State said (in paragraph 17):

"17. The Secretary of State has given very careful consideration to the Inspector's analysis of the 5 year housing land supply position at IR12.10-12.20. He notes that it is common ground that the Council cannot demonstrate the 5 year housing land supply expected at paragraph 47 of the Framework (IR12.10); and agrees with the Inspector's conclusions at IR12.21 that, on the basis of the information presented at the Inquiry and assuming that this decision is issued within the statutory timetable set, the housing land supply should be regarded as standing at around 4 years. The Secretary of State

> also agrees with the Inspector's conclusion at IR12.22 that considerable weight should be attributed to the benefits to which the scheme would bring through delivering affordable housing."

33. Under the heading "Planning balance and overall conclusion", the Secretary of State concluded that "[the] proposal would make a significant contribution in terms of helping to make up the deficit against the 5 year housing land supply and the need for affordable housing" (paragraph 24). Agreeing with the inspector's recommendation, he allowed the appeal.

Did the Secretary of State establish the extent of the shortfall against the five-year supply of housing land with sufficient precision, and were his reasons adequate?

34. Before Supperstone J., and again before us, Mr Thomas Hill Q.C., for Hallam Land, argued that, in any case where there is a dispute as to the five-year supply of housing land, the Secretary of State, or his inspector, is obliged to establish the level of supply and the extent of any shortfall. This, Mr Hill submitted, was because the local planning authority's failure to demonstrate a five-year supply of housing land will bring into play the balancing exercise provided for in paragraph 14 of the NPPF, and the extent of the shortfall, if there is one, will influence the weight given by the decision-maker to the benefits of the proposed development, and to its conflict with the relevant restrictive policies of the development plan. He sought to strengthen this submission with observations made by judges at first instance – in particular, *Phides Estates (Overseas) Ltd. v Secretary of State for Communities and Local Government* [2015] EWHC 827 (Admin) (at paragraph 60), *Shropshire Council v Secretary of State for Communities and Local Government* [2016] EWHC 2733 (Admin) (at paragraph 28), and *Jelson Ltd. v Secretary of State for Communities and Local Government* [2016] EWHC 2979 (Admin) (at paragraph 13).

35. In this case, Mr Hill submitted, the Secretary of State had failed to make the planning judgments he needed to make. He noted, in paragraph 19 of his decision letter, that the council was "now of the view that [it was] able to demonstrate a 4.86 year supply". But he did not say whether he accepted that this figure was accurate. Nor did he deal with the material before him, including the decision letters in the Bubb Lane and Botley Road appeals, showing that the council was now able to demonstrate only a supply of 4.25 years or even less than that. This could not sensibly be described as a "limited shortfall" – the expression the Secretary of State used in paragraph 17. In fact, Mr Hill submitted, the Secretary of State had failed to reach any conclusion on this question. His decision was vitiated by that failure.

36. Supperstone J. rejected those submissions. He did not accept that one can find in the authorities relied upon by Mr Hill the principle that the decision-maker is required "to determine a workable [five-year housing land supply] or range" in every case. He accepted the argument of Mr Zack Simons, for the Secretary of State, and Mr Paul Stinchcombe Q.C., for the council, that in a case such as this, where there was "inadequate housing supply on either [side's] figures", the Secretary of State was "not required to fix a figure for the extent of that inadequacy" (paragraph 22). He went on to say that "[in] making judgments on the issues of housing requirements and housing supply the decision maker was not required to fix a figure for the precise extent of the Council's housing shortfall". In his view the "key question" was "whether the housing supply is above or below five years". This was what Lord Carnwath had called the "important question" in paragraph 59 of his judgment in *Hopkins Homes Ltd. v Secretary of State for Communities and Local Government* [2017] 1 W.L.R. 1865 (paragraph

23). The tenor of relevant decisions at first instance was to the same effect – for example, the observation of Gilbart J. in *South Oxfordshire District Council v Secretary of State for Communities and Local Government* [2016] EWHC 1173 (Admin), at paragraph 102, that it is "not necessary to conduct a full analysis of requirements and supply in every case", and "[whether] one has to do so depends on the circumstances".

37. On the basis of the inspector's conclusion in paragraph 108 of his report, having regard to "the updated material before him from the Bubb Lane [decision letter] and the Botley Road [decision letter]", and Hallam Land having provided "no further evidence" on housing land supply since the inquiry, the Secretary of State was, said Supperstone J., "entitled to note the agreed shortfall, describe it as "limited" (DL17), and agree with his Inspector that the scheme's contribution to the Council's housing shortage would be "significant" (DL19)". Nothing more was required (paragraph 29).

38. In his submissions to us, Mr Hill argued that the authorities on which Supperstone J. had based his conclusions did not deny the need for a decision-maker to establish the extent of a shortfall against the five-year supply of housing land when conducting the balancing exercise under paragraph 14 of the NPPF. Relevant parts of the judgment of the Court of Appeal in *Hopkins Homes Ltd.* – particularly paragraph 47 – which were effectively endorsed by Lord Carnwath in the Supreme Court, indicate that there is such a requirement. Detailed analysis may not always be necessary. A range or an approximate figure may be enough. But, submitted Mr Hill, the judge's view that the crucial question is simply whether the supply of housing land exceeds or falls below five years was unduly simplistic. In this case there were several factors that made it imperative for the Secretary of State to define the shortfall: in particular, the size of the development – more than 150 dwellings – which had led to the appeal being recovered by the Secretary of State; the significance of the shortfall for the weighting of policies in the development plan that went against the proposal, which could be decisive, especially policy 3.CO of the local plan; and the fact that there were other relevant and recent appeal decisions in which the scale of the shortfall had been considered, and on which the parties had made representations. In the circumstances, Mr Hill submitted, it was not enough for the Secretary of State merely to describe the shortfall as "limited", without resolving what it actually was by the time he made his decision.

39. Mr Hill also submitted that, in any event, the Secretary of State had failed to explain how and why he had reached a markedly different conclusion on housing land supply from the conclusions recently reached by the inspectors in the Bubb Lane and Botley Road appeals – in spite of the further representations he had received from Hallam Land in the light of them. Those two decisions were clearly relevant in this case. Yet the Secretary of State did not even refer to them in his decision letter. He said he had given "careful consideration" to the representations made after the inquiry, but in this important respect it is not clear that he had in fact done so. In both cases the decision-maker had identified a considerable shortfall against the required five-year supply materially greater than the council had conceded here. In the Bubb Lane appeal the inspector had found "something in the order of a four year supply" (paragraph 45) and had described the shortfall as "significant" (paragraph 52). In the Botley Road appeal the supply was found to be 4.25 years. And the inspector there had also described the shortfall – which amounted to "some 833 dwellings" – as "significant" (paragraphs 18, 19 and 52).

40. Those conclusions, and those descriptions of the shortfall, Mr Hill submitted, simply cannot be reconciled with the figure of 4.86 years' supply put forward by the council in its "Update on Housing Land Supply" of 23 June 2016. An explanation of some kind was clearly called for in

the Secretary of State's decision letter. None was provided. Even if he did not have to resolve the precise level of the shortfall, the Secretary of State had fallen short of his duty to provide intelligible and adequate reasons for his conclusion on an issue crucial to the outcome of the appeal (see the speech of Lord Brown of Eaton-under-Heywood in *South Bucks District Council v Porter (No.2)* [2004] 1 W.L.R. 1953, at paragraph 36). In the circumstances it was not enough for him simply to refer to the shortfall as "limited", without more.

41. Mr Simons and Mr Stinchcombe supported the judge's analysis. They submitted that it is not always, or generally, a decision-maker's task to determine the precise level of housing land supply. The critical question will always be whether or not a five-year supply of housing land has been demonstrated. Under NPPF policy, the degree of detail required in ascertaining housing need and supply is left largely to the decision-maker's planning judgment in the circumstances of the case before him – as Gilbart J. emphasized in *Dartford Borough Council v Secretary of State for Communities and Local Government* [2016] EWHC 649 (Admin) (at paragraphs 43 to 45), and in *South Oxfordshire District Council* (at paragraph 102). Mr Stinchcombe pointed to the recent decision of this court in *Jelson Ltd. v Secretary of State for Communities and Local Government* [2018] EWCA Civ 24 as lending support to this submission (see, in particular, paragraph 25). Mr Simons recalled Sir David Keene's warning in *City and District Council of St Albans v Hunston Properties Ltd.* [2013] EWCA Civ 1610 (at paragraph 26) about section 78 appeals descending into the kind of exercise appropriate only for the process of plan preparation.

42. In this case, Mr Simons and Mr Stinchcombe submitted, by the time the Secretary of State came to make his decision in November 2016, the evidence given by Hallam Land at the inquiry in June 2015 in contending for a housing land supply of between 1.78 and 2.92 years was stale. The Secretary of State did not have to go beyond his conclusions that the shortfall was now "limited", and that the provision of market and affordable housing in an area with an "acknowledged" shortfall merited "substantial weight". These conclusions were, in themselves, fully justified. The existence of a shortfall in housing land supply was not a "principal controversial issue" in this appeal, even if it was in the Bubb Lane and Botley Road appeals. The parties had drawn the Secretary of State's attention to the inspectors' decisions in those appeals. But that did not make it necessary for him to deal with those decisions in the reasons he gave for concluding as he did on the evidence in this case. The reasons he gave were sufficient to explain the decision he made.

43. Mr Hill's argument was persuasively presented, but I accept it only in part.

44. The Secretary of State's decision here was taken in the light of the judgment of this court in *Hopkins Homes Ltd.*, but before the Supreme Court had dismissed the subsequent appeals – though on the basis of a narrower reading of the policy in paragraph 49 of the NPPF. As this case shows, however, nothing turns on the difference between the so-called "wider" interpretation of paragraph 49, in which the phrase "policies for the supply of housing" embraces local plan policies that create and constrain the supply, and the "narrow" interpretation, which excludes policies that operate to constrain the supply but does not prevent the decision-maker from giving such policies reduced weight under the policy in paragraph 14 of the NPPF when five years' supply is not demonstrated. Either way, the consequences will, in the end, be the same. The weight given to a policy ultimately depends not on its status but on its effect – whether it enables the requisite five-year supply to be realized or acts contrary to that objective. Policies in a local plan are liable to carry less weight in the making of a decision on a proposal for housing development if – and because – their effect is to prevent a five-year supply of housing land (see the judgment of Lord Carnwath in *Hopkins Homes Ltd.*, at

paragraphs 59 and 61, followed in this court in *Barwood Strategic Land II LLP v East Staffordshire Borough Council* [2017] EWCA Civ 893, at paragraph 22).

45. None of that is controversial here, nor should it be. As Lord Carnwath said in *Hopkins Homes Ltd.* (at paragraph 54), "the primary purpose of paragraph 49 [of the NPPF] is simply to act as a trigger to the operation of the "tilted balance" under paragraph 14". And he went on to say (in paragraph 59) that the "important question" is "not how to define individual policies, but whether the result is a five-year supply in accordance with the objectives set by paragraph 47". If the local planning authority fails to demonstrate that supply, "it matters not whether the failure is because of the inadequacies of the policies specifically concerned with housing provision, or because of the over-restrictive nature of other non-housing policies". In such a case "[the] shortfall is enough to trigger the operation of the second part of paragraph 14". As Lord Carnwath emphasized (in paragraph 61), a restrictive policy may not itself be "out of date" under paragraph 49, "but the weight to be given to it alongside other material considerations, within the balance set by paragraph 14, remains a matter for the decision-maker in accordance with ordinary principles".

46. As this court said in *Hopkins Homes Ltd.* (in paragraph 47), the policies in paragraphs 14 and 49 of the NPPF do not prescribe how much weight is to be given to relevant policies of the development plan in the determination of a planning application or appeal. Weight is always a matter for the decision-maker (see the speech of Lord Hoffmann in *Tesco Stores Ltd. v Secretary of State for the Environment* [1995] 1 W.L.R. 759, at p.780F-H) (paragraph 46). It will "vary according to the circumstances, including, for example, the extent to which relevant policies fall short of providing for the five-year supply of housing land, the action being taken by the local planning authority to address it, or the particular purpose of a restrictive policy – such as the protection of a "green wedge" or of a gap between settlements". The decision-maker must judge "how much weight should be given to conflict with policies for the supply of housing that are out-of-date". This is "not a matter of law; it is a matter of planning judgment" (see the first instance judgments in *Crane v Secretary of State for Communities and Local Government* [2015] EWHC 425 (Admin) (at paragraphs 70 to 75), *Phides* (at paragraphs 71 and 74), and *Woodcock Holdings Ltd. v Secretary of State for Communities and Local Government and Mid-Sussex District Council* [2015] EWHC 1173 (Admin) (at paragraphs 87, 105, 108 and 115)).

47. The NPPF does not state that the decision-maker must reduce the weight to be given to restrictive policies according to some notional scale derived from the extent of the shortfall against the five-year supply of housing land. The policy in paragraph 14 of the NPPF requires the appropriate balance to be struck, and a balance can only be struck if the considerations on either side of it are given due weight. But in a case where the local planning authority is unable to demonstrate five years' supply of housing land, the policy leaves to the decision-maker's planning judgment the weight he gives to relevant restrictive policies. Logically, however, one would expect the weight given to such policies to be less if the shortfall in the housing land supply is large, and more if it is small. Other considerations will be relevant too: the nature of the restrictive policies themselves, the interests they are intended to protect, whether they find support in policies of the NPPF, the implications of their being breached, and so forth.

48. Relevant authority in this court, and at first instance, does not support the proposition that, for the purposes of the appropriate balancing exercise under the policy in paragraph 14 of the NPPF, the decision-maker's weighting of restrictive local plan policies, or of the proposal's conflict with such policies, will always require an exact quantification of the shortfall in the supply of housing land. This is not surprising. If the court had ever said there was such a

requirement, it would have been reading into the NPPF more than the Government has chosen to put there, and more than is necessarily implied in the policies it contains.

49. Several decisions at first instance were cited in argument before Supperstone J., including those in *Jelson Ltd.* (at paragraphs 2 and 13) – upheld on appeal, *Shropshire Council* (at paragraph 28), *South Oxfordshire District Council* (at paragraph 102), *Dartford Borough Council* (at paragraphs 44 and 45), *Oadby and Wigston Borough Council v Secretary of State for Communities and Local Government* [2015] EWHC 1879 (Admin) (at paragraphs 42(ii) and 48) – upheld on appeal, and *Phides* (at paragraph 60). Mr Simons also referred to *Eastleigh Borough Council v Secretary of State for Communities and Local Government* [2014] EWHC 4225 (Admin) (at paragraphs 17 and 18). It is not necessary to explore the facts of these cases, or to set out the relevant observations of the judges who decided them. In summary, however, three main points emerge.

50. First, the relationship between housing need and housing supply in planning decision-making is ultimately a matter of planning judgment, exercised in the light of the material presented to the decision-maker, and in accordance with the policies in paragraphs 47 and 49 of the NPPF and the corresponding guidance in the Planning Practice Guidance ("the PPG"). The Government has chosen to express its policy in the way that it has – sometimes broadly, sometimes with more elaboration, sometimes with the aid of definitions or footnotes, sometimes not (see *Oadby and Wigston Borough Council v Secretary of State for Communities and Local Government* [2016] EWCA Civ 1040, at paragraph 33; *Jelson Ltd.*, at paragraphs 24 and 25; and *St Modwen Developments Ltd. v Secretary of State for Communities and Local Government* [2017] EWCA Civ 1643, at paragraphs 36 and 37). It is not the role of the court to add to or refine the policies of the NPPF, but only to interpret them when called upon to do so, to supervise their application within the constraints of lawfulness, and thus to ensure that unlawfully taken decisions do not survive challenge.

51. Secondly, the policies in paragraphs 14 and 49 of the NPPF do not specify the weight to be given to the benefit, in a particular proposal, of reducing or overcoming a shortfall against the requirement for a five-year supply of housing land. This is a matter for the decision-maker's planning judgment, and the court will not interfere with that planning judgment except on public law grounds. But the weight given to the benefits of new housing development in an area where a shortfall in housing land supply has arisen is likely to depend on factors such as the broad magnitude of the shortfall, how long it is likely to persist, what the local planning authority is doing to reduce it, and how much of it the development will meet.

52. Thirdly, the NPPF does not stipulate the degree of precision required in calculating the supply of housing land when an application or appeal is being determined. This too is left to the decision-maker. It will not be the same in every case. The parties will sometimes be able to agree whether or not there is a five-year supply, and if there is a shortfall, what that shortfall actually is. Often there will be disagreement, which the decision-maker will have to resolve with as much certainty as the decision requires. In some cases the parties will not be able to agree whether there is a shortfall. And in others it will be agreed that a shortfall exists, but its extent will be in dispute. Typically, however, the question for the decision-maker will not be simply whether or not a five-year supply of housing land has been demonstrated. If there is a shortfall, he will generally have to gauge, at least in broad terms, how large it is. No hard and fast rule applies. But it seems implicit in the policies in paragraphs 47, 49 and 14 of the NPPF that the decision-maker, doing the best he can with the material before him, must be able to judge what weight should be given both to the benefits of housing development that will reduce a shortfall in the five-year supply and to any conflict with relevant "non-housing

policies" in the development plan that impede the supply. Otherwise, he will not be able to perform the task referred to by Lord Carnwath in *Hopkins Homes Ltd.*. It is for this reason that he will normally have to identify at least the broad magnitude of any shortfall in the supply of housing land.

53. With those three points in mind, I do not think that in this case the Secretary of State could fairly be criticized, in principle, for not having expressed a conclusion on the shortfall in the supply of housing land with great arithmetical precision. He was entitled to confine himself to an approximate figure or range – if that is what he did. Government policy in the NPPF did not require him to do more than that. There was nothing in the circumstances of this case that made it unreasonable for him in the "Wednesbury" sense, or otherwise unlawful, not to establish a mathematically exact figure for the shortfall. It would not have been an error of law or inappropriate for him to do so, but if, as a matter of planning judgment, he chose not to do it there was nothing legally wrong with that.

54. But what was his conclusion on housing land supply? He obviously accepted, as the council had acknowledged, that the requisite five-year supply had not been demonstrated. In paragraph 30 of his decision letter he referred to the "absence of a 5-year housing land supply". And in the same paragraph he made it plain that he was applying "the presumption in favour of sustainable development", which, as he said, meant "that permission should be granted unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits". He went on, in the following paragraphs, to apply that presumption, in accordance with the policy in paragraph 14 of the NPPF. In the course of that balancing exercise, he referred, in paragraph 31, to the "acknowledged shortfall", which went into the balance on the positive side. All of this is clear.

55. Not so clear, however, is whether the Secretary of State reached any concluded view on the scale of the "acknowledged shortfall". His reference in paragraph 17 to "the limited shortfall in housing land supply" suggests he had not found it possible to accept Hallam Land's case at the inquiry, as recorded by the inspector in paragraph 62 of his report, that the supply of housing land was as low as "2.92 years, or 1.78 years if the need for affordable housing is included", or even the "material shortfall" to which the inspector had referred in paragraph 108, in the light of the council's concession that it was "not able to demonstrate more than a four and a half years supply of deliverable housing land". A "limited shortfall" could hardly be equated to a "material shortfall". It would have been a more apt description of the shortfall the council had now acknowledged in conceding, or contending, that it was able to demonstrate a supply of 4.86 years – the figure to which the Secretary of State referred in paragraphs 19 and 30 of his decision letter.

56. On a fair reading of the decision letter as a whole, I do not think one can be sure that the Secretary of State did fix upon a precise figure for the housing land supply. It may be that, in truth, he went no further than to conclude that the supply remained below five years. He certainly did not adopt the figures put forward by Hallam Land at the inquiry, nor did he even mention those figures. And he neither adopted nor rejected the council's position at the inquiry. Instead, he took care to say, in paragraph 19 of his decision letter, that he "notes" the inspector's comment that at the time of the inquiry the council was not able to demonstrate more than four and a half years' supply. He was equally careful not to adopt or reject the figure that was now put forward by the council – a supply of 4.86 years. In paragraph 19, again, he said merely that he "notes" the council was now of the view that it was "able to demonstrate a 4.86 year supply". In paragraph 30, once again, he used the word "notes" when referring to the position the council had taken in its letter of 23 June 2016 – "now claiming to

be able to demonstrate a 4.86 year supply". He was not, I think, unequivocally endorsing that figure, but rather was relying on it as proof of "the absence of a 5-year housing land supply".

57. The Secretary of State's conclusions on housing land supply are not said to be irrational on their face – nor could they be. If one leaves aside for the moment the decisions in the Bubb Lane and Botley Road appeals and what had been said about those decisions in the parties' further representations, they make sense. To describe the shortfall in housing land supply as "limited", as the Secretary of State did in paragraph 17, seems reasonable if he was assuming – though without positively finding – that the housing land supply now stood at or about 4.86 years. And there is nothing necessarily inconsistent between that conclusion and his later conclusions: in paragraph 19, that the amount of new housing proposed was a "significant advantage"; in paragraph 30, that the "presumption in favour of sustainable development" fell to be applied in this case; and, in paragraph 31, that the provision of housing in an area with an "acknowledged shortfall" carried "substantial weight in favour of the development".

58. All of this is logical, as far as it goes. It may reflect an assumption on the part of the Secretary of State that he could rely on the figure of 4.86 years for the housing land supply, or at least on a range of between four and half and 4.86 years, and that this was sufficient to found his conclusions on the weight to be given to the benefits of the housing development proposed and to its conflict with restrictive policies in the local plan.

59. This reading of the decision letter may be overly generous to the Secretary of State, because it resolves in his favour the doubt as to what figure, or range, he was actually prepared to accept for the present supply of housing land in the council's area. Assuming it to be correct, however, he can be acquitted of any misunderstanding or unlawful misapplication of NPPF policy. If he did adopt, or at least assume, a figure of 4.86 years' supply of housing land, or even a range of between four and half and 4.86 years, his approach could not, I think, be stigmatized as unlawful in either of those two respects. It could not be said, at least in the circumstances of this case, that he erred in law in failing to calculate exactly what the shortfall was. In principle, he was entitled to conclude that no greater precision was required than that the level of housing land supply fell within a clearly identified range below the requisite five years, and that, in the balancing exercise provided for in paragraph 14 of the NPPF, realistic conclusions could therefore be reached on the weight to be given to the benefits of the development and its conflict with relevant policies of the local plan. Such conclusions would not, I think, exceed a reasonable and lawful planning judgment.

60. However, even if that assumption is made in favour of the Secretary of State, there is in my view a fatal defect in his decision in his failure to engage with the conclusions on housing land supply in the recent decisions in the Bubb Lane and Botley Road appeals. Here, it seems to me, Mr Hill's argument is demonstrably well founded.

61. At least by the time the parties in this appeal were given the opportunity to make further representations, an important issue between them, and arguably the focal issue, was the extent of the shortfall in housing land supply. This was, or at least had now become, a "principal controversial issue" in the sense to which Lord Brown of Eaton-under-Heywood referred in *South Bucks District Council v Porter* (at paragraph 36 of his speech). A related issue was the weight to be given to restrictive policies in the local plan – in particular, policy 3.CO. These were, in my view, clearly issues that required to be properly dealt with in the Secretary of State's decision letter, in the light of the representations the parties had made about them, so as to leave no room for doubt that the substance of those representations had been understood and properly dealt with. This being so, it was in my view incumbent on the Secretary of State to

provide intelligible and adequate reasons to explain the conclusions he had reached on those issues, having regard to the parties' representations.

62. There is no explicit consideration of the inspectors' decisions in the Bubb Lane and Botley Road appeals in the Secretary of State's decision letter, nor any reference to them at all, despite the fact that they had been brought to his attention and their implications addressed in the further representations made to him after the inquiry. The inspectors' conclusions on housing land supply in those two decisions, and the consequences of those conclusions for the weight to be given to local plan policies, clearly were material considerations in this appeal. They would, in my view, qualify as material considerations on the basis of the case law relating to consistency in decision-making (see the judgment of Mann L.J. in *North Wiltshire District Council v Secretary of State for the Environment* (1993) 65 P. & C.R. 137, at p.145, most recently followed by this court in *DLA Delivery Ltd. v Baroness Cumberlege of Newick and Secretary of State for Communities and Local Government* [2018] EWCA Civ 1305, at paragraphs 29, and 42 to 56). But leaving aside the principle of consistency, they would have been, it seems to me, material considerations if only on the basis that they represented an up to date independent assessment of housing land supply in the council's area, which had been squarely put before the Secretary of State. Yet he said nothing at all about them. Nor is there any explicit reference to the relevant content of the representations the parties had made. It is clear that the reference in paragraph 19 of the decision letter to the council's view that it was now able to demonstrate 4.86 years' supply of housing land was taken from the "Update on Housing Land Supply" that it produced on 23 June 2016. But he did not refer to the very firm and thoroughly reasoned conclusions of the inspector in the Botley Road appeal, which were reached in the light of that evidence.

63. So it is not clear whether the Secretary of State confronted the conclusions of the inspectors in the Bubb Lane and Botley Road appeals, and in particular the latter. Had he done so, he would have appreciated that the conclusions they had reached on the scale of the shortfall in housing land supply could not reasonably be reconciled with his description of that shortfall, in paragraph 17 of his decision letter, as "limited". The language used by those two inspectors was distinctly different from that expression, and incompatible with it unless some cogent explanation were given. No such explanation was given. In both decision letters the shortfall was characterized as "significant", which plainly it was. This was more akin to saying that it was a "material shortfall", as the inspector in Hallam Land's appeal had himself described it in paragraph 108 of his decision letter. Neither description – a "significant" shortfall or a "material" one – can be squared with the Secretary of State's use of the adjective "limited". They are, on any view, quite different concepts.

64. Quite apart from the language they used to describe it, the inspectors' findings and conclusions as to the extent of the shortfall – only "something in the order of four year supply" in the Bubb Lane appeal and only "4.25 years' supply" in the Botley Road appeal – were also substantially different from the extent of the shortfall apparently accepted or assumed by the Secretary of State in his decision in this case, which was as high as 4.86 years' supply on the basis of evidence from the council that had been before the inspector in the Botley Road appeal and rejected by him.

65. One is left with genuine – not merely forensic – confusion on this important point, and the uncomfortable impression that the Secretary of State did not come to grips with the inspectors' conclusions on housing land supply in those two very recent appeal decisions. This impression is not dispelled by his statement in paragraph 7 of the decision letter that he had given "careful consideration" to the relevant representations.

66. The significance of the parties' dispute over the extent of the shortfall in housing land supply was not confined to that issue alone. It also bore on the question of how much weight should be given to restrictive policies in the local plan – in particular, policy 3.CO – for the purposes of the balancing exercise required by the policy in paragraph 14 of the NPPF. A factor to which the Secretary of State attached some importance in determining that "significant weight" should be given to policy 3.CO was that the shortfall in housing land supply was, as he said in paragraph 17 of the decision letter, only "limited". This was an important issue in itself, and potentially decisive in the planning balance.

67. In the circumstances I am driven to the conclusion that the Secretary of State's reasons were in this respect deficient, when considered in the light of the familiar principle in *South Bucks District Council v Porter*, and that Hallam Land was substantially prejudiced by the failure to provide intelligible and adequate reasons. The parties, and in particular Hallam Land, whose section 78 appeal was being dismissed after a protracted exchange of post-inquiry representations, were entitled to know why the Secretary of State had concluded as he did not only on the question of housing land supply but also on its consequences, in spite of two very fresh appeal decisions in which the question of supply had been decided in a materially different way. This was a matter on which proper reasons were undoubtedly called for, but were not given. In the absence of those reasons, one cannot be sure that the Secretary of State had come to his conclusion lawfully, having regard to all material considerations. It follows, in my view, that in failing to provide such reasons the Secretary of State erred in law and his decision is liable to be quashed for that error. I can see no basis on which the court, in the circumstances, could properly withhold an order to quash his decision. To do so, we would have to speculate as to the outcome of Hallam Land's section 78 appeal on the assumption that the Secretary of State had regard to all material considerations, including the decisions in the Bubb Lane and Botley Road appeals.

68. Having come to that conclusion, I can take the other main issue more shortly.

Should the Secretary of State have had regard to the inspector's report on the Boorley Green appeal?

69. The argument here is that the Secretary of State's conclusion in this case that the shortfall in housing land supply was "limited" is impossible to reconcile with the conclusion in his decision letter in the Boorley Green appeal, issued about three weeks later, that the supply of housing land in the council's area was "around four years". This offended the principle that there is a public interest in planning decisions in like cases being consistent, and that, in cases of inconsistency, the decision-maker should explain that inconsistency (see the judgment of Mann L.J. in *North Wiltshire District Council*). Where relevant matters arose after the close of an inquiry, such as an inspector reporting to him on an appeal raising closely similar planning issues in the same area as the appeal in hand, it was incumbent on the Secretary of State to take reasonable steps to inform himself of those matters, and so avoid inconsistent decisions. The inspector's report in the Boorley Green appeal fell into that category. By the time the Secretary of State eventually came to make his decision on Hallam Land's appeal, he had had that report for almost three months.

70. Supperstone J. rejected this argument, on the simple basis that the Secretary of State's decision in the Boorley Green appeal had not yet been made when the decision in this case was issued, and "accordingly, it cannot have been a material consideration to which the principle of

consistency can apply". Although the inspector's report on the Boorley Green appeal had been submitted to the Secretary of State before he made his decision in this case, "the principle of consistency in decision taking has no application to Inspectors' reports which are not decisions" (paragraph 33 of the judgment). The proposition that the Secretary of State must always have imputed knowledge of an inspector's report in an undetermined appeal was incorrect (paragraph 35). So was the submission that it was irrational, and a breach of the principle recognized by the House of Lords in *Secretary of State for Education and Science v Tameside Metropolitan Borough Council* [1976] 3 W.L.R. 641 that a decision-maker must take reasonable steps to acquaint himself of relevant matters, for the Secretary of State not to take into account an unpublished inspector's report in another appeal that was yet to be decided on its own, different facts (paragraph 38).

71. The judge also accepted the submission of Mr Simons and Mr Stinchcombe that there was, in fact, no material inconsistency between the two decisions. In both cases the Secretary of State had found that there was less than the requisite five-year supply of housing land, and that the consequences provided for by NPPF policy must follow. In his decision on the Boorley Green appeal the Secretary of State did not adopt the inspector's description of the shortfall as "significant". His conclusion in that case that the housing land supply "should be regarded as standing at around four years" was consistent with his corresponding conclusions in his decision in this case. And in both cases, given the shortfall, he gave significant weight to the provision of housing: "substantial weight" in this case, "considerable weight" in the Boorley Green case (paragraph 39). The Secretary of State's application of policy 3.CO of the local plan in this appeal, the weight he gave to that policy, and his relevant reasons did not betray an inconsistent approach with his inspector's or his own in the Boorley Green appeal (paragraphs 40 to 46).

72. I agree with the judge's approach to this issue, and the conclusions he reached upon it, essentially for the reasons he gave.

73. The principle of consistency in planning decision-making is not a principle of law. It is a principle of good practice, which the courts have traditionally supported and the Court of Appeal has recently confirmed in *DLA Delivery Ltd.*.

74. The principle applies to decisions of planning decision-makers, and is exercised with a view to the public interest in planning decisions in like cases being consistent, or if inconsistency arises, a clear explanation for it being given in the second of the two decisions concerned (see *DLA Delivery Ltd.*, at paragraphs 28 to 30, 46 and 47). It does not apply, in the case of decisions on planning appeals made by the Secretary of State, to inspectors' reports that have been submitted to the Secretary of State but on which his decision is still to be made at the time of the decision subject to challenge in the case before the court. The purpose and status of such a report is, essentially, that of advice given to the Secretary of State by his appointed inspector, which will inform the decision itself, but which the Secretary of State is not bound to follow and is free to reject, so long as he gives adequate reasons for doing so. It is an intermediate stage in the process of decision-making. The assessment and conclusions contained in the report do not constitute the Secretary of State's decision, nor do they form any part of that decision unless and until they are incorporated into it, whether in whole or in part. Usually, as in the Boorley Green appeal, the inspector's report is not published until the Secretary of State has made his decision. On occasions, however, it may be released by the Secretary of State with a view to inviting further representations or evidence from the parties to deal with a particular issue raised in it.

75. It would be a radical and unjustified extension to the principle of consistency to embrace within it unpublished inspectors' reports, whose conclusions and recommendations the Secretary of State may in due course choose to accept or reject. Indeed, this would not be an extension of the principle of consistency but a distortion of it, because the basis for it would not be consistency between one decision and another, but consistency between a decision and a non-decision, a decision yet to be made. That is not a principle the court has ever recognized, nor even, in truth, a meaningful principle at all.

76. In my view, therefore, this part of the appeal is mistaken, and I would reject it.

Conclusion

77. For the reasons I have given, I would allow this appeal on the first issue alone and on the basis I have indicated.

Lord Justice Hickinbottom

78. For the reasons given by Lindblom L.J., with which I entirely agree, I agree that the appeal is allowed on the first issue alone.

Lord Justice Davis

79. I also agree that the appeal should be allowed.

80. I would like to make some observations of my own on the first issue.

81. Clearly a determination of whether or not there is a shortfall in the 5 year housing supply in any particular case is a key issue. For if there is then the "tilted balance" for the purposes of paragraph 14 of the NPPF comes into play.

82. Here, it was common ground that there was such a shortfall. That being so, I have the greatest difficulty in seeing how an overall planning judgment thereafter could properly be made without having at least some appreciation of the extent of the shortfall. That is not to say that the extent of the shortfall will itself be a key consideration. It may or not be: that is itself a planning judgment, to be assessed in the light of the various policies and other relevant considerations. But it ordinarily will be a relevant and material consideration, requiring to be evaluated.

83. The reason is obvious and involves no excessive legalism at all. The extent (be it relatively large or relatively small) of any such shortfall will bear directly on the weight to be given to the benefits or disbenefits of the proposed development. That is borne out by the observations of Lindblom LJ in the Court of Appeal in paragraph 47 of *Hopkins Homes*. I agree also with the observations of Lang J in paragraphs 27 and 28 of her judgment in the *Shropshire Council* case and in particular with her statements that "…Inspectors generally will be required to make judgments about housing need and supply. However these will not involve the kind of detailed analysis which would be appropriate at a "Development Plan inquiry" and that "the extent of any shortfall may well be relevant to the balancing exercise required under NPPF 14." I do not

regard the decisions of Gilbart J, cited above, when properly analysed, as contrary to this approach.

84. Thus exact quantification of the shortfall, even if that were feasible at that stage, as though some local plan process was involved, is not necessarily called for: nor did Mr Hill QC so argue. An evaluation of some "broad magnitude" (in the phrase of Lindblom LJ in his judgment) may for this purpose be legitimate. But, as I see it, at least some assessment of the extent of the shortfall should ordinarily be made; for without it the overall weighing process will be undermined. And even if some exception may in some cases be admitted (as connoted by the use by Lang J in *Shropshire Council* of the word "generally") that will, by definition, connote some degree of exceptionality: and there is no exceptionality in the present case.

85. In this case (and in striking contrast to the Bubb Lane and Botley Road cases) a sufficient evaluation of the extent of the shortfall did not happen. Instead, the Secretary of State, having "noted" the council's updated figure of 4.86 year supply and without any express reference to the Bubb Lane and Botley Road cases, simply announced a bald conclusion that there was a "limited" shortfall in the housing land supply. Broad statements elsewhere in the decision letter to the effect that "the Secretary of State has taken into account" the post-inquiry representations do not overcome the defect of a demonstrable lack of engagement with the actual extent of the shortfall: thereby resulting in an absence of a reasoned conclusion on this material issue. Moreover, such a conclusion departs – again, for no stated reason – from the inspector's statement in paragraph 108 of his report that "it can be said that there is a material shortfall against the five year supply…".

86. Although it was submitted on behalf of the council that the result would still inevitably have been the same, even had the extent of the shortfall been properly addressed, I cannot accept that that is necessarily so. So the matter must be the subject of further consideration.

87. Thus I too would allow the appeal on this basis. I would reject the appellant's arguments on the second issue, for the reasons given by Lindblom LJ.

Appendix DV3

Gladman v SoS for DCLG [2019] EWHC 128 High Court judgement

Neutral Citation Number: [2019] EWHC 128 (Admin)

Case No: CO/2948/2018

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/01/2019

Before :

MR JUSTICE DOVE

- -

Between :

Gladman Development Ltd.	**Claimant**
- and -	
Secretary of State of Housing Communities and Local Government	**Defendant**
Sedgemoor District Council	

- -
- -

Jonathan Easton (instructed by **Addleshaw Goddard**) for the **Claimant**
Jack Smyth (instructed by **Government Legal Department**) for the **Defendant**

Hearing dates: 5th December 2018

- -

Approved Judgment

Mr Justice Dove:

Background

1. On the 13th May 2017 the Claimant made an application for planning permission to the Second Defendant for the erection of up to 140 dwellings, demolition of outbuildings, public open space landscaping and sustainable drainage system, together with a vehicular access at a site at Newton Road, North Petherton, in the Second Defendant's administrative area. On the 20th September 2017 that application was refused for four reasons. The Claimant appealed under Section 78 of the Town and Country Planning Act 1990 and the appeal was determined by means of the public inquiry procedure. This application is made pursuant of section 288 of the 1990 Act and is a challenge to the decision which was reached by the First Defendant's duly appointed Inspector dated 18th July 2018 refusing planning permission.

2. By the time the appeal came to be heard at the public inquiry there had been further discussions and a resolution of the reasons for refusal related to archaeology, flooding and highway safety. The only reason for refusal which remained was related to the fact that the appeal site was outside the defined settlement boundary for the settlement and therefore in the countryside, an area to which restrictive policies applied in the development plan. Against that background the Inspector defined the main issue in the case in the following terms:

> "6. With that background there is no signs of specific matters between the main parties and there is one main issue in this case. That is whether the site is suitable for development, in the light of the locational policies in the development plan and other material considerations, including the housing land supplied position."

3. The Inspector reviewed the provisions of the development plan comprised in the Second Defendant's Core Strategy ("CS"). Within the CS the site was not allocated for any purpose and was outside but adjacent to the settlement boundary. The fact that the proposal was contrary to policy S1 in the CS was an agreed position. The Inspector concluded that policy S1 was in conformity with the National Planning Policy Framework ("the Framework") which was then extant. For the avoidance of doubt, all references to the Framework in this judgment are to the March 2012 version of the Framework which was operative at the time of the decision under challenge. The Inspector went on to conclude in paragraph 18 of the decision, having considered various contextual points advanced by the Claimant, that:

> "I do not consider that CS policies S1 and P4 are inconsistent with Framework policy, and I conclude that the conflict with them is a matter of substantial weight."

4. The Inspector noted that there were three bases upon which it was contended by the Claimant that the "tilted planning balance" from paragraph 14 of the Framework should apply. One of those was the Claimant's contention that the council could not demonstrate a five-year supply of deliverable housing land. The Inspector went on to examine the question of the five-year housing land supply and provided the following observations in relation to it, which it is necessary to set out at some length given the centrality of this reasoning to the Claimant's challenge:

> "28.Particularly given the fact that the Examination into the LP was ongoing at the time of the Inquiry, it is clearly not for me to supplant the role of the dLP Inspector, but to come to a view – if possible - of the position in relation to five year housing land supply as part of the

considerations leading to my decision. I should start by saying that, depending what assumptions are made and which approach is taken, the Council's position is that the authority has slightly in excess of 9 years supply of deliverable housing sites, whilst the appellant's position is slightly below 2 years. This is a huge gulf and, despite numerous discussions, the difference between the parties remains

…

31. Dealing firstly with the housing requirement, the Council's position is based on the adopted CS figure. This has the benefit of being a fully tested and adopted requirement, though it must be accepted that the passage of time will inevitably call its currency into question. In addition, as alluded to above, there is a question as to the method by which this was calculated and whether it represents a Full Objectively Assessed Housing Need (FOAN) as it is now defined.

32. More recently the Council has produced a higher annualised requirement in the SHMA. But although this requirement is more up to date, it is as yet untested through the examination process. I was told at the Inquiry that it has been the subject of objections and is still being considered.

…

36. The eLP will identify longer term requirements and the evidence is that this will inevitably require the allocation of greenfield sites outside the existing defined settlements. Such sites are put forward in the eLP, and two of them are close to the appeal site. However, although the appellant sought to persuade me that the eLP should be adopted in full as providing the FOAN, they take an apparently contradictory position in relation to the supply of sites. The Council alleges that the appellants have 'cherry picked' material from the dLP process – in that they have adopted the eLP housing requirement but have discounted all the emerging sites which the authority has put forward to address the new requirement. I have considerable sympathy with that criticism. There are a number of areas of disagreement between the parties over the supply, but the main issue is whether the allocated dLP sites should be included in the supply side.

37. The emerging sites account for just over 1,000 of the disputed dwellings, which is obviously a very significant amount. None of them are allocated in the CS or have the benefit of planning permission, and I was told that there are outstanding objections to the draft allocations. All are apparently outside the existing settlement boundaries.

38. I appreciate that, in order to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. I do not have sufficient evidence to consider the

individual position of each of the disputed sites. However, in the light of the Council's overall delivery evidence, I consider it a reasonable assumption that at least a significant number of these sites have a realistic prospect of delivery within the time period.

39. Conversely the appellant, having omitted all the emerging sites from the supply side, states that the appeal proposal – which has no adopted or emerging policy support, no planning permission and is outside the settlement boundary – is deliverable within the five year period. There is an inherent inconsistency in that general approach. On that basis, I consider the Council's position on the supply of deliverable sites to be generally more persuasive.

40. The purpose of a 5% buffer (moved forward from later in the plan period) is to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, the buffer increases to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition. This is not intended to be a sanction but a means by which the authority stands a better chance of meeting its housing targets.

41. In this case the authority argues that, until the production of a new draft requirement in 2016, it considered that it was meeting its housing targets as set out in the adopted CS. Therefore a 5% buffer was appropriate, especially as there was no suggestion that the Council was aware of the issue before the SHMA was published. However, if the SHMA figure is used, a 20% buffer could be argued to be brought about by under-delivery.

42. Again, this is very much a matter which will doubtless be considered as part of the dLP examination, with a wider range of evidence and participants. However, on the basis of what is before me, it seems that there is insufficient evidence to support a record of persistent under delivery against known housing targets, and that a 5% buffer is appropriate.

…

44. The most commonly used method, in the light of the need to boost significantly the supply of housing, is to address the deficit as soon as possible using the Sedgefield method. However the Inspector examining the eLP will doubtless consider detailed evidence as to whether this is appropriate in the case of this authority. It is not a matter on which I can or should conclude in the light of the evidence before me.

Five year housing land supply – conclusion

45. In the context of this appeal it is not for me to undertake some sort of shadow housing land supply assessment, especially as the dLP Inspector is actively considering the position, doubtless on the basis of more comprehensive evidence than that before me. The Council's approach of using the 'current year' method as the appropriate base date is also clearly being considered by dLP Inspector.

> 46. In terms of the housing requirement I have some sympathy with the suggestion that the untested 2016 figure should be regarded as the current requirement, but it cannot replace the CS figure at this stage. To address the supply there is clearly a range of potential sites and policies being considered as part of the eLP examination and, on the basis of what is before me, the Council's position is more persuasive. As to the buffer, I consider that a 5% buffer is more appropriate on the basis of what I have seen. I have not been able to reach a conclusion on the appropriateness of the Liverpool/Sedgefield methods.
>
> 47. These conclusions must be set in the context of the very wide gap - a gap wider than any I have experienced in similar cases - between the parties on the extent of the housing land supply. It is clearly desirable that, if reasonably possible, I should reach a conclusion on the housing land supply position. However in this case that is not a realistic option, for the reasons set out above, and it is not possible to reach a firm conclusion on the gap between the parties.
>
> 48. However this is less significant than might otherwise be the case for two reasons. Firstly it is clear that national policy seeks to boost significantly the supply of housing and this remains an important material consideration. Even if the authority were able to demonstrate that it has a five year supply, this does not act as a cap on development. Secondly, as set out above, CS policy P6 is inconsistent with national policy. This is a relevant policy which is out of date and the so-called 'tilted balance' in Framework paragraph 14 is engaged in any event for that reason."

5. The Inspector went on to express his view in relation to the planning balance and his overall conclusion in the following terms:

> "56. In terms of social issues, the provision of both market and affordable housing is to be welcomed. Even if I had concluded that there is a five year supply of housing land, the proposal would be a benefit as a contribution to a rolling supply. The provision of affordable housing in line with adopted policy, and in excess of the emerging dLP figure, is a significant benefit. The provision of open space would be a benefit to new and existing residents, and would improve links to the main part of the settlement.
>
> …
>
> 58. As set out above, I have carefully considered the evidence in relation to housing land supply and other matters in the context of paragraph 14 of the Framework. I have concluded that CS policy P6, dealing with development in the countryside, does not fully comply with current national policy and I have accordingly reduced the weight which can be accorded to it. This policy is clearly relevant to this case and is out of date. The 'tilted balance' therefore comes into play for that reason alone.
>
> 59. National policy in that case is that, where relevant policies are out of date – as in this case in relation to CS policy P6 - permission should be granted unless any adverse impacts of doing so would significantly

> and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
>
> 60. Based on my considerations above, the benefits of the proposal (especially the provision of market and affordable housing), are significantly and demonstrably outweighed by the adverse impact of the proposal – namely the conflict with the adopted development plan locational policies."

The Grounds

6. Mr Jonathan Easton, who appeared on behalf of the Claimant, advances two grounds of challenge to the Inspector's decision. Ground 1 is that the Inspector misinterpreted and misapplied national planning policy in failing to make any final finding as to the Second Defendant's five-year housing land supply position. It is contended by Mr Easton that following a number of cases which are set out below, and applying the policy from paragraphs 47 and 49 of the Framework, it was necessary in the circumstances of the present case for the Inspector to reach some sort of conclusion as to the five year housing land supply situation. The Inspector's failure to do so was a material error of law and was not cured by his application of the tilted balance in reaching his conclusions.

7. Ground 2 of the Claimant's case is that the Inspector erred in his interpretation of paragraph 47 of the Framework and misapplied the Framework's policy in reaching his conclusions in respect of whether or not a 5% or a 20% buffer was required in the circumstances of the case. In essence, Mr Easton's submission is that when the Inspector referred to there being insufficient evidence to support a record of persistent under delivery "against known housing targets" that was a misinterpretation of the relevant policy, because pursuant to the decision of this court in Cotswold District Council v SSCLG [2013] EWHC 3719 (Admin) a purposive approach needs to be taken to the identification of whether or not there has been persistent under delivery. The Inspector's approach of simply examining performance against the known housing target of the CS was an unlawful misapplication of the relevant policy which required regard to be had to a wider spectrum of potential housing requirements from emerging as well as adopted policy.

8. I propose to deal, firstly, with the relevant legal principles and policy pertaining to Ground 1 and resolve the issues which arise under it since, as Mr Easton correctly observed, if the Claimant succeeds under Ground 1 there is no need for Ground 2 to be considered. What follows therefore is solely directed to the merits of Ground 1. Once I have reached a conclusion in connection with the Ground 1 I will then determine whether or not it is necessary to proceed to consider Ground 2.

Ground 1: The Law

9. In terms of the basis upon which challenges under section 288 of the 1990 Act proceed this case raises no novel propositions of law. Firstly, the challenge must be brought on the basis of an error of law, and the jurisdiction under section 288 of the 1990 Act does not extend to a reconsideration of the planning merits of the proposal (see Newsmith Stainless v Secretary of State [2001] EWHC (Admin) 74). The decision will be scrutinised against the traditional grounds of public law error. The potential types of error of law which are relevant to the present case are whether or not the decision maker has had regard to all material considerations or alternatively has left out of account considerations which were material to the decision. In particular, in connection with material considerations, the provisions of planning policies in the development plan, of the emerging development plan and the

Framework will all be material considerations and, pursuant to the decision of the Supreme Court in Tesco Stores Ltd v Dundee City Council [2012] UKSC 13 the correct interpretation of those planning policies is a matter of law for the court.

10. In the context of a decision under section 78 of the 1990 Act it is incumbent upon the Inspector to provide legally adequate reasons for the decision which he or she has reached. In examining the reasons given by the Inspector in respect of the legal adequacy of its reasoning it is important to read the document and assess it as an exercise in practical decision-taking; it must be read in good faith and not subject to overly forensic scrutiny or illegitimate nit-picking (see for instance South Somerset District Council v Secretary of State for the Environment [1993] 1 PLR 80; 66 P&CR 83). It is not a contract or a statute, and should not be approached as if it were when reading it to consider whether the reasons provided are legally adequate.

11. Stepping away from the generality of these legal principles, and moving towards the specific and central issues in respect of Ground 1, the starting point for consideration of Mr Easton's submissions must be the provisions of the Framework pertaining to the requirement for a local authority to have a five-year housing land supply, and the approach taken in the policies of the Framework when such a supply does not exist. The requirement for a five-year housing land supply is to be found in paragraph 47 of the Framework and set out in the following terms:

> "47. To boost significantly the supply of housing, local planning authorities should:
>
> Identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land."

If a five-year housing land supply cannot be demonstrated then paragraph 49 provides for the following consequences:

> "49. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

12. The relevance of policies for the supply of housing not being considered up to date is then reflected in paragraph 14 of the Framework which provides for the use of a tilted planning balance favouring the grant of permission in cases where relevant polices are out of date. The relevant terms of paragraph 14 of the Framework are as follows:

> "14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision taking this means:

- Approving development proposals that accord with the development plan without delay; and

- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

  - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

  - Specific policies in this Framework indicate development should be restricted."

13. In recent times courts have had to consider these paragraphs of the Framework. The authorities were reviewed by Lang J in Shropshire Council v Secretary of State of Communities and Local Government and Others [2016] EWHC 2733 (Admin) at paragraphs 22-26 of her judgment in that case. Her review of the authorities led her to the following conclusions;

> "27. In my judgment, these passages in Dartford confirm the other judgments cited to the effect that Inspectors generally will be required to make judgments about housing needs and supply. However, these will not involve the kind of detailed analysis which would be appropriate at a Development Plan inquiry. The Inspector at a planning appeal is only making judgments based on the material before him in the particular case, which may well be imperfect. He is not making an authoritative assessment which binds the local planning authority in other cases.
>
> …
>
> 30. I do not accept that this was an exceptional case (of the type referred to by Gilbart J. in Dartford at [43]) where the evidence before the Inspector was so lacking that it was impossible for him to perform this task. In fact, in this appeal there was a substantial amount of material relating to housing needs and supply in Shropshire, much of it recent in origin, upon which the Inspector could have made his judgments. The developer's expert report identified a range of figures in respect of housing supply. I acknowledge that the Inspector's task would have been easier if the developer's expert had volunteered some alternative figures for the FOAN or housing requirements, but the absence of such evidence did not absolve the Inspector from making his own judgment on the material before him, as best he could, despite its imperfections. If he was not able to identify a specific figure, he could have identified a bracket, or an approximate uplift on the Claimant's figures and the departmental projections. As I have already explained, he was not required to undertake the kind of detailed analysis which would be appropriate at a Development Plan inquiry and he was not making an authoritative assessment which would bind the local planning authority in other cases.
>
> 31. I also accept the Claimant's alternative submission that, if the Inspector was genuinely unable to make the required judgments as to the FOAN,

housing requirements, and housing supply, he ought to have given adequate reasons to explain why he could not do so."

14. This case, amongst others, was considered when a similar point arose in the case of Hallam Land Management v Secretary of State for Communities and Local Government [2018] EWCA (Civ) 1808. In that case it was contended in essence that the Secretary of State in reaching a decision on a section 78 appeal failed to reach any conclusion as to the extent of a shortfall against the five-year housing land supply requirement in the local planning authority's area. Having examined the authorities on this particular point Lindblom LJ identified three points emerging from the authorities:

> "50. First, the relationship between housing need and housing supply in planning decision-making is ultimately a matter of planning judgment, exercised in the light of the material presented to the decision-maker, and in accordance with the policies in paragraphs 47 and 49 of the NPPF and the corresponding guidance in the Planning Practice Guidance ("the PPG"). The Government has chosen to express its policy in the way that it has – sometimes broadly, sometimes with more elaboration, sometimes with the aid of definitions or footnotes, sometimes not (see *Oadby and Wigston Borough Council v Secretary of State for Communities and Local Government [2016] EWCA Civ 1040* , at paragraph 33; *Jelson Ltd.* , at paragraphs 24 and 25; and *St Modwen Developments Ltd. v Secretary of State for Communities and Local Government [2017] EWCA Civ 1643* , at paragraphs 36 and 37). It is not the role of the court to add to or refine the policies of the NPPF, but only to interpret them when called upon to do so, to supervise their application within the constraints of lawfulness, and thus to ensure that unlawfully taken decisions do not survive challenge.
> 51. Secondly, the policies in paragraphs 14 and 49 of the NPPF do not specify the weight to be given to the benefit, in a particular proposal, of reducing or overcoming a shortfall against the requirement for a five-year supply of housing land. This is a matter for the decision-maker's planning judgment, and the court will not interfere with that planning judgment except on public law grounds. But the weight given to the benefits of new housing development in an area where a shortfall in housing land supply has arisen is likely to depend on factors such as the broad magnitude of the shortfall, how long it is likely to persist, what the local planning authority is doing to reduce it, and how much of it the development will meet.
> 52. Thirdly, the NPPF does not stipulate the degree of precision required in calculating the supply of housing land when an application or appeal is being determined. This too is left to the decision-maker. It will not be the same in every case. The parties will sometimes be able to agree whether or not there is a five-year supply, and if there is a shortfall, what that shortfall actually is. Often there will be disagreement, which the decision-maker will have to resolve with as much certainty as the decision requires. In some cases the parties will not be able to agree whether there is a shortfall. And in others it will be agreed that a shortfall exists, but its extent will be in dispute. Typically, however, the question for the decision-maker will not be simply whether or not a five-year supply of housing land has been demonstrated. If there is a shortfall, he will generally have to gauge, at least in broad terms, how large it is. No hard and fast rule applies. But it seems implicit in the policies in paragraphs 47, 49 and 14 of the NPPF that the decision-maker, doing the best he can with the material before him, must be able to judge what weight should be given both to the benefits of housing development that will reduce a

> shortfall in the five-year supply and to any conflict with relevant "non-housing policies" in the development plan that impede the supply. Otherwise, he will not be able to perform the task referred to by Lord Carnwath in *Hopkins Homes Ltd.* . It is for this reason that he will normally have to identify at least the broad magnitude of any shortfall in the supply of housing land."

15. Having identified these points Lindblom LJ concluded that in that particular case the Defendant could not be criticised for not having expressed a conclusion on the shortfall in the five-year supply of housing land with great arithmetical procession when considering the case under challenge in isolation. However, after the inquiry in relation to the decision under challenge had concluded, two further decisions on appeals in the local planning authority's administrative area had been reached, in which alternative conclusions were reached in respect of the extent of the supply of housing land. Lindblom LJ was satisfied that the Secretary of State had fallen into error in failing to engage with the separate conclusions on housing land supply which had been reached in those appeals. Delivering a concurring judgement, and providing further observations in relation to the issue of whether or not it was necessary for the extent of any short fall in the five-year housing land supplied to be identified, Davis LJ provided the following observations in paragraphs 81-86 of his judgment as follows:

> "81. Clearly a determination of whether or not there is a shortfall in the 5 year housing supply in any particular case is a key issue. For if there is then the "tilted balance" for the purposes of paragraph 14 of the NPPF comes into play.
> 82. Here, it was common ground that there was such a shortfall. That being so, I have the greatest difficulty in seeing how an overall planning judgment thereafter could properly be made without having at least some appreciation of the extent of the shortfall. That is not to say that the extent of the shortfall will itself be a key consideration. It may or not be: that is itself a planning judgment, to be assessed in the light of the various policies and other relevant considerations. But it ordinarily will be a relevant and material consideration, requiring to be evaluated.
> 83. The reason is obvious and involves no excessive legalism at all. The extent (be it relatively large or relatively small) of any such shortfall will bear directly on the weight to be given to the benefits or disbenefits of the proposed development. That is borne out by the observations of Lindblom LJ in the Court of Appeal in paragraph 47 of *Hopkins Homes* . I agree also with the observations of Lang J in paragraphs 27 and 28 of her judgment in the *Shropshire Council* case and in particular with her statements that "…Inspectors generally will be required to make judgments about housing need and supply. However these will not involve the kind of detailed analysis which would be appropriate at a "Development Plan inquiry" and that "the extent of any shortfall may well be relevant to the balancing exercise required under NPPF 14." I do not regard the decisions of Gilbart J, cited above, when properly analysed, as contrary to this approach.
> 84. Thus exact quantification of the shortfall, even if that were feasible at that stage, as though some local plan process was involved, is not necessarily called for: nor did Mr Hill QC so argue. An evaluation of some "broad magnitude" (in the phrase of Lindblom LJ in his judgment) may for this purpose be legitimate. But, as I see it, at least some assessment of the extent of the shortfall should ordinarily be made; for without it the overall weighing process will be undermined. And even if some exception may in some cases be admitted (as connoted by the use by Lang J in *Shropshire*

> *Council* of the word "generally") that will, by definition, connote some degree of exceptionality: and there is no exceptionality in the present case.
> 85. In this case (and in striking contrast to the Bubb Lane and Botley Road cases) a sufficient evaluation of the extent of the shortfall did not happen. Instead, the Secretary of State, having "noted" the council's updated figure of 4.86 year supply and without any express reference to the Bubb Lane and Botley Road cases, simply announced a bald conclusion that there was a "limited" shortfall in the housing land supply. Broad statements elsewhere in the decision letter to the effect that "the Secretary of State has taken into account" the post-inquiry representations do not overcome the defect of a demonstrable lack of engagement with the actual extent of the shortfall: thereby resulting in an absence of a reasoned conclusion on this material issue. Moreover, such a conclusion departs – again, for no stated reason – from the inspector's statement in paragraph 108 of his report that "it can be said that there is a material shortfall against the five year supply…".
> 86. Although it was submitted on behalf of the council that the result would still inevitably have been the same, even had the extent of the shortfall been properly addressed, I cannot accept that that is necessarily so. So the matter must be the subject of further consideration."

16. Against this background, reference was made by the Claimant in support of its submissions to the March 2017 edition of the Inspector Training Manual issued by the Planning Inspectorate and the guidance which it provides to inspectors in relation to the need to reach a firm conclusion on the five-year housing land supply question when it arises in an appeal in respect of residential development. The Training Manual provides the following guidance:

> "8. When reaching a decision on the appeal, consider whether you need to reach a firm conclusion on the existence or otherwise of a five-year supply Consider:
>
> -If you [are] allowing the appeal because the proposal is in accordance with the development plan it will not usually be necessary to reach a firm conclusion on housing land supply.
>
> -If you are concluding that the proposal would cause harm, consider (In the context of paragraph 14 of the Framework) whether the adverse impacts would significantly outweigh the benefits, even if there were a shortfall in 5 year supply to the extent argued by the appellant. If you consider this to be the case, you would not need to reach a firm conclusion about 5 year supply. Instead your conclusions could be expressed along the following lines: "Even if I were to conclude there is a shortfall in 5 year supply of the scale suggested by the appellant and that relevant policies for the supply of the scale suggested by the appellant and that relevant policies for the supply of housing should not be considered up-to-date, he adverse impacts of granting permission would significantly and demonstrably outright the benefits…" Provided that your planning balance is made on this basis there would be no contact with the *Phides Estates* case (see below), because your decision will be based on the maximum possible shortfall in five year supply that has been put to you and, therefore, on the maximum weight that could be attached to any benefit through increasing the supply of housing.

> -In other circumstances the existence or otherwise of a five year supply will be critical to determine whether paragraph 14 applies and understanding the degree of any shortfall will be necessary to carry out the paragraph 14 planning balance correctly. For example, the degree of shortfall in five year supply could affect your conclusion on whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Understanding the degree of shortfall is also important to determine the appropriate weight to accord "out of date" policies (see paragraphs 16 & 17 below on the *Phides Estates and Crane* cases). The case of *Shropshire Council v SSCLG and BDW trading Ltd [2016] EWHC 2733 (Admin)* confirms that Inspectors will generally need to make judgements on housing need and supply. The Court considered that the Inspector could not properly apply paragraph 49 and paragraph 14 of the NPPF without first reaching a judgement on housing need and housing supply on the evidence before him. The Court confirmed that this does not require the kind of detailed analysis that takes place at a Development Plan Inquiry, nor is it always necessary to identify a specific figure, a bracket or range or approximate uplift on DCLG household projections is acceptable, but a judgement needs to be made on the evidence available despite its imperfections."

Submissions and conclusions

17. Against the backdrop of the judgments in Shropshire and Hallam Land Mr Easton contended that in this case the Inspector had misinterpreted and misapplied the policy of the Framework in relation to the five-year housing land supply, and that it had been incumbent upon him to reach a conclusion both as to whether or not a housing land supply existed and also as to the extent of any short fall. The reasons for Mr Easton submitting that that was necessary in the present case were as follows.

18. Firstly, the Inspector had himself identified the housing land supply position as a main issue which fell to be determined in the appeal. Thus, to fail to address what was an identified part of the main issue in the appeal before him was a material error of law. Secondly, Mr Easton submitted, uncontroversially, that within the body of evidence furnished to the Inspector by both the Claimant and the Second Defendant there was all of the raw data and analysis required for the Inspector to forge a conclusion on the housing land supply figure and determine whether the five-year requirement was met and if it was not the extent of the short fall. This appeal was not, Mr Easton submitted, one of the exceptional cases in which it was simply not possible to perform the calculation.

19. Mr Easton further submitted that in the absence of undertaking the calculation the Inspector had failed to take account of two important material considerations pertinent to the case. The first matter was the weight which should be ascribed to the benefit of making housing provision: if there is a shortfall greater weight should be given to that benefit and the weight increased based on the extent of the shortfall, as well as vice versa. The second matter was the weight to be attached to the policies with which the development conflicted. This submission was grounded in the observations of Lord Gill in Hopkins Homes Ltd. v Secretary of State for Communities and Local Government [2017] UKSC 37; [2017] 1 WLR 1865 paragraphs 83 and 84 as follows:

> "83 If a planning authority that was in default of the requirement of a five years' supply were to continue to apply its environmental and

> amenity policies with full rigour, the objective of the Framework could be frustrated. The purpose of paragraph 49 is to indicate a way in which the lack of a five years' supply of sites can be put right. It is reasonable for the guidance to suggest that in such cases the development plan policies for the supply of housing, however recent they may be, should not be considered as being up to date.
>
> 84 If the policies for the supply of housing are not to be considered as being up to date, they retain their statutory force, but the focus shifts to other material considerations. This is the point at which the wider view of the development plan policies has to be taken."

In the absence, therefore, of identifying whether a shortfall in the five-year housing land supply existed and, if it did, giving some indication as to its extent, the Inspector left out of account a proper weighting to the issue of the benefit arising from the provision of housing, as well as the policies with which the proposal conflicted.

20. In response to these submissions Mr Jack Smyth, who appeared on behalf of the Defendant, commenced his submissions by observing that whether or not to provide a calculation of the extent of a five-year land supply in any given case was quintessentially a matter of planning judgement and was not therefore susceptible to being impugned as a legal error. Furthermore, whilst he accepted that the Inspector had all of the necessary evidence to calculate the five-year housing land supply and reach a definitive conclusion upon it (and thus accepted that this was not a case where such a calculation was impossible), he nonetheless submitted that impossibility of calculation was not the only circumstance in which it would not be necessary for an Inspector to reach a concluded view on the five-year housing land supply. He drew attention to paragraph 31of the judgement of Lang J in the Shropshire case, and submitted that provided the Inspector gave reasons which were lawful for a departure from making a finding in relation to the five-year land supply issue then that would amount to a perfectly legitimate approach.

21. In the present case the Inspector provided, he submitted, three clear reasons why it was inappropriate to reach a conclusion on the five-year housing land supply issue. The first reason, set out in paragraphs 28 and 47 of the decision letter, were that there was an extremely wide gap, or "huge gulf", between the parties as to the appropriate figure for the five-year housing land supply which precluded him from reaching any further sensible conclusion on the differences between the parties. Secondly, the Inspector had exercised proper restraint in declining to reach a concluded view on the five-year housing land supply issue in the context that this question was a matter fully at large before the local plan Inspector who was presently conducting the examination into the emerging local plan at the time of the enquiry. Mr Smyth conceded in the light of the observations of Hickinbottom J (as he then was) in Stratford-Upon-Avon v SSCLG [2014] JPL 104 at paragraph 42 that this reason would not in and of itself be sufficient to depart from reaching a conclusion on the five-year land supply, but in combination with the other reasons it enabled the conclusion that the Inspector had reached a lawful decision in this respect. Whilst Mr Smyth accepted that had the Inspector reached any conclusion on the five-year supply issue it would have not been in any way binding upon the local plan Inspector, nonetheless for the reasons which he gave it was, he contended, legitimate for the Inspector to decline to reach a conclusion. Thirdly, Mr Smyth relied upon the Inspector's reasoning at paragraph 48 of the decision letter, namely that he had applied the "tilted planning balance" from paragraph 14 of the Framework in any event, as a consequence of one of the policies relevant to the decision having been found to have been out of date.

22. Mr Smyth also drew attention to the fact that in making closing submissions on behalf of the Claimant at the inquiry Mr Easton had stated at paragraph 64 of his closing that the Claimant did not "invite the Inspector to make an explicit finding as to exact level of housing in the instant case". Thus, Mr Smyth submitted that it hardly lay in the mouth of the Claimant to criticise the Inspector for failing to reach a conclusion on the housing land supply situation. What the Inspector had done in response to those submissions, and in the particular circumstances of the case, was to provide a pragmatic and lawful response to the evidence and the Claimant's submission.

23. Turning to the question of whether or not the Inspector had left out of account an assessment of the weight to be attached to the benefit from the provision of housing by failing to measure the five-year housing land supply, Mr Smyth drew attention to a number of specific references within the Inspector's decision in which he gave credit to the Claimant in the planning balance for the benefit of providing further housing. Those references were at paragraphs 48, 56 and 60 of the decision. Whilst the inspector had not dealt explicitly with the impact upon the weight to be attached to policy harm which might be affected by the calculation of a five-year housing land supply shortfall that, Mr Smyth submitted, did not represent an error of law when as a matter of planning judgement the Inspector had formed clear conclusions as to the weight to be attached to the policies with which there was conflict in the present case.

24. In response to these submissions, and in particular in relation to the reasons provided by the Inspector for not providing a five-year housing land supply calculation, Mr Easton submitted as follows. Firstly, the scale of the gap or gulf between the parties depended upon the choice between a number of key inputs to the assessment which had a significant effect upon the overall calculation. The extent of the gap did not amount to reason or excuse for not performing the calculation. Secondly, the Inspector was undertaking a development control decision at a particular point in time: a conclusion which he reached in respect of the five-year land supply calculation at that time and on the evidence before him could not bind the Local Plan Inspector who would have to form a separate conclusion based upon the evidence which was before the examination. Thirdly, the fact that the Inspector placed the planning considerations into a tilted balance as a consequence of one of the relevant policies being out of date did not detract from the other consequences identified of failing to undertake the housing land supply in respect of the weight to be attached to the benefit of the provision of housing, and the weight to be attached to the conflict with policy which was relied upon by the Second Defendant.

25. Before reaching conclusions in relation to these submissions it is necessary, in my view, to provide some preliminary observations about the question of the extent to which it is necessary for the decision taker, in considering a decision in relation to housing development, to form a conclusion about whether or not there is a shortfall in the planning authority's five-year housing land supply. Having observed that the requirement to identify a five-year housing land supply is a requirement of paragraph 47 of the Framework, which is brought into the context of decision-taking through the application of paragraphs 49 and 14 of the Framework, it is correct to observe that, given it is a "key issue" (per Davis LJ in Hallman Land at para 81), unless there are clear and legitimate reasons adequately expressed for doing so a conclusion as to the extent of the five-year housing land supply will be required. There may be cases where it is simply not possible for the five-year housing land supply to be calculated on the basis that, for instance, there is critical data missing or a conclusion on an aspect of the calculation would be hopelessly speculative. There may be other cases where as a piece of pragmatic or common-sense decision taking it would be otiose to reach a definitive conclusion on the five-year housing land supply. One such scenario is identified in the Training Manual when it contemplates a situation in which a decision maker has concluded that even if the housing land supply was as short as contended by an appellant, and the "tilted

balance" was applied, planning permission would be refused on the basis that the adverse impact of doing so would significantly and demonstrably outweigh the benefits of the development. In those circumstances resolving the competing contentions between the appellant and the local planning authority as to the precise extent of the five year housing land supply would have become moot. These circumstances will almost certainly be the exception rather than the rule, but they have to be acknowledged.

26. Secondly, as Lindblom LJ observed in paragraph 52 of his judgement in Hallam Land, there is no hard and fast rule as to the degree of precision required in reaching a conclusion on the five-year housing land supply. It will be a question of planning judgement to be exercised from case to case as to whether or not it is necessary for a definitive figure to be derived or whether or not a range within which the supply may fall suffices for the purpose of practical decision-taking. That said, as Lindblom LJ observed, in the event of there being a shortfall in the housing land supply, by and large it will be necessary for the decision maker to engage at least in broad terms what the extent of that shortfall is.

27. Thirdly, the importance of undertaking the five-year land supply assessment is, as was identified by Lindblom LJ in paragraph 52 of his judgment and Davis LJ in paragraphs 82-84 of his judgement in Hallam Land, that it will have an impact on the weight to be attached to ingredients or elements to be weighed in the tilted planning balance. An understanding of the extent of any shortfall will influence the weight to be attached to the benefit of the provision of housing in the planning balance: the greater the shortfall the more significant the weight to be attached to housing provision seeking to address it. It will also influence the weight to be attached to any conflict with relevant policies relied upon to resist the development. For all of these reasons there would need to be, as set out above, cogent and clearly justifiable reasons for not reaching any finding in respect of the five-year housing land supply position.

28. That brings the analysis to an examination of whether or not the reasons provided by the Inspector in the present case were capable of justifying him declining to reach a conclusion on the five-year land supply position in the present case, notwithstanding the fact that he had identified it as part of the main issue in the appeal. Having considered those reasons I am not satisfied that any of them provided a basis for departing from the approach identified in the Shropshire and Hallam Land cases founded upon the policy requirements of the Framework.

29. Firstly, the fact that there was a large difference between the competing analyses of the Claimant and the second Defendant did not prevent, or make inappropriate, the Inspector using the evidence at his disposal in order to reach a conclusion on this key issue. In just the same way as both the Claimant and the Second Defendant had to make judgements and justify assumptions in presenting their evidence on this issue, so the Inspector was perfectly capable of undertaking the same exercise himself. Indeed, in reading the reasons which he provides in respect of this issue in the decision letter it appears as though he has gone some way to arriving at conclusions in respect of the various contested elements of the analysis: the scale of the difference between the parties in the final analysis is not a coherent basis for not pressing those judgements to a conclusion.

30. Secondly, the fact that the Local Plan Inspector was undertaking an examination and was also looking at the five-year housing land supply position of the second Defendant was not a reason for the Inspector taking the decision on this appeal to fail to reach a conclusion on the five year housing land supply position. Any conclusion which the Inspector reached would necessarily be one taken at a particular point in time on the basis of the evidence then available. It would not be in any way binding on the Local Plan Inspector or prejudicial to that Inspectors' conclusions.

31. Thirdly, the fact that the Inspector was in any event applying the tilted balance does not engage with the further reasons why the calculation of the five-year housing land supply was relevant and provided material to be taken into account in the planning balance as set out above. The fact that the tilted planning balance was being deployed did not render it unnecessary for account to be taken of the extent of any additional weight to be afforded to the benefit of the provision of housing from an examination of the extent of any shortfall in the housing land supply, or diminish the need to assess the extent of the weight to be applied to policy conflict if the Second Defendant could not identify a five-year supply of housing. In short, by deploying this reason, the Inspector clearly overlooked the potential materiality of any shortfall to other elements of the planning balance, as opposed to the formula for that balance which had to be used.

32. Whilst Mr Smyth relied upon references to the benefit of housing provision contained within the decision letter those simple references do not engage with the proper ascription of weight to that consideration which would follow from an examination of whether or not there was a shortfall in the five-year housing land supply and, in particular, the extent of such a shortfall. As had to be conceded there was no reference to the other way in which the identification of a shortfall in the five-year housing land supply might play into the planning balance, namely the weight to be attached to the conflict with planning policy relied upon by the Second Defendant. Thus, it appears inescapable that that dimension of this material consideration was also left out of account.

33. It follows from what I have set out above that it is clear that the Inspector fell into legal error in this case by failing to reach a conclusion in relation to the five-year housing land supply position and undertake some measurement of the five-year housing land supply so as to understand the extent of the influence of any shortfall in relation to the weight to be attached to the benefit of making housing provision and the weight to be attached to policies with which the housing proposal conflicted. It is clear that he reached no conclusion at all as to the five-year housing land supply position, and whether there was a shortfall, let alone examining the nature and extent of any such shortfall if one existed. Bearing in mind the conclusions of this court in the Shropshire case, and the Court of Appeal in the Hallam Land case, that amounted to the failure to take account of a material consideration arising from the proper interpretation of housing policy in the Framework. This was not one of the exceptional cases where such a conclusion either could not be reached or was not required in order to provide a comprehensive answer to the question of whether or not development should be consented.

34. Mr Smyth submitted that as an exercise of discretion, quashing could be withheld in the present case. He relied upon the fact that benefits had been taken into account by the Inspector in terms of the provisions of housing and, further, that there were, as he put it, the glimmers of a decision emerging in the paragraphs which have been quoted above bearing upon the housing land supply issue. Those glimmerings of a decision showed that the conclusions in this case would have been adverse to the Claimant. In those circumstances, Mr Smyth submitted it would be proper to conclude that the decision will be no different were it to be remitted.

35. Those are submissions which I am unable to accept. For the reasons which I have set out above it is clear to me that in this case the Inspector left out of account material considerations by failing to reach a conclusion on part of the main issue namely the housing land supply position. On the basis of the material before me I am unable to conclude that it is inevitable that it would have been concluded that there was an adequate five-year housing land supply identified in the Second Defendant's administrative area, or that the decision would be the same.

36. In my view the appropriate relief to grant in the light of the conclusions which I have reached is for this decision to be quashed and for the matter to be remitted for redetermination. In the light of the conclusions which I have reached on Ground 1 it is unnecessary for me to go on to consider the Claimant's contentions under Ground 2.

Judgment Approved by the court for handing down.

Appendix DV4

PPG Extracts: 'Housing and economic needs assessment' and 'Housing supply and delivery'

Guidance

Housing and economic needs assessment

Guides councils in how to assess their housing needs.

From:
Department for Levelling Up, Housing and Communities (/government/organisations/department-for-levelling-up-housing-and-communities) and Ministry of Housing, Communities & Local Government (/government/organisations/ministry-of-housing-communities-and-local-government)

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- — Affordable housing
- — Economic need

Where plans are being prepared under the transitional arrangements set out in Annex 1 to the revised National Planning Policy Framework (https://www.gov.uk/government/publications/national-planning-policy-framework--2), the policies in the previous version of the framework published in 2012 (http://webarchive.nationalarchives.gov.uk/20180608095821/https:/www.gov.uk/government/publications/national-planning-policy-framework--2) will continue to apply, as will any previous guidance which was associated with it, and which has been superseded since the new framework was published in July 2018. See superseded guidance (https://webarchive.nationalarchives.gov.uk/20180607114246/https:/www.gov.uk/guidan

ce/housing-and-economic-development-needs-assessments) relevant to plans that were submitted under transitional arrangements

This guidance was updated on 20 February 2019. See previous guidance (https://webarchive.nationalarchives.gov.uk/20181220233634/https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments)

Housing need

What is housing need?

Housing need is an unconstrained assessment of the number of homes needed in an area. Assessing housing need is the first step in the process of deciding how many homes need to be planned for. It should be undertaken separately from assessing land availability, establishing a housing requirement figure and preparing policies to address this such as site allocations. For further details on how constraints should be considered once a housing need figure has been identified, please see Housing and economic land availability assessment guidance (https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment).

Paragraph: 001 Reference ID: 2a-001-20190220

Revision date: 20 02 2019

What is the standard method for assessing local housing need?

The National Planning Policy Framework expects strategic policy-making authorities to follow the standard method in this guidance for assessing local housing need.

The standard method uses a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic under-supply.

The standard method set out below identifies a minimum annual housing need figure. It does not produce a housing requirement figure.

Paragraph: 002 Reference ID: 2a-002-20190220

Revision date: 20 02 2019

Is the use of the standard method for strategic policy making purposes mandatory?

No, if it is felt that circumstances warrant an alternative approach but authorities can expect this to be scrutinised more closely at examination. There is an expectation that the standard method will be used and that any other method will be used only in exceptional circumstances.

Paragraph: 003 Reference ID: 2a-003-20190220

Revision date: 20 02 2019

How is a minimum annual local housing need figure calculated using the standard method?

The standard method can be used to calculate a minimum annual local housing need figure as follows:

Step 1 - Setting the baseline

Set the baseline using national household growth projections (https://www.gov.uk/government/collections/household-projections) (2014-based household projections in England, table 406 unitary authorities and districts in England) for the area of the local authority. Using these projections, calculate the projected average annual household growth over a 10 year period (this should be 10 consecutive years, with the current year being used as the starting point from which to calculate growth over that period). Note that the figures displayed are rounded and individual cells need to be viewed in order to see the full number.

For information on re-organised authorities please see section below "How should local housing need be calculated for re-organised authorities?"

Step 2 - An adjustment to take account of affordability

Then adjust the average annual projected household growth figure (as calculated in step 1) based on the affordability of the area.

The most recent median workplace-based affordability ratios (https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian), published by the Office for National Statistics at a local authority level, should be used.

No adjustment is applied where the ratio is 4 or below. For each 1% the ratio is above 4, the average household growth baseline should be increased by a quarter of a percent. An authority with a ratio of 8 will have a 25% increase on its annual average household growth baseline.

Where an adjustment is to be made, the precise formula is as follows:

$$Adjustment\ factor = \left(\frac{Local\ affordability\ ratio\ - 4}{4}\right) x\ 0.25 + 1$$

For information on re-organised authorities please see section below "How should local housing need be calculated for re-organised authorities?"

Step 3 - Capping the level of any increase

A cap is then applied which limits the increases an individual local authority can face. How this is calculated depends on the current status of relevant strategic policies for housing.

Where these policies were adopted within the last 5 years (at the point of making the calculation), the local housing need figure is capped at 40% above the average annual housing requirement figure set out in the existing policies.

This also applies where the relevant strategic policies have been reviewed by the authority within the 5 year period and found to not require updating.

Where the relevant strategic policies for housing were adopted more than 5 years ago (at the point of making the calculation), the local housing need figure is capped at 40% above whichever is the higher of:

a. the projected household growth for the area over the 10 year period identified in step 1; or

b. the average annual housing requirement figure set out in the most recently adopted strategic policies (if a figure exists).

For areas covered by spatial development strategies, the relevant strategic policies are those contained within the spatial development strategy. Where a requirement figure for an authority in a spatial development strategy differs from that in a local plan, the figure in the spatial development strategy should be used as long as the spatial development strategy is no older than 5 years.

Where the relevant strategic policies within a spatial development strategy are over 5 years old, the relevant strategic policies at individual local authority level set out in the authority's local plan can be used in calculating the cap (if these policies are adopted after the relevant spatial development strategy, and the policies set out in the local plan are less than five years old, or older and has been found not to require updating as part of a plan review). If the relevant strategic housing requirement policies in the local authority's local plan are over 5 years old, then the local housing need figure is capped at 40% above whichever is the higher of:

a. the projected household growth for the area over the 10 year period identified in step 1; or b. the most recent number taken from the spatial development strategy

For information on re-organised authorities please see section below "How should local housing need be calculated for re-organised authorities?"

Step 4 - cities and urban centres uplift

A 35% uplift is then applied for those urban local authorities in the top 20 cities and urban centres list.

Whether a cities and urban centres uplift applies depends on whether the local authority contains the largest proportion of population for one of the 20 cities or urban centres in England within the list.

The cities and urban centres list is devised by ranking the Office for National Statistics list of Major Towns and Cities (https://geoportal.statistics.gov.uk/datasets/major-towns-and-cities-december-2015-names-and-codes-in-england-and-wales/data) by population size using the latest mid-year population estimates (nomis, official labour market statistics).

As at December 2020, this list of urban local authorities are: Birmingham, Bradford, Brighton and Hove, Bristol, Coventry, Derby, Kingston upon Hull, Leeds, Leicester, Liverpool, London, Manchester, Newcastle upon Tyne, Nottingham, Plymouth, Reading, Sheffield, Southampton, Stoke-on-Trent, and Wolverhampton.

To note: where a cap is applied in Step 3, the 35% uplift is applied after the cap.

Worked examples

Step 1 - Setting the baseline

An authority's household projections are:

- 110,500 households in 2019

- 120,000 households in 2029

This is a total of 9,500 new households over the 10 year period, equivalent to an average household growth of 950 per year. (Note: in this example 2019 is the starting point to measure the growth over a 10 year period; the difference between 2019 and 2020 is one year's worth of growth and the difference between 2019 and 2029 is 10 years' worth of growth).

Step 2 - An adjustment to take account of affordability

The authority's median workplace-based affordability ratio is 12.4. As this is above 4, then the following adjustment should be made.

The adjustment is calculated as:

$$Adjustment\ factor = \left(\frac{Local\ affordability\ ratio\ -4}{4}\right) x\ 0.25 + 1$$

$$Adjustment\ factor = \left(\frac{12.4\ -4}{4}\right) x\ 0.25 + 1\ = \left(\frac{8.4}{4}\right) x\ 0.25 + 1\ = 2.1\ x\ 0.25 + 1\ = 1.525$$

The adjustment factor is therefore 1.525 and is used as:

Minimum annual local housing need figure = (adjustment factor) x projected household growth

Minimum annual local housing need figure = 1.525 x 950

The resulting figure is 1,449.

Step 3 - Capping the level of any increase

How the cap applies depends on the current status of relevant strategic policies for housing. Below are 3 examples. Example 1 relates to a plan that has been adopted

or reviewed within the last 5 years. Examples 2a and 2b relate to plans that were adopted more than 5 years ago and have not been updated, and demonstrates situations where the cap does and does not limit the minimum annual local housing need figure.

Cap example 1

The local authority has adopted a local plan within the last 5 years, or has reviewed (and if necessary updated) the housing requirement figure in a plan adopted more than 5 years ago.

- The average annual housing requirement figure in the existing relevant policies is 850 a year
- The minimum annual local housing need figure is 1,449 (as per step 2)
- The cap is set at 40% above the housing requirement figure:

Cap = 850 + (40% x 850) = 850 + 340 = 1,190

The capped figure is lower than the minimum annual local housing need figure and therefore limits the increase to the local authority's minimum annual housing need figure. The minimum figure for this local authority is therefore 1,190.

Cap example 2a

A local authority adopted a local plan more than 5 years ago and has not reviewed their housing requirement figure since then.

- The average annual housing requirement figure in the existing relevant policies is 850 a year
- Average annual household growth over 10 years is 950 (as per step 1)
- The minimum annual local housing need figure is 1,449 (as per step 2)
- The cap is set at 40% above the higher of the most recent average annual housing requirement figure or household growth:

Cap = 950 + (40% x 950) = 950 + 380 = 1,330

The capped figure is lower than the minimum annual local housing need figure and therefore limits the increase to the local authority's minimum annual housing need figure. The minimum figure for this local authority is therefore 1,330.

Cap example 2b

A local authority adopted a local plan more than 5 years ago and has not reviewed their housing requirement figure since then.

- The average annual housing requirement figure in the existing relevant policies is 1,200 a year
- Average annual household growth over 10 years is 950 (as per step 1)
- The minimum annual local housing need figure is 1,449 (as per step 2)

- The cap is set at 40% above the higher of the most recent average annual housing requirement figure or household growth:

Cap = 1,200 + (40% x 1,200) = 1,200 + 480 = 1,680

The capped figure is greater than the minimum annual local housing need figure and therefore does not limit the increase to the local authority's minimum annual housing need figure. The minimum figure for this local authority is therefore 1,449.

Cities and urban centres uplift example

An urban local authority, where it is listed in Step 4, would uplift their figure generated by step 1-3 by 35%.

Paragraph: 004 Reference ID: 2a-004-20201216

Revision date: 16 12 2020 See previous version (https://webarchive.nationalarchives.gov.uk/20201126210055/https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments#contents)

Why are 2014-based household projections used as the baseline for the standard method?

The 2014-based household projections are used within the standard method to provide stability for planning authorities and communities, ensure that historic under-delivery and declining affordability are reflected, and to be consistent with the Government's objective of significantly boosting the supply of homes.

Paragraph: 005 Reference ID: 2a-005-20190220

Revision date: 20 02 2019

Why is an affordability adjustment applied?

An affordability adjustment is applied as household growth on its own is insufficient as an indicator of future housing need because:

- household formation is constrained to the supply of available properties – new households cannot form if there is nowhere for them to live; and
- people may want to live in an area in which they do not reside currently, for example to be near to work, but be unable to find appropriate accommodation that they can afford.

The affordability adjustment is applied in order to ensure that the standard method for assessing local housing need responds to price signals and is consistent with the policy objective of significantly boosting the supply of homes. The specific adjustment in this guidance is set at a level to ensure that minimum annual housing need starts to address the affordability of homes.

Paragraph: 006 Reference ID: 2a-006-20190220

Revision date: 20 02 2019

Why is a cap applied?

The standard method may identify a minimum local housing need figure that is significantly higher than the number of homes currently being planned for. The cap is applied to help ensure that the minimum local housing need figure calculated using the standard method is as deliverable as possible.

The cap reduces the minimum number generated by the standard method, but does not reduce housing need itself. Therefore strategic policies adopted with a cap applied may require an early review and updating to ensure that any housing need above the capped level is planned for as soon as is reasonably possible.

Where the minimum annual local housing need figure is subject to a cap, consideration can still be given to whether a higher level of need could realistically be delivered. This may help prevent authorities from having to undertake an early review of the relevant policies.

Paragraph: 007 Reference ID: 2a-007-20190220

Revision date: 20 02 2019

Which cities and urban centres does the uplift apply to?

It should be noted that places can move in and out of the list of the top 20 local authorities in which a cities or urban centre uplift applies. To establish if an uplift applies, the Office for National Statistics list of Major Towns and Cities should be ranked in order of population size using the latest mid-year population estimates. If an authority is based in one of the top 20 most populated cities or urban centres and they contain the largest proportion of population in that city or urban centre, a 35% uplift is applied to that local authority area.

Paragraph: 033 Reference ID: 2a-033-20201216

Revision date: 16 12 2020

Is a cities and urban centres uplift applied in London and if so, how does it work?

Yes, an uplift applies in London. London is unique in that it has no single city centre which can carry need for the city area. Therefore a 35% uplift is applied to the entire SDS area (which covers all the London boroughs), rather than to the local authority which contains the largest proportion of London’s population. However, it should be noted that the responsibility for the overall distribution of housing need in London lies with the Mayor as opposed to individual boroughs so there is no policy assumption that this level of need will be met within the individual boroughs.

Paragraph: 034 Reference ID: 2a-034-20201216

Revision date: 16 12 2020

Where should the cities and urban centres uplift be met?

This increase in the number of homes to be delivered in urban areas is expected to be met by the cities and urban centres themselves, rather than the surrounding areas, unless it would conflict with national policy and legal obligations. In considering how need is met in the first instance, brownfield and other under-utilised urban sites should be prioritised and on these sites density should be optimised to promote the most efficient use of land. This is to ensure that homes are built in the right places, to make the most of existing infrastructure, and to allow people to live nearby the service they rely on, making travel patterns more sustainable.

Paragraph: 035 Reference ID: 2a-035-20201216

Revision date: 16 12 2020

Is there a transition period for plan-making for those authorities where the cities and urban centres uplift applies?

Yes, there is a transition period for plan-making for those authorities where the cities and urban centres uplift applies. These transitional arrangements give those authorities already at Regulation 19, (for Spatial Development Strategies this would refer to consultation under s335(2) of the Greater London Authority Act 1999) six months from the publication date of this guidance to submit (for spatial development strategies, ‘submission’ in this context means the point at which the Mayor sends to the Panel copies of all representations made in accordance with regulation 8(1) of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, or equivalent) their plans to the Planning Inspectorate under the existing standard method i.e. without the cities and urban centres uplift. In recognition that some areas will be very close to publishing their Regulation 19 plan (for Spatial Development Strategies this would refer to consultation under s335(2) of the Greater London Authority Act 1999), these areas will be given three months from the publication date of this revised guidance to publish their Regulation 19 plan for consultation, as well as a further six months from the date they publish their Regulation 19 plan to submit their plan to the Planning Inspectorate, to benefit from the transition period.

Paragraph: 036 Reference ID: 2a-036-20201216

Revision date: 16 12 2020

Is there a transition period for decision-making for those authorities where the cities and urban centres uplift applies?

Yes, there is a transition period for decision-making for those authorities where the cities and urban centres uplift applies. Transitional arrangements will apply for six

months from the publication date of this guidance. This means that the local housing need calculation excluding cities and urban centres uplift, can be used, for example when determining the housing requirement for the 5 year housing land supply, until this date. After this date, the new standard method (i.e. with cities and urban centres uplift) will apply for relevant decision-making purposes.

Paragraph: 037 Reference ID: 2a-037-20201216

Revision date: 16 12 2020

How does the cities and urban centres uplift apply for Housing Delivery Test?

For the purposes of Housing Delivery Test, the cities and urban centres uplift within the standard method will only apply from the 2022/23 monitoring year, (from the 2023 Housing Delivery Test measurement).

Paragraph: 038 Reference ID: 2a-038-20201216

Revision date: 16 12 2020

When should strategic policy-making authorities assess their housing need figure for policy-making purposes?

Strategic policy-making authorities will need to calculate their local housing need figure at the start of the plan-making process. This number should be kept under review and revised where appropriate.

The housing need figure generated using the standard method may change as the inputs are variable and this should be taken into consideration by strategic policy-making authorities.

However, local housing need calculated using the standard method may be relied upon for a period of 2 years from the time that a plan is submitted to the Planning Inspectorate for examination.

Paragraph: 008 Reference ID: 2a-008-20190220

Revision date: 20 02 2019

How often are the affordability ratios updated?

Affordability ratios are published every year (usually in March).

Paragraph: 009 Reference ID: 2a-009-20190220

Revision date: 20 02 2019

When might it be appropriate to plan for a higher housing need figure than the standard method indicates?

The government is committed to ensuring that more homes are built and supports ambitious authorities who want to plan for growth. The standard method for assessing local housing need provides a minimum starting point in determining the number of homes needed in an area. It does not attempt to predict the impact that future government policies, changing economic circumstances or other factors might have on demographic behaviour. Therefore, there will be circumstances where it is appropriate to consider whether actual housing need is higher than the standard method indicates.

This will need to be assessed prior to, and separate from, considering how much of the overall need can be accommodated (and then translated into a housing requirement figure for the strategic policies in the plan). Circumstances where this may be appropriate include, but are not limited to situations where increases in housing need are likely to exceed past trends because of:

- growth strategies for the area that are likely to be deliverable, for example where funding is in place to promote and facilitate additional growth (e.g. Housing Deals);
- strategic infrastructure improvements that are likely to drive an increase in the homes needed locally; or
- an authority agreeing to take on unmet need from neighbouring authorities, as set out in a statement of common ground;

There may, occasionally, also be situations where previous levels of housing delivery in an area, or previous assessments of need (such as a recently-produced Strategic Housing Market Assessment) are significantly greater than the outcome from the standard method. Authorities are encouraged to make as much use as possible of previously-developed or brownfield land, and therefore cities and urban centres, not only those subject to the cities and urban centres uplift may strive to plan for more home. Authorities will need to take this into account when considering whether it is appropriate to plan for a higher level of need than the standard model suggests.

Paragraph: 010 Reference ID: 2a-010-20201216

Revision date: 16 12 2020 See previous version (https://webarchive.nationalarchives.gov.uk/20201126210055/https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments#contents)

Can strategic policy-making authorities take account of past under delivery of new homes in preparing plans?

The affordability adjustment is applied to take account of past under-delivery. The standard method identifies the minimum uplift that will be required and therefore it is not a requirement to specifically address under-delivery separately.

Where an alternative approach to the standard method is used, past under delivery should be taken into account.

Paragraph: 011 Reference ID: 2a-011-20190220

Revision date: 20 02 2019

How can plan-making authorities apply the method to the overall plan period?

The method provides authorities with an annual number, based on a 10 year base line, which can be applied to the whole plan period.

The National Planning Policy Framework requires strategic policies to look ahead over a minimum 15 year period from adoption, although authorities are required to keep their policies under review.

Paragraph: 012 Reference ID: 2a-012-20190220

Revision date: 20 02 2019

How should local housing need be calculated where plans cover more than one area?

Local housing need assessments may cover more than one area, in particular where strategic policies are being produced jointly, or where spatial development strategies are prepared by elected Mayors, or combined authorities with strategic policy-making powers.

In such cases the housing need for the defined area should at least be the sum of the local housing need for each local planning authority within the area. It will be for the relevant strategic policy-making authority to distribute the total housing requirement which is then arrived at across the plan area.

If a cities and urban centres uplift applies to a local authority which is part of a joint plan, this is calculated by separately working out the local housing need for each authority. The urban authority containing the city or urban centre will then have its need identified in Step 3 uplifted in Step 4. The cap would be calculated according to each individual authority's circumstances and where a joint plan has been not been separate, the joint plan authority should make efforts to decide how much of the housing requirement will remain in each local authority. These figures can then be summed again to provide an overall figure for a joint plan.

It will be for the relevant strategic policy-making authority to distribute the total housing requirement which is then arrived at across the plan area.

Where a spatial development strategy has been published, local planning authorities should use the local housing need figure in the spatial development strategy and should not seek to re-visit their local housing need figure when preparing new strategic or non-strategic policies.

Paragraph: 013 Reference ID: 2a-013-20201216

Revision date: 15 12 2020 See previous version (https://webarchive.nationalarchives.gov.uk/20201126210055/https://www.gov.uk/guidance/h

ousing-and-economic-development-needs-assessments#contents)

Where strategic policy-making authority boundaries do not align with local authority boundaries, or data is not available, should the standard method be used to assess local housing need?

Where strategic policy-making authorities do not align with local authority boundaries (either individually or in combination), or the data required for the model are not available such as in National Parks and the Broads Authority, where local authority boundaries have changed due to reorganisation within the last 5 years or local authority areas where the samples are too small, an alternative approach will have to be used. Such authorities may continue to identify a housing need figure using a method determined locally, but in doing so will need to consider the best available information on anticipated changes in households as well as local affordability levels.

Paragraph: 014 Reference ID: 2a-014-20190220

Revision date: 20 02 2019

How should local housing need be calculated for re-organised authorities?

Planning policies adopted by predecessor authorities will remain part of the development plan for their area upon reorganisation, until they are replaced by adopted successor authority policies or until the fifth anniversary of reorganisation.

In the interim, authorities are reliant on strategic housing requirement policies set out in the development plans of the predecessor local authorities when decision-making, such as when determining the housing requirement for their 5-year housing land supply. More detail on how to demonstrate their 5 year housing land supply is contained in the Housing and Delivery Guidance (https://www.gov.uk/guidance/housing-supply-and-delivery).

Sourcing data inputs for re-organised authorities is dependent on the geographies at which these data inputs are published. Where local authorities have recently re-organised, to form a new unitary or single-tier authority:

- As 2014 Household Projections are used in Step 1 of the standard method, these will not be available for the new/merged authorities – so local housing need in decision-making and plan-making, should be calculated at the predecessor local authority level for steps 1 to 3 (and 4 if appropriate);
- If the latest affordability ratios are available at predecessor local authority level, these should be used for the affordability adjustment (Step 2). Where the latest published ratios are not available at these geographies, the latest available affordability ratio at that predecessor level should be used.
- The cap (Step 3) should also be applied at the predecessor authority level with each predecessor area will have their cap applied based on the status of the predecessor authorities' strategic housing requirements. This will mean the cap is set against either local plan, or household growth as appropriate.

For plan-making, the new/re-organised local authority should use a local housing need for the new/merged authority area, which is at least is the sum of the local housing need of all the predecessor local authorities. Once a re-organised authority has adopted strategic housing policies covering the whole of its area, this will be used to determine the housing requirement, and the cap should then be applied on these policies.

Paragraph: 039 Reference ID: 2a-039-20201216

Revision date: 16 12 2020

If authorities use a different method how will this be tested at examination?

Where data availability does not allow the standard method to be used, consideration will be given to whether it provides the basis for a plan that is positively prepared, taking into account the information available on household formation and affordability.

Where a strategic policy-making authority can show that an alternative approach identifies a need higher than using the standard method, and that it adequately reflects current and future demographic trends and market signals, the approach can be considered sound as it will have exceeded the minimum starting point.

Where an alternative approach results in a lower housing need figure than that identified using the standard method, the strategic policy-making authority will need to demonstrate, using robust evidence, that the figure is based on realistic assumptions of demographic growth and that there are exceptional local circumstances that justify deviating from the standard method. This will be tested at examination.

Any method which relies on using household projections more recently published than the 2014-based household projections will not be considered to be following the standard method as set out in paragraph 60 of the National Planning Policy Framework (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para60). As explained above, it is not considered that these projections provide an appropriate basis for use in the standard method.

Paragraph: 015 Reference ID: 2a-015-20190220

Revision date: 20 02 2019

How is housing need calculated for the purposes of decision making?

There is separate guidance on how the standard method for assessing local housing need (https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment) applies to calculating 5 Year Land Supply and the Housing Delivery Test.

Paragraph: 016 Reference ID: 2a-016-20190220

Revision date: 20 02 2019

Identifying the need for different types of housing

There is separate guidance on identifying the housing needs of different groups (https://www.gov.uk/guidance/housing-needs-of-different-groups) and housing needs of older and disabled people (https://www.gov.uk/guidance/housing-for-older-and-disabled-people).

Paragraph: 017 Reference ID: 2a-017-20190722

Revision date: 22 07 2019 See previous version (https://webarchive.nationalarchives.gov.uk/20190607000546/https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments#identifying-the-need-for-different-types-of-housing)

Affordable housing

What types of households are considered to be in affordable housing need?

All households whose needs are not met by the market can be considered in affordable housing need. The definition of affordable housing for planning purposes is set out in Annex 2 of the National Planning Policy Framework.

Paragraph: 018 Reference ID: 2a-018-20190220

How can affordable housing need be calculated?

Strategic policy-making authorities will need to estimate the current number of households and projected number of households who lack their own housing or who cannot afford to meet their housing needs in the market. This should involve working with colleagues in their relevant authority (e.g. housing, health and social care departments).

Paragraph: 019 Reference ID: 2a-019-20190220

Revision date: 20 02 2019

How can the current unmet gross need for affordable housing be calculated?

Strategic policy-making authorities can establish the unmet (gross) need for affordable housing by assessing past trends and current estimates of:

- the number of homeless households;
- the number of those in priority need who are currently housed in temporary accommodation;
- the number of households in over-crowded housing;

- the number of concealed households;
- the number of existing affordable housing tenants in need (i.e. householders currently housed in unsuitable dwellings); and
- the number of households from other tenures in need and those that cannot afford their own homes, either to rent, or to own, where that is their aspiration.

Care should be taken to avoid double-counting, which may be brought about with the same households being identified on more than one transfer list, and to include only those households who cannot afford to access suitable housing in the market.

Suggested data sources: Local authorities will hold data on the number of homeless households, those in temporary accommodation and extent of overcrowding. The Census also provides data on concealed households and overcrowding which can be compared with trends contained in the English Housing Survey. Housing registers and local authority and registered social landlord transfer lists will also provide relevant information.

Paragraph: 020 Reference ID: 2a-020-20190220

Revision date: 20 02 2019

How can the number of newly arising households likely to be in affordable housing need be calculated (gross annual estimate)?

Projections of affordable housing need will have to reflect new household formation, the proportion of newly forming households unable to buy or rent in the market area, and an estimate of the number of existing households falling into need. This process will need to identify the minimum household income required to access lower quartile (entry level) market housing (strategic policy-making authorities can use current costs in this process, but may wish to factor in anticipated changes in house prices and wages). It can then assess what proportion of newly-forming households will be unable to access market housing.

Suggested data sources: Ministry of Housing, Communities and Local Government household projections, English Housing Survey, local authority and registered social landlords databases, and mortgage lenders.

Total newly arising affordable housing need (gross per year) = (the number of newly forming households x the proportion unable to afford market housing) + existing households falling into need

Paragraph: 021 Reference ID: 2a-021-20190220

Revision date: 20 02 2019

How can the current total affordable housing supply available be calculated?

There will be a current supply of housing stock that can be used to accommodate households in affordable housing need as well as future supply. Assessing the total affordable housing supply requires identifying:

- the number of affordable dwellings that are going to be vacated by current occupiers that are fit for use by other households in need;
- suitable surplus stock (vacant properties); and
- the committed supply of new net affordable homes at the point of the assessment (number and size).

Sources of data: Ministry of Housing, Communities and Local Government affordable housing supply statistics to show recent trends, and local authority and Registered Social Landlord records including housing register, transfer lists, demolition and conversion programmes, development programme of affordable housing providers.

Total affordable housing stock available = Dwellings currently occupied by households in need + surplus stock + committed additional housing stock – units to be taken out of management

Paragraph: 022 Reference ID: 2a-022-20190220

Revision date: 13 09 2018

What is the relationship between the current housing stock and current and future needs?

Strategic policy-making authorities will need to look at the current stock of houses of different sizes and assess whether these match current and future needs.

Paragraph: 023 Reference ID: 2a-023-20190220

Revision date: 20 02 2019

How is the total annual need for affordable housing calculated?

The total need for affordable housing will need to be converted into annual flows by calculating the total net need (subtract total available stock from total gross need) and converting total net need into an annual flow based on the plan period.

The total affordable housing need can then be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments, taking into account the probable percentage of affordable housing to be delivered by eligible market housing led developments. An increase in the total housing figures included in the plan may need to be considered where it could help deliver the required number of affordable homes.

Paragraph: 024 Reference ID: 2a-024-20190220

Revision date: 20 02 2019

Economic need

How can authorities determine the type of employment land that is needed?

Strategic policy-making authorities will need to prepare a robust evidence base (https://www.gov.uk/guidance/plan-making#evidence-base) to understand existing business needs, which will need to be kept under review to reflect local circumstances and market conditions. National economic trends may not automatically translate to particular areas with a distinct employment base. Where appropriate, local planning authorities can use their Authority Monitoring Report (http://www.legislation.gov.uk/uksi/2012/767/regulation/34/made) and the plan review process to ensure that their evidence base remains up to date.

Functional economic market areas (https://www.gov.uk/guidance/plan-making#maintaining-effective-cooperation) can overlap several administrative areas so strategic policy-making authorities may have to carry out assessments of need on a cross-boundary basis with neighbouring authorities within their functional economic market area. Local Enterprise Partnerships (and county councils) can play a key role in this process.

Paragraph: 025 Reference ID: 2a-025-20190220

Revision date: 20 02 2019

How can strategic policy making authorities prepare and maintain evidence about business needs?

In gathering evidence to plan for business uses, strategic policy making authorities will need to liaise closely with the business community, taking account of the Local Industrial Strategy, to understand their current and potential future requirements. They will need to assess:

- the best fit functional economic market area (https://www.gov.uk/guidance/plan-making#maintaining-effective-cooperation)
- the existing stock of land for employment uses within the area;
- the recent pattern of employment land supply and loss – for example based on extant planning permissions and planning applications (or losses to permitted development);
- evidence of market demand (including the locational and premises requirements of particular types of business) – sourced from local data and market intelligence, such as recent surveys of business needs, discussions with developers and property agents and engagement with business and economic forums;
- wider market signals relating to economic growth, diversification and innovation; and
- any evidence of market failure – such as physical or ownership constraints that prevent the employment site being used effectively.

Paragraph: 026 Reference ID: 2a-026-20190220

Revision date: 20 02 2019

How can market signals be used to forecast future need?

Strategic policy making authorities will need to develop an idea of future needs based on a range of data which is current and robust, such as:

- sectoral and employment forecasts and projections which take account of likely changes in skills needed (labour demand)
- demographically derived assessments of current and future local labour supply (labour supply techniques)
- analysis based on the past take-up of employment land and property and/or future property market requirements
- consultation with relevant organisations, studies of business trends, an understanding of innovative and changing business models, particularly those which make use of online platforms to respond to consumer demand and monitoring of business, economic and employment statistics.

Authorities will need to take account of longer term economic cycles in assessing this data, and consider and plan for the implications of alternative economic scenarios.

Paragraph: 027 Reference ID: 2a-027-20190220

Revision date: 20 02 2019

How can strategic policy making authorities identify the existing stock of employment land and identify the recent pattern of supply and loss?

A simple typology of employment land by market segment and by sub-areas, where there are distinct property market areas within authorities, can be developed and analysed. This can be supplemented by information on permissions for other uses that have been granted, if available, on sites formerly in employment use.

Paragraph: 028 Reference ID: 2a-028-20190220

Revision date: 20 02 2019

How can current market demand be analysed?

The available stock of land can be compared with the particular requirements of the area so that ‘gaps’ and any over-supply in local employment land provision can be identified.

It is important to consider recent employment land take-up and projections (based on past trends) and forecasts (based on future scenarios), and to identify instances where sites have been developed or sought for specialist economic uses. This will help to provide an understanding of the underlying requirements for office, general business and distribution space, and (when compared with the overall stock of employment sites) can form the context for appraising individual sites.

Analysing supply and demand will allow policy makers to identify whether there is a mismatch between quantitative and qualitative supply of and demand for employment sites. This will enable an understanding of which market segments are over-supplied to be derived and those which are undersupplied.

Paragraph: 029 Reference ID: 2a-02920190220

Revision date: 20 02 2019

How can employment land requirements be derived?

When translating employment and output forecasts into land requirements, there are 4 key relationships which need to be quantified. This information can be used to inform the assessment of land requirements:

- Standard Industrial Classification (http://resources.companieshouse.gov.uk/sic/) sectors to use classes
- Standard Industrial Classification (http://resources.companieshouse.gov.uk/sic/) sectors to type of property
- employment to floorspace (employment density) and
- floorspace to site area (plot ratios based on industry proxies)

Paragraph: 030 Reference ID: 2a-030-20190220

Revision date: 20 02 2019

How can authorities assess need and allocate space for logistics?

The logistics industry plays a critical role in enabling an efficient, sustainable and effective supply of goods for consumers and businesses, as well as contributing to local employment opportunities, and has distinct locational requirements that need to be considered in formulating planning policies (separately from those relating to general industrial land).

Strategic facilities serving national or regional markets are likely to require significant amounts of land, good access to strategic transport networks, sufficient power capacity and access to appropriately skilled local labour. Where a need for such facilities may exist, strategic policy-making authorities should collaborate with other authorities, infrastructure providers and other interests to identify the scale of need across the relevant market areas. This can be informed by:

- engagement with logistics developers and occupiers to understand the changing nature of requirements in terms of the type, size and location of facilities, including the impact of new and emerging technologies;
- analysis of market signals, including trends in take up and the availability of logistics land and floorspace across the relevant market geographies;
- analysis of economic forecasts to identify potential changes in demand and anticipated growth in sectors likely to occupy logistics facilities, or which require support from the sector; and

- engagement with Local Enterprise Partnerships and review of their plans and strategies, including economic priorities within Local Industrial Strategies.

Strategic policy-making authorities will then need to consider the most appropriate locations for meeting these identified needs (whether through the expansion of existing sites or development of new ones).

Authorities will also need to assess the extent to which land and policy support is required for other forms of logistics requirements, including the needs of SMEs and of 'last mile' facilities serving local markets. A range of up-to-date evidence may have to be considered in establishing the appropriate amount, type and location of provision, including market signals, anticipated changes in the local population and the housing stock as well as the local business base and infrastructure availability.

Paragraph: 031 Reference ID: 2a-031-20190722

Revision date: 22 07 2019

How can the specific locational requirements of specialist or new sectors be addressed?

When assessing what land and policy support may be needed for different employment uses, it will be important to understand whether there are specific requirements in the local market which affect the types of land or premises needed. Clustering of certain industries (such as some high tech, engineering, digital, creative and logistics activities) can play an important role in supporting collaboration, innovation, productivity, and sustainability, as well as in driving the economic prospects of the areas in which they locate. Strategic policy-making authorities will need to develop a clear understanding of such needs and how they might be addressed taking account of relevant evidence and policy within Local Industrial Strategies. For example, this might include the need for greater studio capacity, co-working spaces or research facilities.

These needs are often more qualitative in nature and will have to be informed by engagement with businesses and occupiers within relevant sectors.

Paragraph: 032 Reference ID: 2a-032-20190722

Revision date: 22 07 2019

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Guidance

Housing supply and delivery

Guidance on 5 year housing land supply and Housing Delivery Test.

From:
Department for Levelling Up, Housing and Communities (/government/organisations/department-for-levelling-up-housing-and-communities) and Ministry of Housing, Communities & Local Government (/government/organisations/ministry-of-housing-communities-and-local-government)

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This guidance includes updated sections that were previously included in the Housing and economic land availability assessment guidance – see previous version

(https://webarchive.nationalarchives.gov.uk/20190607102654/https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment).

What policies are in place to encourage local authorities to promote a sufficient supply of land for housing and support delivery?

The standard method for calculating local housing need (https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments) provides a minimum number of homes to be planned for. Authorities should use the standard method as the starting point when preparing the housing requirement in their plan, unless exceptional circumstances (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para60) justify an alternative approach.

The Housing Delivery Test measures whether planned requirements (or, in some cases, local housing need) have been met over the last 3 years. The 5 year housing land supply is a calculation of whether there is a deliverable supply of homes to meet the planned housing requirement (or, in some circumstances, local housing need) over the next 5 years.

Paragraph: 001 Reference ID: 68-001-20190722

Revision date: 22 July 2019

5 year housing land supply

What is a 5 year land supply?

A 5 year land supply is a supply of specific deliverable (https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary#deliverable) sites sufficient to provide 5 years' worth of housing (and appropriate buffer) against a housing requirement (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para73) set out in adopted strategic policies, or against a local housing need figure, using the standard method, as appropriate in accordance with paragraph 73 of the National Planning Policy Framework.

Paragraph: 002 Reference ID: 68-002-20190722

Revision date: 22 July 2019

What is the purpose of the 5 year housing land supply?

The purpose of the 5 year housing land supply is to provide an indication of whether there are sufficient sites available to meet the housing requirement set out in adopted strategic policies for the next 5 years. Where strategic policies are more than 5 years old, or have been reviewed and found in need of updating, local housing need calculated using the standard method should be used in place of the housing requirement.

Paragraph: 003 Reference ID: 68-003-20190722

Revision date: 22 July 2019

Demonstrating a 5 year housing land supply

How can an authority demonstrate a 5 year supply of deliverable housing sites?

In plan-making, strategic policies should identify a 5 year housing land supply from the intended date of adoption of the plan.

For decision-taking purposes, an authority will need to be able to demonstrate a 5 year housing land supply when dealing with applications and appeals. They can do this in one of two ways:

- using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);
- 'confirming' the 5 year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework).

Paragraph: 004 Reference ID: 68-004-20190722

Revision date: 22 July 2019

What housing requirement figure should authorities use when calculating their 5 year housing land supply?

Housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year housing land supply figure where:

- the plan was adopted in the last 5 years, or
- the strategic housing policies have been reviewed within the last 5 years and found not to need updating.

In other circumstances the 5 year housing land supply will be measured against the area's local housing need calculated using the standard method.

Paragraph: 005 Reference ID: 68-005-20190722

Revision date: 22 July 2019

Which strategic housing policies are used to calculate the 5 year housing land supply where there is more than one strategic housing requirement policy for an area?

Where there is a conflict between adopted strategic housing requirement policies (for example if a new spatial development strategy supersedes an adopted local plan), the most recently adopted policies will need to be used for the purposes of calculating 5 year housing land supply, in accordance with Section38 (5) of the Planning and Compulsory Purchase Act 2004.

Paragraph: 006 Reference ID: 68-006-20190722

Revision date: 22 July 2019

What constitutes a 'deliverable' housing site in the context of plan-making and decision-taking?

In order to demonstrate 5 years' worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework (https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary#deliverable) defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- have outline planning permission for major development;
- are allocated in a development plan;
- have a grant of permission in principle; or
- are identified on a brownfield register.

Such evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates;
- firm progress with site assessment work; or
- clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.

Plan-makers can use the Housing and Economic Land Availability Assessment (https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment) in demonstrating the deliverability of sites.

Paragraph: 007 Reference ID: 68-007-20190722

Revision date: 22 July 2019

What happens if an authority cannot demonstrate a 5 year housing land supply?

In plan-making, the Inspector examining the plan will test the evidence to ensure that the 5 year housing land supply identified in strategic policies is sound. If it is not, wherever possible the Inspector will recommend main modifications to the plan to ensure that the plan identifies a 5 year housing land supply from its date of adoption. In decision-taking, if an authority cannot demonstrate a 5 year housing land supply, including any appropriate buffer, the presumption in favour of sustainable development will apply, as set out in paragraph 11d of the National Planning Policy Framework (https://www.gov.uk/guidance/national-planning-policy-framework/2-achieving-sustainable-development#para011).

Paragraph: 008 Reference ID: 68-008-20190722

Revision date: 22 July 2019

Confirming 5 year housing land supply

How can authorities confirm their 5 year housing land supply?

When local planning authorities wish to confirm their 5 year housing land supply position once in a given year they can do so either through a recently adopted plan or by using a subsequent annual position statement (https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary#annualposition).

Paragraph: 009 Reference ID: 68-009-20190722

Revision date: 22 July 2019

How can a 5 year housing land supply be confirmed as part of the examination of plan policies?

The examination will include consideration of the deliverability of sites to meet a 5 year supply, in a way that cannot be replicated in the course of determining individual applications and appeals where only the applicant's / appellant's evidence is likely to be presented to contest an authority's position.

When confirming their supply through this process, local planning authorities will need to:

- be clear that they are seeking to confirm the existence of a 5 year supply as part of the plan-making process, and engage with developers and others with an interest in housing delivery (as set out in Paragraph 74a of the Framework (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para74)), at draft plan publication (Regulation 19) stage.
- apply a minimum 10% buffer to their housing requirement to account for potential fluctuations in the market over the year and ensure their 5 year land

supply is sufficiently flexible and robust. Where the Housing Delivery Test indicates that delivery has fallen below 85% of the requirement, a 20% buffer should be added instead.

Following the examination, the Inspector's report will provide recommendations in relation to the land supply and will enable the authority, where the authority accepts the recommendations, to confirm they have a 5 year land supply in a recently adopted plan (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#fnref:39).

Paragraph: 010 Reference ID: 68-010-20190722

Revision date: 22 July 2019

Can 'recently adopted plans' adopted under the 2012 Framework be used to confirm a 5 year land supply?

Plans that have been recently adopted (as defined by footnote 38 of the Framework) can benefit from confirming their 5 year housing land supply through an annual position statement, including those adopted under the 2012 Framework.

Authorities should be aware that sites counted as part of the supply will need to be assessed under the definition of 'deliverable' (https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary#deliverable) set out in the revised National Planning Policy Framework.

Paragraph: 011 Reference ID: 68-011-20190722

Revision date: 22 July 2019

How is a 5 year housing land supply confirmed through an annual position statement?

Where a local planning authority has a recently adopted plan (as set out in the the National Planning Policy Framework (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#fn:38)) and wishes to confirm their 5 year land supply position through an annual position statement (https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary#annualposition), they will need to advise the Planning Inspectorate of their intention to do so by 1 April each year.

To ensure their assessment of the deliverability of sites is robust, the local planning authority will also need to carry out an engagement process to inform the preparation of the statement, before submitting their statement to the Planning Inspectorate for review by 31 July of the same year.

So long as the correct process has been followed, and sufficient information has been provided about any disputed sites, the Planning Inspectorate will issue their recommendation in October of the same year. The local planning authority can

then confirm their housing land supply until the following October, subject to accepting the recommendations of the Planning Inspectorate.

Paragraph: 012 Reference ID: 68-012-20190722

Revision date: 22 July 2019

How will an annual position statement be assessed?

When assessing an annual position statement, the Planning Inspectorate will carry out a 2 stage assessment:

- first, they will consider whether the correct process has been followed, namely whether:
  - the authority has a 'recently adopted plan' (defined by footnote 38 of the Framework) or they are renewing a confirmed land supply following a previous annual position statement; and
  - satisfactory stakeholder engagement has been carried out.
- second, they will look at whether the evidence is sufficient to demonstrate a 5 year supply of deliverable housing sites (with the appropriate buffer), using 1st April as the base date in the relevant year. In doing so, they will consider whether the sites identified in the assessment are 'deliverable' within the next five years, in line with the definition in Annex 2 of the Framework (https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary#deliverable).

The Planning Inspector's assessment will be made on the basis of the written material provided by the authority, and the Inspector will not refer back to the local planning authority or other stakeholders to seek further information or to discuss particular sites. It is therefore important that the authority has carried out a robust stakeholder engagement process and that adequate information is provided about disputed sites.

Paragraph: 013 Reference ID: 68-013-20190722

Revision date: 22 July 2019

What information will annual position statements need to include?

Assessments need to be realistic and made publicly available in an accessible format as soon as they have been completed. Assessments will be expected to include:

- for sites with detailed planning permission, details of numbers of homes under construction and completed each year; and where delivery has either exceeded or not progressed as expected, a commentary indicating the reasons for acceleration or delays to commencement on site or effects on build out rates;
- for small sites, details of their current planning status and record of completions and homes under construction by site;

- for sites with outline consent or allocated in adopted plans (or with permission in principle identified on Part 2 of brownfield land registers, and where included in the 5 year housing land supply), information and clear evidence that there will be housing completions on site within 5 years, including current planning status, timescales and progress towards detailed permission;
- permissions granted for windfall development by year and how this compares with the windfall allowance;
- details of demolitions and planned demolitions which will have an impact on net completions;
- total net completions from the plan base date by year (broken down into types of development e.g. affordable housing); and
- the 5 year housing land supply calculation clearly indicating buffers and shortfalls and the number of years of supply.

Paragraph: 014 Reference ID: 68-014-20190722

Revision date: 22 July 2019

What engagement will an authority need to undertake to prepare an annual position statement?

Authorities will need to engage with stakeholders who have an impact on the delivery of sites. The aim is to provide robust challenge and ultimately seek as much agreement as possible, so that the authority can reach a reasoned conclusion on the potential deliverability of sites which may contribute to the 5 year housing land supply. Those authorities who are seeking to confirm a 5 year housing land supply through an annual position statement can produce an engagement statement and submit this to the Planning Inspectorate, including:

- an overview of the process of engagement with site owners / applicants, developers and other stakeholders and a schedule of site-based data resulting from this;
- specific identification of any disputed sites where consensus on likely delivery has not been reached, including sufficient evidence in support of and opposition to the disputed site(s) to allow a Planning Inspector to reach a reasoned conclusion; as well as an indication of the impact of any disputed sites on the number of years of supply;
- the conclusions which have been reached on each site by the local planning authority in the light of stakeholder engagement;
- the conclusions which have been reached about the overall 5 year housing land supply position.

Paragraph: 015 Reference ID: 68-015-20190722

Revision date: 22 July 2019

Who can the authority engage with?

Local planning authorities will need to engage with developers and others who have an impact on delivery. This will include:

- small and large developers;
- land promoters;
- private and public land owners;
- infrastructure providers (such as utility providers, highways, etc) and other public bodies (such as Homes England);
- upper tier authorities (county councils) in two-tier areas;
- neighbouring authorities with adjoining or cross-boundary sites; and
- any other bodies with an interest in particular sites identified.

Beyond this, it is for the local planning authority to decide which stakeholders to involve. This may include any general consultation bodies the authority considers are appropriate.

Local planning authorities may wish to set up an assessment and delivery group which could contribute towards Housing and Economic Land Availability Assessments (https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments), annual 5 year housing land supply assessments and Housing Delivery Test action plans for the delivery of housing. Delivery groups can assist authorities to not only identify any delivery issues but also help to find solutions to address them. They may also set out policies in their Statement of Community Involvement setting out who will be consulted when applying to confirm their 5 year housing land supply.

The Planning Inspectorate will publish on their website a list of local authorities who have notified them of their intention to seek confirmation of their 5 year housing land supply. However, interested parties who wish to be involved in the process should contact the local planning authority directly.

Paragraph: 016 Reference ID: 68-016-20190722

Revision date: 22 July 2019

What happens where there is disagreement about sites?

Where agreement on delivery prospects for a particular site has not been reached through the engagement process, the Planning Inspectorate will consider the evidence provided by both the local authority and stakeholders and make recommendations about likely site delivery in relation to those sites in dispute.

Paragraph: 017 Reference ID: 68-017-20190722

Revision date: 22 July 2019

What can an authority do once the Planning Inspectorate has reached a conclusion and provided recommendations?

When considering an annual position statement, the Planning Inspectorate will assess whether the evidence provided by the local authority is sufficient to demonstrate that there is a 5 year housing land supply, including the appropriate buffer. If this is the case, the Planning Inspectorate will then recommend that the authority can confirm that they have a 5 year housing land supply for one year. This will be a material consideration in the determination of planning applications and appeals.

The local planning authority will need to publish their annual position statement incorporating the recommendations of the Planning Inspectorate in order to confirm their 5 year housing land supply position for a one year period.

Paragraph: 018 Reference ID: 68-018-20190722

Revision date: 22 July 2019

Demonstrating a housing land supply beyond 5 years

Is it essential to identify specific developable sites or broad locations for housing growth, beyond 5 years?

As set out in the National Planning Policy Framework, local planning authorities should identify a supply of specific, developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15. Local plans and spatial development strategies may be able to satisfy the tests of soundness where they have not been able to identify specific sites or broad locations for growth in years 11-15. However, if longer-term sites are to be included, for example as part of a stepped requirement, then plan-makers will need to demonstrate that there is a reasonable prospect that they are likely to come forward within the timescale envisaged.

Paragraph: 019 Reference ID: 68-019-20190722

Revision date: 22 July 2019

How can plan-making authorities demonstrate there is a reasonable prospect that housing sites are 'developable'?

Annex 2 of the National Planning Policy Framework (https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary#developable) defines what constitutes a developable site. In demonstrating that there is a 'reasonable prospect' plan-makers can use evidence such as (but not exclusively):

- written commitment or agreement that relevant funding is likely to come forward within the timescale indicated, such as an award of grant funding;
- written evidence of agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated

start and build-out rates;
- likely buildout rates based on sites with similar characteristics; and
- current planning status - for example, a larger scale site with only outline permission where there is supporting evidence that the site is suitable and available (https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment), may indicate development could be completed within the next 6-10 years.

A pragmatic approach is appropriate when demonstrating the intended phasing of sites. For example, for sites which are considered developable within 6-10 years, the authority may need to provide a greater degree of certainty than those in years 11-15 or beyond. When producing annual updates of the housing land supply trajectory, authorities can use these to provide greater certainty about the delivery of sites initially considered to be developable, and those identified over a longer time span.

Further guidance is provided in the plan-making chapter (https://www.gov.uk/guidance/plan-making#delivery-of-strategic-matters) about how authorities can demonstrate that strategic matters can be delivered within a particular timescale. Plan-makers can use the Housing and Economic Land Availability Assessment (https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment) in demonstrating the developability of sites.

Paragraph: 020 Reference ID: 68-020-20190722

Revision date: 22 July 2019

When is a stepped housing requirement appropriate for plan-making?

A stepped housing requirement may be appropriate where there is to be a significant change in the level of housing requirement between emerging and previous policies and / or where strategic sites will have a phased delivery or are likely to be delivered later in the plan period. Strategic policy-makers will need to identify the stepped requirement in strategic housing policy, and to set out evidence to support this approach, and not seek to unnecessarily delay meeting identified development needs. Stepped requirements will need to ensure that planned housing requirements are met fully within the plan period. In reviewing and revising policies, strategic policy-makers should ensure there is not continued delay in meeting identified development needs.

Where there is evidence to support a prioritisation of sites, local authorities may wish to identify priority sites which can be delivered earlier in the plan period, such as those on brownfield land and where there is supporting infrastructure in place e.g. transport hubs. These sites will provide additional flexibility and more certainty that authorities will be able to demonstrate a sufficient supply of deliverable (https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary#deliverable) sites against the housing requirement.

Paragraph: 021 Reference ID: 68-021-20190722

Revision date: 22 July 2019

Calculating 5 year housing land supply

How should buffers be added to the 5 year housing land supply requirement?

To ensure that there is a realistic prospect of achieving the planned level of housing supply, the local planning authority should always add an appropriate buffer, applied to the requirement in the first 5 years (including any shortfall), bringing forward additional sites from later in the plan period. This will result in a requirement over and above the level indicated by the strategic policy requirement or the local housing need figure.

Buffers are not cumulative, meaning that an authority should add one of the following, depending on circumstances:

- 5% - the minimum buffer for all authorities, necessary to ensure choice and competition in the market, where they are not seeking to demonstrate a 5 year housing land supply;
- 10% - the buffer for authorities seeking to 'confirm' 5 year housing land supply for a year, through a recently adopted plan or subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para74)), unless they have to apply a 20% buffer (as below); and
- 20% - the buffer for authorities where delivery of housing taken as a whole over the previous 3 years, has fallen below 85% of the requirement, as set out in the last published Housing Delivery Test results.

Paragraph: 022 Reference ID: 68-022-20190722

Revision date: 22 July 2019

How is 5 year housing land supply calculated in National Parks and the Broads Authority?

Within National Parks and the Broads Authority, and those local planning authorities where local authority boundaries overlap with these areas, housing requirements identified in strategic policies that are less than 5 years old are used. Where plans are more than 5 years old (unless those policies have been reviewed and found not to require updating), a locally derived (https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments#para014) housing requirement figure may be used.

Paragraph: 023 Reference ID: 68-023-20190722

Revision date: 22 July 2019

How is 5 year housing land supply calculated in Development Corporation areas?

In areas covered by Development Corporations with plan-making powers, housing requirements identified in strategic policies that are less than 5 years old, or older and found not to require updating will be used (this can be in local plan(s) or a spatial development strategy). For Development Corporations which do not have, or do not exercise, plan-making powers the requirement will be set in the relevant strategic policies and monitored by the strategic policy-making authority.

Paragraph: 024 Reference ID: 68-024-20190722

Revision date: 22 July 2019

How is 5 year housing land supply calculated in new local planning authorities which result from a local government reorganisation?

Planning policies adopted by predecessor authorities will remain part of the development plan for their area upon reorganisation, until they are replaced by adopted successor authority policies or until the fifth anniversary of reorganisation.

Where a newly formed local planning authority is covered by strategic housing requirement policies adopted by predecessor authorities, these policies can continue to be used as the housing requirement for calculating the 5 year housing land supply in the areas they apply where these are less than 5 years old, or they are older but have been reviewed within the last 5 years and found not to need updating.

Where strategic housing requirement policies, covering the predecessor authority area, are older than 5 years and require updating, local housing need should be used, where this is available. Where the data required to calculate local housing need is not available an alternative approach (https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments#para014) will have to be used.

Paragraph: 025 Reference ID: 68-025-20190722

Revision date: 22 July 2019

How is 5 year housing land supply measured where authorities have stepped rather than annual average requirements?

Five year land supply is measured across the plan period against the specific stepped requirements for the particular 5 year period.

Paragraph: 026 Reference ID: 68-026-20190722

Revision date: 22 July 2019

How is 5 year housing land supply measured where authorities set out their housing requirements as a range?

Where strategic policy-makers have successfully argued through plan-making and examination for a requirement set out as a range, the 5 year land supply will be measured against the lower end of the range.

Paragraph: 027 Reference ID: 68-027-20190722

Revision date: 22 July 2019

How will areas with joint plans be monitored for the purposes of a 5 year land supply?

Areas which have a joint plan have the option to monitor their 5 year housing land supply and have the Housing Delivery Test applied over the whole of the joint planning area or on a single authority basis. The approach to using individual or combined housing requirement figures will be established through the plan-making process and will need to be set out in the strategic policies.

Where the 5 year housing land supply is to be measured on a single authority basis, annual housing requirement figures for the joint planning area will need to be apportioned to each area in the plan. If the area is monitored jointly, any policy consequences of under-delivery or lack of 5 year housing land supply will also apply jointly.

Paragraph: 028 Reference ID: 68-028-20190722

Revision date: 22 July 2019

Counting completions when calculating 5 year housing land supply

What counts as a completion?

For the purposes of calculating 5 year land supply, housing completions include new build dwellings, conversions, changes of use and demolitions and redevelopments. Completions should be net figures (https://www.gov.uk/government/collections/net-supply-of-housing), so should offset any demolitions.

Paragraph: 029 Reference ID: 68-029-20190722

Revision date: 22 July 2019

How should authorities count bringing empty homes back into use?

To be included as a contribution to completions it would be for the authority to ensure that empty homes had not already been counted as part of the existing stock of dwellings to avoid double counting.

Paragraph: 030 Reference ID: 68-030-20190722

Revision date: 22 July 2019

How can past shortfalls in housing completions against planned requirements be addressed?

Where shortfalls in housing completions have been identified against planned requirements, strategic policy-making authorities may consider what factors might have led to this and whether there are any measures that the authority can take, either alone or jointly with other authorities, which may counter the trend. Where the standard method for assessing local housing need is used as the starting point in forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure. Under-delivery may need to be considered where the plan being prepared is part way through its proposed plan period, and delivery falls below the housing requirement level set out in the emerging relevant strategic policies for housing.

Where relevant, strategic policy-makers will need to consider the recommendations from the local authority's action plan prepared as a result of past under-delivery, as confirmed by the Housing Delivery Test.

The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgefield approach), then the appropriate buffer should be applied. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal.

Where strategic policy-making authorities are unable to address past shortfalls over a 5 year period due to their scale, they may need to reconsider their approach to bringing land forward and the assumptions which they make. For example, by considering developers' past performance on delivery; reducing the length of time a permission is valid; re-prioritising reserve sites which are 'ready to go'; delivering development directly or through arms' length organisations; or sub-dividing major sites where appropriate, and where it can be demonstrated that this would not be detrimental to the quality or deliverability of a scheme.

Paragraph: 031 Reference ID: 68-031-20190722

Revision date: 22 July 2019

How can past over-supply of housing completions against planned requirements be addressed?

Where areas deliver more completions than required, the additional supply can be used to offset any shortfalls against requirements from previous years.

Paragraph: 032 Reference ID: 68-032-20190722

Revision date: 22 July 2019

Does the 5 year housing land supply calculation affect a Housing Delivery Test result?

No. The 5 year housing land supply calculation is not used to determine future Housing Delivery Test results. Adopted strategic housing policies or local housing need calculated using the standard method are used, subject to the rules set out in the Housing Delivery Test rule book (https://www.gov.uk/government/publications/housing-delivery-test-measurement-rule-book).

Paragraph: 033 Reference ID: 68-033-20190722

Revision date: 22 July 2019

Counting other forms of accommodation

How can authorities count student housing in the housing land supply?

All student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus, can in principle count towards contributing to an authority's housing land supply based on:

- the amount of accommodation that new student housing releases in the wider housing market (by allowing existing properties to return to general residential use); and / or
- the extent to which it allows general market housing to remain in such use, rather than being converted for use as student accommodation.

This will need to be applied to both communal establishments and to multi bedroom self-contained student flats. Several units of purpose-built student accommodation may be needed to replace a house which may have accommodated several students.

Authorities will need to base their calculations on the average number of students living in student only accommodation, using the published census data (https://www.ons.gov.uk/peoplepopulationandcommunity/housing/adhocs/008207ct07732011censusnumberofstudentsinstudentonlyhouseholdnationaltolocalauthoritylevel), and take steps to avoid double-counting. The exception to this approach is studio flats designed for students, graduates or young professionals, which can be counted on a one for one basis. A studio flat is a one-room apartment with kitchen facilities and a separate bathroom that fully functions as an independent dwelling.

Paragraph: 034 Reference ID: 68-034-20190722

Revision date: 22 July 2019

How can authorities count older people's housing in the housing land supply?

Local planning authorities will need to count housing provided for older people, including residential institutions in Use Class C2, as part of their housing land supply. This contribution is based on the amount of accommodation released in the housing market. Further guidance is set out in Housing for Older and Disabled People (https://www.gov.uk/guidance/housing-for-older-and-disabled-people#para016a).

Paragraph: 035 Reference ID: 68-035-20190722

Revision date: 22 July 2019

Housing Delivery Test

How is the Housing Delivery Test calculated?

The method for calculating the Housing Delivery Test measurement is set out in the Housing Delivery Test measurement rule book (https://www.gov.uk/government/publications/housing-delivery-test-measurement-rule-book).

The rule book needs to be read in conjunction with this guidance on the Housing Delivery Test.

Paragraph: 036 Reference ID: 68-036-20190722

Revision date: 22 July 2019

Which organisations does the Housing Delivery Test apply to?

It applies to local planning authorities in a plan-making authority area: non-metropolitan districts, development corporations with plan-making and decision-making powers, metropolitan boroughs and London boroughs. The Housing Delivery Test does not apply to National Park Authorities, the Broads Authority and development corporations without (or not exercising) both plan-making and decision-making functions.

Paragraph: 037 Reference ID: 68-037-20190722

Revision date: 22 July 2019

Which delivery years does the Housing Delivery Test apply to?

The Housing Delivery Test, published in the November of any given year, provides a measure based on the preceding 3 financial years.

Paragraph: 038 Reference ID: 68-038-20190722

Revision date: 22 July 2019

What happens in areas with stepped requirements?

Where the adopted housing requirement is stepped, these stepped requirements will be used in the Housing Delivery Test in place of annual average requirement figures. A stepped requirement allows authorities to reflect step changes in the level of housing expected to be delivered across the plan period. The buffer applied to the 5 year housing land supply does not constitute a stepped requirement.

Paragraph: 039 Reference ID: 68-039-20190722

Revision date: 22 July 2019

What happens in areas with requirements set out as a range?

Where plan makers have successfully argued through plan-making and examination for a requirement set out as a range, the Housing Delivery Test will measure authorities against the lower end of the range.

Paragraph: 040 Reference ID: 68-040-20190722

Revision date: 22 July 2019

How does the Housing Delivery Test account for delivering communal accommodation?

Communal accommodation, including student accommodation and other communal accommodation, can count towards the Housing Delivery Test. Self-contained dwellings are included in the National Statistic for net additional dwellings. Communal accommodation will be accounted for in the Housing Delivery Test by applying adjustments in the form of two nationally set ratios. These are based on England Census data. The ratios for both net student and net other communal accommodation are found in the Housing Delivery Test measurement rule book (https://www.gov.uk/government/publications/housing-delivery-test-measurement-rule-book).

Paragraph: 041 Reference ID: 68-041-20190722

Revision date: 22 July 2019

What happens if the identified housing requirement is not delivered?

From the day following publication of the Housing Delivery Test measurement, where delivery of housing has fallen below the housing requirement, certain policies set out in the National Planning Policy Framework will apply. Depending on the level of delivery, these are:

- the authority should publish an action plan if housing delivery falls below 95%;

- a 20% buffer on the local planning authority's 5 year land supply if housing delivery falls below 85%; and
- application of the presumption in favour of sustainable development if housing delivery falls below 75%, subject to the transitional arrangements set out in paragraph 215 of the Framework (https://www.gov.uk/guidance/national-planning-policy-framework/annex-1-implementation#para214).

These consequences apply concurrently, for example those who fall below 85% should produce an action plan as well as the 20% buffer. The consequences will continue to apply until the subsequent Housing Delivery Test measurement is published. The relevant consequence for any under-delivery will then be applied. Should delivery meet or exceed 95%, no consequences will apply.

Where a new housing requirement is adopted after the publication of the measurement, the Housing Delivery Test calculation will be re-run using the new requirement as set out in paragraphs 17 to 18 of the Housing Delivery Test rule book (https://www.gov.uk/government/publications/housing-delivery-test-measurement-rule-book). Any consequences for under-delivery will be applied from the day after the publication of the re-run measurement.

Paragraph: 042 Reference ID: 68-042-20190722

Revision date: 22 July 2019

How will areas with joint plans be monitored for the purposes of the Housing Delivery Test?

For the purposes of the Housing Delivery Test, joint plans are joint local development documents as defined under Section 28 of the Planning and Compulsory Purchase Act 2004 (https://www.legislation.gov.uk/ukpga/2004/5/section/28).

Areas which have adopted joint plans will have the option to monitor their Housing Delivery Test over the whole of the joint planning area or on a single authority basis. This will be established through the plan-making process.

Where an adopted joint plan has a joint housing requirement and trajectory that is not demarcated by local planning authority boundaries, the authorities will be treated as one authority for the purposes of the Housing Delivery Test, with the consequences of their result applied to both authorities.

Where an adopted joint plan has a housing requirement and trajectory that is demarcated by local planning authorities, they will be treated separately for the purposes of the Housing Delivery Test, according to the apportionment outlined in the adopted plan. The consequences for each authority will be separate, according to their demarcated Housing Delivery Test results.

Paragraph: 043 Reference ID: 68-043-20190722

Revision date: 22 July 2019

How will Housing Delivery Test consequences apply to areas with a joint plan?

Housing Delivery Test consequences will apply to all local planning authorities with a joint plan collectively if the housing figure used to measure against the delivery test is the joint housing requirement. The consequences will apply individually if the housing figure used is the apportioned one.

Paragraph: 044 Reference ID: 68-044-20190722

Revision date: 22 July 2019

How do Housing Delivery Test consequences apply to areas covered by a Spatial Development Strategy (SDS)?

Local planning authorities covered by a Spatial Development Strategy will be monitored against their requirement as set out in the individual borough or district plan for the purposes of the Housing Delivery Test, where this requirement is less than 5 years old (or is older and a review has found this does not require updating). Housing Delivery Test consequences will therefore apply to local planning authorities covered by a spatial development strategy individually. The Housing Delivery Test measurement rule book (https://www.gov.uk/government/publications/housing-delivery-test-measurement-rule-book) sets out the circumstances for the calculation where the requirement is over 5 years old, or there is no individual borough or district plan.

Paragraph: 045 Reference ID: 68-045-20190722

Revision date: 22 July 2019

How is the Housing Delivery Test calculated in new local planning authorities formed as a result of recent reorganisation?

For those authorities who have recently undergone re-organisation, their Housing Delivery Test result, and any relevant consequences, will be based on predecessor authority boundaries in the first year following reorganisation.

Paragraph: 046 Reference ID: 68-046-20190722

Revision date: 22 July 2019

Housing Delivery Test – Action Plans

What is the Housing Delivery Test action plan?

The action plan is produced by the local planning authority where delivery is below 95% of their housing requirement. It will identify the reasons for under-delivery, explore ways to reduce the risk of further under-delivery and set out measures the authority intends to take to improve levels of delivery.

Paragraph: 047 Reference ID: 68-047-20190722

Revision date: 22 July 2019

Who can produce an action plan?

Local planning authorities, in collaboration with key stakeholders, are expected to produce the action plan. This will apply for each year of under-delivery where the Housing Delivery Test score is below 95%.

Apart from where an action plan is required as a consequence of the Housing Delivery Test, any authority may produce an action plan as a matter of good practice to identify ways to support delivery. In areas not measured by the Housing Delivery Test, such as National Park Authorities, the Broads Authority and development corporations without (or which do not exercise) both plan-making and decision-making functions, the use of an action plan is encouraged where appropriate to help identify any causes of under-delivery and actions to address these.

Paragraph: 048 Reference ID: 68-048-20190722

Revision date: 22 July 2019

Who can be involved in the creation of the action plan?

The local planning authority is responsible for producing the action plan, involving relevant stakeholders in the process. It is for the local planning authority to decide which stakeholders to involve, although representatives of those with an impact on the rate of delivery should be included, such as:

- small and large developers;
- land promoters;
- private and public land owners;
- infrastructure providers (such as utility providers, highways, etc) and other public bodies (such as Homes England);;
- upper tier authorities (county councils) in two-tier areas;
- neighbouring authorities with adjoining or cross-boundary sites.

Paragraph: 049 Reference ID: 68-049-20190722

Revision date: 22 July 2019

What could local planning authorities review as part of the action plan?

The local planning authority may wish to include an analysis of under-delivery considering:

- barriers to early commencement after planning permission is granted and whether such sites are delivered within permitted timescales;
- barriers to delivery on sites identified as part of the 5 year land supply (such as land banking, scheme viability, affordable housing requirements, pre-commencement conditions, lengthy section 106 negotiations, infrastructure and utilities provision, involvement of statutory consultees etc.);
- whether sufficient planning permissions are being granted and whether they are determined within statutory time limits;
- whether the mix of sites identified is proving effective in delivering at the anticipated rate.
- whether proactive pre-planning application discussions are taking place to speed up determination periods;
- the level of ongoing engagement with key stakeholders (for example, landowners, developers, utility providers and statutory consultees), to identify more land and encourage an increased pace of delivery;
- whether particular issues, such as infrastructure or transport, could be addressed at a strategic level - within the authority, but also with neighbouring and upper tier authorities where applicable.

Paragraph: 050 Reference ID: 68-050-20190722

Revision date: 22 July 2019

What actions could local planning authorities consider as part of the action plan?

Actions to boost delivery could include:

- revisiting the Strategic Housing Land Availability Assessment (SHLAA) / Housing and Economic Land Availability Assessment (HELAA) (https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment) to identify sites potentially suitable and available for housing development that could increase delivery rates, including public sector land and brownfield land;
- working with developers on the phasing of sites, including whether sites can be subdivided;
- offering more pre-application discussions to ensure issues are addressed early;
- considering the use of Planning Performance Agreements;
- carrying out a new Call for Sites, as part of plan revision, to help identify deliverable sites;
- revising site allocation policies in the development plan, where they may act as a barrier to delivery, setting out new policies aimed at increasing delivery, or accelerating production of an emerging plan incorporating such policies;
- reviewing the impact of any existing Article 4 directions for change of use from non-residential uses to residential use;
- engaging regularly with key stakeholders to obtain up-to-date information on build out of current sites, identify any barriers, and discuss how these can be

addressed;

- establishing whether certain applications can be prioritised, conditions simplified or their discharge phased on approved sites, and standardised conditions reviewed;
- ensuring evidence on a particular site is informed by an understanding of viability;
- considering compulsory purchase powers to unlock suitable housing sites;
- using Brownfield Registers to grant permission in principle to previously developed land; and
- encouraging the development of small and medium-sized sites.

Paragraph: 051 Reference ID: 68-051-20190722

Revision date: 22 July 2019

When can the action plan be published?

To ensure the document is as useful as possible, local planning authorities will need to publish an action plan within 6 months of publication of the Housing Delivery Test measurement.

Paragraph: 052 Reference ID: 68-052-20190722

Revision date: 22 July 2019

Will an action plan require formal public consultation?

The action plan will work best as a transparent, publicly accessible document. The decision about whether to consult on an action plan is for the local planning authority. Local planning authorities should be mindful of the need to both produce and implement the document's proposals in a timely fashion.

Paragraph: 053 Reference ID: 68-053-20190722

Revision date: 22 July 2019

How could the action plan be monitored?

Responsibility for creating the action plan lies with the local planning authority, as does monitoring of the action plan. However, the action plan is a collaborative process between various stakeholders, and all stakeholders have a responsibility to deliver the action plan.

Paragraph: 054 Reference ID: 68-054-20190722

Revision date: 22 July 2019

Published 22 July 2019

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Appendix DV5

Land north of Jubilee Drive and Highgrove Crescent, Polgate appeal decision (APP/C1435/W/22/3310445)

The Planning Inspectorate

Appeal Decision

Site visit made on 26 April 2023

by H Miles BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/C1435/W/22/3310445
Land north of Jubilee Drive and Highgrove Crescent, Polegate Easting 559644, Northing 105231

- 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 Taylor Wimpey UK Ltd against the decision of Wealden District Council.
- The application Ref WD/2021/1637/MAO, dated 19 July 2021, was refused by notice dated 13 May 2022.
- The development proposed is residential development (use class C3) comprising up to 180 dwellings; informal and formal open space, footpaths, cycleways and internal roads; associated parking, landscaping, planting, noise attenuation measures, utilities, drainage infrastructure and groundworks. All matters are reserved with the exception of vehicular access into the site, to be taken from Highgrove Crescent.

Decision

1. The appeal is allowed and outline planning permission is granted for residential development (use class C3) comprising up to 180 dwellings; informal and formal open space, footpaths, cycleways and internal roads; associated parking, landscaping, planting, noise attenuation measures, utilities, drainage infrastructure and groundworks. All matters are reserved with the exception of vehicular access into the site, to be taken from Highgrove Crescent at Land north of Jubilee Drive and Highgrove Crescent, Polegate in accordance with the terms of the application, Ref WD/2021/1637/MAO, dated 19 July 2021, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. Outline planning permission is sought but with only access to be considered at this stage. Matters relating to layout, scale, appearance and landscaping are reserved for future consideration. I have determined the appeal on this basis.

3. Amended plans and updated documents have been submitted at appeal stage, including an updated noise assessment and plans to reflect the changes proposed within it. These include an increase to the size of the proposed development area (4.45ha to 4.7ha). This is not a minor amendment to the proposals. These plans were not before the Council at the time that it made its decision, and interested parties would not have been made aware of these revisions. Therefore, having regard to the principles established under Wheatcroft[1] and in the interests of fairness and openness, these revised plans will not form any part of this assessment.

[1] Bernard Wheatcroft Ltd v SSE & Harborough DC [1982] P&CR 233

4. I have been provided with a Unilateral Undertaking (UU) pursuant to S106 of the Town and Country Planning Act 1990, which includes mechanisms which seek to provide affordable housing, open space, a management company, highways works and contributions, custom and self build plots and a travel plan. I will return to these matters later in this decision.

5. During the appeal process the LPA have confirmed that it will not be defending this appeal and has not submitted evidence to support its reason for refusal.

Main Issues

6. Consequently, the main issues are:

- whether the site would be a suitable location for housing including with regard to its accessibility by sustainable methods of transport, and,
- the quality of living conditions for future occupiers with particular regard to noise and disturbance.

Reasons

Location for Housing

7. The appeal site is outside the development boundary for Polegate and in the countryside for the purposes of the development plan. Policies GD2 and DC17 of the Wealden Local Plan 1998 (WLP) seek to restrict development outside the development boundaries, other than in particular circumstances, none of which have been advanced by the appellant. Consequently, the proposal would be in conflict with Policies GD2 and DC17 of the WLP.

8. Policy TR3 of the WLP and Policy SPO7 of the Wealden Core Strategy Local Plan 2013 (CS) require the provision of suitable public transport facilities and encourages reduction in the need to travel by car amongst other things.

9. Pevensey Town Centre and the Railway Station are around 2km away from the site and are well connected by footpaths. There would also be access to employment opportunities including Chaucer Industrial Estate and Chaucer Business park, and retail at a Lidl store within a 15min walk. As such future occupants could walk or cycle to some local facilities.

10. The site is located a minimum of around 500m from the nearest bus stop, with some properties requiring close to a 1km walk. Therefore, although there are public transport options in the area, given the distances involved, they are not readily accessible. However, the UU would secure a contribution towards more frequent, and evening and Sunday services from these bus stops. It would also secure a Travel Plan which would further promote sustainable transport modes. These actions are likely to reduce car dependence by improving the opportunity for future occupiers to utilise public transport options.

11. Therefore, taking into account the specific accessibility of this particular site, subject to the proposed improvements to bus services and Travel Plan measures the development could be made suitably accessible by sustainable methods of transport. As such it would not be contrary to Policies TR3 of the WLP and Policy SPO7 as set out above.

12. However, the proposed development would be located beyond development boundaries and therefore the site would not be a suitable location for housing

in this regard. The appeal scheme would be contrary to Policies GD2 and DC17 of the WLP, as set out above, in this respect.

13. Policy EN8 of the WLP relates to development within the Low Weald. The site is identified as being in the Pevensey Levels National Character Area. Policy SP01 of the CS seeks to protect distinct landscapes. Therefore, the policies set out above are more relevant to this main issue.

Living Conditions

14. I am provided with a detailed noise assessment which sets out that acceptable living conditions for future occupiers could be achieved with regard to noise and disturbance, subject to specific mitigation measures. These include a fence and bund. These findings are accepted by the Council's Pollution Control team.

15. It is proposed the bund would be landscaped with planting on both sides. Whilst the height of the fence and bund would be secured via condition, taking into account its position next to the developed feature of the A27 dual carriageway along with the potential for planting, this feature would not be visually jarring against the backdrop of the A27.

16. I am provided with an indicative layout which shows that up to 180 dwellings could be accommodated with a fence and bund in place. Notwithstanding this, the application is for up to 180 dwellings and layout is a reserved matter. As such even if the size of this feature increased, I am satisfied that there would be capacity on this site to accommodate the housing proposed.

17. Therefore, the proposed development would provide appropriate living conditions for future occupiers. Consequently, it would be in accordance with Policy EN27 of the WLP which, amongst other things, requires a satisfactory environment for future occupiers.

Other Matters

18. Concerns have been raised regarding the increased traffic flows along Jubilee Drive and in the nearby area. Detailed evidence has been provided along with commitments towards highway works in the UU and via condition which would ensure that there would not be a significant change to traffic conditions at nearby junctions. Also, whilst traffic volumes would increase along Jubilee Drive, they would not affect the character or use of this main access route and would not result in harm to highway safety. This approach is supported by Highways England and the Highway Authority and in the absence of compelling evidence to the contrary, I am satisfied that the development would not result in harm to highway safety.

19. There is likely to be some noise and additional traffic during construction, however this would be a temporary effect. Furthermore, a construction management plan detailing hours of work and noise mitigation measures could be secured by condition which would mitigate these effects.

20. The Community Infrastructure Levy would help meet the demands placed on education, health care, library provision, waste management facilities, policing infrastructure, and community safety facilities by residents of the development. The development would be required to make a proportionate contribution in line with the Council's charging schedule.

Unilateral Undertaking

21. Policy AFH1 of the Affordable Housing Delivery Local Plan requires that for this site 35% of the number of dwellings should be affordable housing with a tenure split of 40% social rented, 40% affordable rent and 20% intermediate accommodation. The UU would secure 35% of the total number of dwellings as affordable Housing Units, with a tenure mix of 40% social rented, 31% affordable rented, 4% intermediate housing and 25% first homes, a form of discounted market tenure. This would satisfy the requirements of Policy AFH1.

22. The National Planning Policy Framework (2021) (the Framework) supports that the needs of groups with specific housing requirements are addressed, such as people wishing to commission or build their own homes. The Self Build and Custom Housebuilding Act 2015, requires local authorities to give enough suitable development permissions to meet the identified demand. The Council states that in October 2021 there were 148 applicants on the register. Therefore there is an evident undersupply in provision. The UU would secure 5% of the total number of dwellings as custom or self-build housing which would make a positive contribution to this undersupply.

23. The proposed development would include 3.94 hectares for natural and informal open space and 0.24 hectares as equipped play areas. This would exceed the Council's play space standards for the provision of such areas which are taken from the Fields in Trust target of 2.4 hectares per 1000 occupants.. There would also be a requirement for youth and adult playspace, and this would be secured via a contribution in the UU. The UU also secures the creation, retention and management of the on-site open space which is necessary to ensure their provision and availability into the future.

24. The formation of a management company would be necessary to ensure the ongoing maintenance and management of the publicly accessible open space and would therefore be necessary and relevant to the proposed development.

25. In addition to the highway works, travel plan, and public transport contributions which are required as set out above, the UU would also secure vehicular, pedestrian, cycle, and emergency access works by means of an agreement made under S278 and/or S38 of the Highway Act 1980 (as amended). These are directly relevant and proportionate to the development proposed and the UU secures that they would be carried out when appropriate.

Planning Balance

26. The Council cannot demonstrate a 5 year housing land supply, it states that it has a 3.66 year supply. Although the extent of the undersupply is not agreed by the appellant, it is evident that the Council cannot demonstrate a 5 year supply of deliverable housing sites. In such circumstances, paragraph 11(d) of the Framework is engaged which requires that planning permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies within the Framework taken as a whole.

27. The site is outside the development boundaries. Therefore, the development would conflict with policies GD2 and DC17 of the WLP. However, given the lack of a housing land supply, restrictive policies preventing the development of housing are out of date. As such I afford only limited weight to the conflict with

these policies, Nevertheless, this does not mean they do not apply and overall the proposal conflicts with the development plan as a whole. I do not find harm with regard to the accessibility of the site or living conditions of future occupiers, however the lack of harm in these regards is a neutral factor.

28. On the other hand, the proposal would provide up to 180 new homes, which would contribute to the government's target to significantly boost the supply of homes and the types of housing secured would address the needs of groups with specific housing requirements including affordable housing and people wishing to commission or build their own homes. Future occupants would be likely to contribute to the local economy and there would be temporary economic benefits of employment and investment during construction. Furthermore, the development would create new areas of public open space. The appellant is also seeking to increase the frequency of bus services in the area, which would include those available during the evening and at weekends.

29. This leads me to conclude that the adverse impacts of the development would not significantly and demonstrably outweigh the considerable benefits set out above. As such this consideration is of sufficient weight to indicate that the presumption in favour of sustainable development should apply in this specific case. The development is therefore also in accordance with Policy WCS14 of the CS which reflects the requirements of the Framework in this regard and Policy EN1 of the WLP which requires that the Council pursues sustainable development.

Conditions

30. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents.

31. I am attaching the standard implementation and submission of reserved matters conditions, However, to ensure housing is implemented in a timely manner and due to the pressing need for housing in this area the timescales are shorter than the default. Therefore 1 year and 18 month periods would be reasonable in this case. In the interests of certainty a condition to define the plans with which the scheme should accord is also included.

32. A condition requiring a hydraulic model to be included with the reserved matters application for layout is needed. There is likely to be a need for reinforcement of the local foul sewerage network to accommodate the additional foul flow from the proposed development site. As such a condition to ensure the development is not occupied until the foul water drainage scheme is implemented would be necessary. Full details of surface water drainage have been provided, and I note that the Lead Local Flood Authority and the Council's Drainage Engineer are satisfied that suitable surface water drainage could be accommodated. A condition could be included which secures these details, along with details of its maintenance and management. To avoid a conflict between trigger points, these are pre commencement conditions. As such the development would not increase the risk of flooding on site or elsewhere. However, the development is required to be implemented in accordance with these conditions and as such a report verifying that has occurred is not necessary. Furthermore a condition requiring that there would be no discharge for contaminated drainage into ground or surface waters is necessary. As well

as a survey and details of any necessary mitigation for watercourses which take surface water runoff. These are required in order to ensure that the development does not increase the risk of flooding on site or elsewhere.

33. Details of the location of the market dwellings are required at reserved matters stage in order to ensure appropriate infrastructure is provided for future occupiers. Full details of the appearance of all aspects of the development would be secured at reserved matters stage and this would secure a high quality development and implementation.

34. Details of landscaping are reserved, therefore details of trees to be retained and new planting along with a management plan are required to be submitted at the reserved matters stage. This is necessary in the interests of the character and appearance of the area, as well as biodiversity. A restrictive condition specifying works that must not occur within root protection areas is needed for the same reason. However, although desirable, I am not provided with evidence that street trees and avenues are a particular feature of the area that must be replicated at this site. As such the condition requiring the provision of this feature has been omitted.

35. Details of landscaping within 20m of the A27 are required at the reserved matters stage in the interests of the safe and effective operation of the highway. Details to ensure the geotechnical stability of the A27 are required for the same reasons.

36. Whilst access points to the site form part of this decision, the details of the internal access roads do not. As such it is necessary to secure these details in the interests of highway safety. This requires the roads to be constructed to an adoptable standard. However, conditions cannot require land to be given up and as such I have removed the reference to the road being offered for adoption. The access points must be constructed at a safe gradient and with appropriate visibility splays and details and implementation of the pedestrian/cycle/emergency accesses are also required, along with details of arboricultural impacts which are necessary due to their location near existing trees in this instance. Details of car parking space sizes to be included at the reserved matters stage are also included. These are all required to ensure highway safety. The works to the Cophall Roundabout are required to be implemented for the reasons set out above.

37. Given the size of the development a detailed code of construction practice is required as well as a condition specifying hours of construction to ensure there would be acceptable effects on the living conditions of nearby occupiers, and in the case of the former, biodiversity as well as highway safety.

38. There is moderate potential at the site for archaeological remains characterised as Iron Age, Roman or Medieval field systems, land division or agriculture. As such conditions requiring archaeological assessment and a verification report are needed in order to allow appropriate conservation or recording of the archaeological interest of the site.

39. Details of an updated noise assessment and noise mitigation measures are required for the reasons set out above, as well as an assessment of overheating and ventilation along with any required mitigation. Details of air quality and emissions mitigation are also required. These are in the interests of the living conditions of future occupiers. Taking into account the size of the site

a condition specifying assessment, remediation and verification if unexpected contaminated is found is needed. This is to avoid unacceptable risk to water, property, ecology and human health. Furthermore, details of water and energy efficient are required in the interests of climate change mitigation.

40. Foraging bats and three common reptile species have been identified on the site. The Ecological report details measures to ensure that there would not be unacceptable harm to biodiversity, including wildlife habitats. However, full details of a wildlife management plan and ecological enhancements are required to supplement those set out in the ecological assessment particularly in terms of timings and future management. This would ensure that the development did not result in harm to trees or to biodiversity. A lighting scheme is required in the interests of ecology, as well as in the interests of the character and appearance of the area.

Conclusion

41. The proposal would not wholly accord with the development plan. However, in this particular case, the considerations set out above outweigh the limited conflict for this specific proposal. In these circumstances this indicates that planning permission should be granted.

H Miles

INSPECTOR

Schedule of Conditions

1) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) An application for approval of the reserved matters shall be made to the local planning authority not later than 1 year from the date of this permission.

3) The development hereby permitted shall take place not later than 18 months from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan: TAYU3024-1001-B, Framework Masterplan: TAYU3024-3001-J, Land Use and Access Parameter Plan: TAYU3024-3401-B, Building Heights Parameter Plan: TAYU3024-3411-A, Green Infrastructure Parameter Plan: TAYU3024-3421-A, Illustrative Layout- TAYU3024-4001-D, Proposed Site Access Arrangement ITB13046-GA-001 Rev B, Proposed Pedestrian and Cycle Access Arrangement ITB13046-GA-011 Rev A.

5) The Reserved Matters application(s) for layout shall include the location of the 65% market dwellings approved to be provided on site. The development shall be carried out in accordance with the approved scheme.

6) The Reserved Matters application(s) for layout shall include a 2-D hydrodynamic integrated hydraulic model incorporating the culvert under the A27. The development shall be carried out in accordance with the approved scheme.

7) The Reserved Matters application(s) for landscaping and layout shall include car parking spaces which shall measure at least 2.5m by 5m (with an extra 50cm on each side where spaces abut walls, fences or hedges). Car parking shall be provided prior to the occupation of the associated dwellings and thereafter retained for that purpose. The development shall be carried out in accordance with the approved scheme.

8) The Reserved Matters application(s) for landscaping and layout shall include details of those trees and hedgerows to be retained (including protection zones), those to be removed and new planting and an Arboricultural Method Statement to mitigate any impacts on the protection zones. The development shall be carried out in accordance with the approved scheme.

9) The Reserved Matters application(s) for landscaping shall include a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned, domestic gardens or areas to be adopted by the Local Highway Authority. The development shall be carried out in accordance with the approved scheme.

10) The Reserved Matters application(s) for landscaping shall include details of the hard and soft landscaping within 20 metres of the A27 boundary of

the site. The development shall be carried out in accordance with the approved scheme.

11) No development shall take place until, detailed plans, including levels, sections and constructional details of the proposed internal access roads, surface water drainage, foul sewers, outfall disposal and street lighting to be provided have been submitted to and approved in writing by the Local Planning Authority.

These details shall show that the roads will be constructed to an adoptable standard, and that no lighting structures will be installed closer to the A27 boundary than 1.5 times the column height nor be directed towards the A27. The development shall be implemented in accordance with the approved details.

12) No development shall take place until a written scheme of archaeological investigation including a programme of archaeological works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition). The development shall be carried out in accordance with the approved details prior to the occupation of any dwelling on the associated phase.

13) No development shall take place, including any ground works or works of demolition, until full written details for a Code of Construction Practice have been submitted to and approved in writing by the Local Planning Authority. The Code of Construction Practice (COCP) shall provide for:

i) An indicative programme for carrying out the works;

ii) Measures for protection of retained features and surface water bodies on or adjacent to the site;

iii) A scheme for the control of noise and dust which shall accord with British Standard ` BS5228-1: 2009 +A1:2014- Code of practice for noise and vibration control on construction and open sites;

iv) Management of traffic visiting the site including the anticipated number, frequency and types of vehicles used during construction, the times of delivery and collections which shall avoid peak traffic flow times between the hours of 0800 to 0900 and 1630 to 1800 and measures necessary to ensure highway safety,

v) The method of access, including temporary access points, on-site turning egress and routeing of vehicles temporary parking or holding areas;

vi) The parking of vehicles by site operatives and visitors,

vii) The loading, unloading and storage of plant, materials and waste,

viii) The provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),

ix) Measures to minimise the potential for pollution of groundwater and surface water;

x) Details of measures to manage flood risk, both on and off the site during construction

xi) The location and design of security hoardings, site offices and storage compounds;

xii) The arrangements for public consultation and liaison during the construction works.

xiii) The approved COCP shall be adhered to in full throughout the construction period.

xiv) That no bonfires shall be permitted during site clearance or construction.

The development shall be implemented in accordance with the approved COCP.

14) No development shall take place until the vehicular access serving the development has been constructed in accordance with the approved drawing no (Ref: ITB13046-GA-001 Rev B). The completed access shall have maximum gradients of 4% (1 in 25) from the channel line, or for the whole width of the footway/verge whichever is the greater and 11% (1 in 9) thereafter.

15) No development shall take place until details of the proposed Air Quality and Emissions mitigation measures for the operational phase of development shall be submitted to and approved in writing by the LPA. The details shall follow the Air Quality and Emissions Mitigation Guidance for Sussex, 2013 and shall include the promotion of cycling and walking, public transport, car clubs, low emission vehicles and associated infrastructure including electric car charging points. The approved mitigation measures shall be implemented prior to occupation of the development and retained as such thereafter.

16) No development shall take place until an updated Noise Assessment Report including full details of noise mitigation measures to be incorporated in the final layout of the site and the design of individual properties within it has been submitted to and approved in writing by the Local Planning Authority. The approved noise mitigation measures shall be implemented prior to occupation of the development and retained as such thereafter.

17) No development shall take place until an assessment in accordance with the guidance in 'Acoustics, Ventilation and Overheating – Residential Design Guide' (AVO), 2020 published by Acoustics & Noise Consultants (ANC) and Institute of Acoustics (IOA), has been submitted to and approved in writing by the Local Planning Authority. The assessment shall include full details of any overheating mitigation scheme required. The development shall be implemented in accordance with the approved scheme prior to occupation of the development, and retained as such thereafter.

18) No development shall take place until full details of the proposed means of foul drainage disposal have been submitted to and approved in writing by the Local Planning Authority. The approved drainage works shall be completed prior to the occupation of any dwelling on site.

19) No development shall take place until a detailed surface water drainage system has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall incorporate the following:

i) Detailed drawings and hydraulic calculations. The hydraulic calculations shall take into account the connectivity of the different surface water drainage features. The calculations shall demonstrate that surface water flows can be limited to the mean annual runoff, Qbar for all rainfall events including those with a 1 in 100 (plus climate change) annual probability of occurrence. An allowance for urban creep (recommended 10% increase in impermeable area) shall be incorporated within the calculations.

ii) The details of the outfalls of the proposed attenuation ponds and how they connect into the watercourses shall be submitted as part of a detailed design including cross sections and invert levels.

iii) The detailed design of the surface water attenuation structures shall be informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1m unsaturated zone between the base of the drainage structures and the highest recorded groundwater level. In the event this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system shall be provided.

iv) Details of the measures proposed to manage exceedance flows. This shall also include details of how the existing overland surface water flows have been retained.

v) Evidence that the existing watercourses on site have been retained within a communally maintained space shall be provided.

vi) Evidence that the attenuation ponds have sufficient extra capacity to deal with the surface water flowpaths or that additional drainage has been installed to intercept these flowpaths and direct them to the ordinary watercourse.

vii) That no surface water run off that may arise due to the development hereby permitted will flow into the highway drainage systems, and there will be no connections into those highways drainage systems from the development and its drainage system.

The surface water drainage shall be provided in accordance with the approved details prior to the occupation of the related dwellings on site. The approved scheme shall remain in place for the lifetime of the development.

20) No development shall take place until a maintenance and management plan for the entire drainage system has been submitted to and approved in writing by the Local Planning Authority. The management plan shall cover the following:

i) who will be responsible for managing all aspects of the surface water drainage system, including piped drains.

ii) Evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development.

The development shall be carried out in accordance with the approved plan and shall thereafter remain in place for the lifetime of the development.

21) No development shall take place until details demonstrating that all proposed ground and/or building works safeguard and maintain the

geotechnical stability of the A27 during construction and occupation of the site, have been submitted to and approved in writing by the Local Planning Authority. The details shall include such assessment, drawings and mitigation as is necessary to comply with the requirements and standards set out in the Design Manual for Roads and Bridges. The development shall be carried out and retained in accordance with the approved details.

22) No development shall take place until a detailed scheme for the enhancement of the site for biodiversity purposes has been submitted to and approved in writing by the Local Planning Authority. This shall be in accordance with the recommendations contained in the Ecological Assessment dated March 2021 and shall include timescales for implementation and future management. The development shall be implemented in accordance with the approved scheme of enhancements and retained as such thereafter.

23) No development shall take place until a detailed wildlife management plan has been submitted to and approved in writing by the Local Planning Authority. This shall be in accordance with the recommendations contained in the Ecological Assessment dated March 2021 and shall include as appropriate detailed proposals for the protection of bats, birds, reptiles, great crested newts and badgers, and measures for the mitigation of any harm to them likely to be caused by the development including timescales for implementation and future management. The development shall be implemented in accordance with the approved wildlife management plan.

24) No development on each phase of the development shall take place until, full details for the incorporation of water and energy efficiency measures, the use of renewable energy and methods of sustainable construction within the development for that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of any dwelling on the associated phase.

25) Prior to the construction of any outfalls of the proposed attenuation ponds, a survey of the condition of the watercourses which will take surface water runoff from the development shall take place. Results of the survey and any improvements to the condition of the watercourse that are required as a result of the proposed development and programme for implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and timetable.

26) Prior to the occupation of any dwelling on the associated phase, the archaeological post assessment investigation for that phase shall have been submitted to and approved in writing by the Local Planning Authority.

27) Prior to the occupation of any dwelling on site, plans and details of the pedestrian/cycle/emergency accesses serving the development shall be submitted to and approved in writing by the LPA. The submitted details shall include an Arboricultural Impact Assessment of the proposed pedestrian/cycle and emergency accesses on the Root Protection Areas (RPAs) of existing trees and an Arboricultural Method Statement to

mitigate any impacts on the RPAs. The development shall be implemented in accordance with the approved details prior to the occupation of any dwelling on site.

28) Prior to the occupation of any dwelling on site, a verification report confirming that the approved air quality and emissions mitigation measures have been installed as approved shall have been submitted to and approved in writing by the Local Planning Authority.

29) Prior to the 90th occupancy within the development hereby permitted, the highway improvements to the A27 Cophall roundabout shall be constructed and opened to traffic in accordance with i-Transport Drawing No. ITB13046-GA "A27/A22 COPHALL ROUNDABOUT – POTENTIAL IMPROVEMENT SCHEME – OPTION TWO".

30) The vehicular access serving the development shall not be used until visibility splays of 2.4m x 33m are provided in both directions and the visibility splays shall be retained as such thereafter. There shall be no obstruction to visibility above a height of 600mm above each carriageway level. No gates, fences or walls shall be constructed within the sight lines/visibility splay.

31) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, until a detailed scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include lighting that is low level and directional. The artificial lighting to the development shall conform to requirements for Environmental Zone E2 contained within Table 2 of the Institute of Lighting Professionals Guidance Note 01/21 The Reduction of Obtrusive Light and comply with the Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18 Bats and Artificial Lighting in the UK. No lighting structures may be installed closer to the A27 boundary than 1.5 times the column height nor be directed towards the A27. The development shall be carried out in strict accordance with the approved lighting scheme.

32) During the construction phase, no works shall take place other than within the hours Monday to Friday 0800 to 1800 hours, Saturday 0800 to 1300 and not at all on Sundays Public or Bank Holidays.

33) There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways. Prior to being discharged into any watercourse, surface water sewer or soakaways system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies and silt traps to BS 5911:1982 with an overall capacity compatible with the site being drained and shall be retained thereafter.

34) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be submitted to and approved in writing by the Local Planning Authority.

Where remediation is necessary a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved

remediation scheme prior to the occupation of any dwelling on site. Prior to the occupation of any dwelling on site, a verification report confirming the completion of measures identified in the approved remediation scheme have been carried out shall have been submitted to and approved in writing by the Local Planning Authority.

35) No trees and hedgerows that have been approved as being retained, unless dead or dangerous, shall be felled, topped, lopped or destroyed. Furthermore the following work shall not be carried out within the approved protection zone of any tree or hedgerow:-

i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.

ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.

iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.

iv) (No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.

v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.

vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction'.

Appendix DV6

Land at Little Sparrows, Sonning Common, appeal decision (APP/Q3115/W/20/3265861)

The Planning Inspectorate

Appeal Decision

Inquiry Held on 27-30 April, 4-7, 11 and 12 May 2021
Site visit made on 10 May 2021

by Harold Stephens BA MPhil Dip TP MRTPI FRSA

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/Q3115/W/20/3265861
Little Sparrows, Sonning Common, Oxfordshire RG4 9NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Senior Living (Sonning Common) Limited and Investfront Ltd against the decision of South Oxfordshire District Council.
- The application Ref P19/S4576/O, dated 12 December 2019, was refused by notice dated 30 June 2020.
- The development proposed is a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas.

Decision

1. The appeal is allowed and planning permission is granted for a hybrid planning application for the development of a continuing care retirement community care village (Use Class C2) of up to 133 units with ancillary communal and care facilities and green space consisting of (i) A full planning application for 73 assisted living units within a "village core" building with ancillary communal and care facilities, gardens, green space, landscaping and car parking areas and residential blocks B1-B4; and (ii) An outline application (all matters reserved except access) for up to 60 assisted living units with ancillary community space, gardens, green space and landscaping and car parking areas at Little Sparrows, Sonning Common, in accordance with the terms of the application, Ref P19/S4576/O, dated 12 December 2019, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. At the Inquiry an application for a partial award of costs was made by South Oxfordshire District Council (the Council) against the Appellant. This is the subject of a separate Decision.

3. The appeal follows the refusal of the Council to grant planning permission to a hybrid planning application for development at Blounts Court Road, Sonning Common. The planning application was determined under delegated powers

on 30 June 2020 and there were seven reasons for refusal (RfR) set out in the decision notice.[1]

4. The application was supported by a number of plans, reports, and technical information. A full list of the plans on which the appeal is to be determined is set out at Appendix 4 of SoCG 4 Planning[2] which was agreed by the main parties. A full list of all documents forming part of the consideration of this appeal is set out at Appendix 3 of SoCG 4 which was agreed by the parties.[3]

5. I held a Case Management Conference (CMC) on 4 March 2021. At the CMC the main issues were identified, how the evidence would be dealt with at the Inquiry and timings. In the weeks following the CMC the main parties continued discussions on the appeal to ensure that matters of dispute were clear and that all matters of agreement were documented in either Statements of Common Ground or in draft Planning Conditions such that time on these matters was minimised at the Inquiry. The following Statements of Common Ground were submitted: SoCG 1 Landscape; SoCG 2 Transport; SoCG 3 Viability; SoCG 4 Planning and SoCG 5 Five Year Land Supply.

6. At the Inquiry a Planning Obligation was submitted.[4] The Planning Obligation is made by an Agreement between Investfront Limited, Lloyds Bank PLC, Senior Living (Sonning Common) Limited, South Oxfordshire District Council and Oxfordshire County Council under s106 of the TCPA 1990. The Planning Obligation secures, amongst other matters, an off-site financial contribution in lieu of on-site affordable housing provision of £7,510,350. The s106 Agreement is signed and dated 26 May 2021 and is a material consideration in this case. A Community Infrastructure Levy (CIL) Compliance Statement[5] and an Addendum to the CIL Statement[6] were also submitted in support of the Planning Obligation. I return to the Planning Obligation later in this decision.

7. In relation to RfR7 (affordable housing), following discussions on viability, the Appellant reached agreement with the Council on the payment of an off-site financial contribution towards affordable housing that is secured through a s106 Agreement. Therefore, it is agreed that having regard to development viability, the appeal proposal would provide an adequate level of affordable housing provision and this matter is no longer in dispute.

8. The application was screened for Environmental Impact Assessment (EIA) prior to submission of the application and the Council determined that EIA was not required on 6 November 2019. I agree with the negative screening that was undertaken by the Council.

Main Issues

9. In the light of the above I consider the main issues are:

   (i) Whether the proposed development would be in accordance with the Council's strategy for the delivery of older persons accommodation throughout the district as set out in the development plan;

[1] See Appendix A in CD H.1
[2] CD H.5
[3] Ibid
[4] INQ APP11
[5] INQ LPA7
[6] INQ LPA8

(ii) The impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common;

(iii) The effect of the design of the proposed development on the character and appearance of the village;

(iv) Whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.

(v) Whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB.

Reasons

Planning Policy context

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this appeal, the development plan comprises the following documents:

- The South Oxfordshire Local Plan 2035 (Adopted 2020) (SOLP); and
- The Sonning Common Neighbourhood Plan (2016) (SCNP).

11. The determination of the planning application, the subject of this appeal, took place against the background of a different development plan framework to that now in place. Although the SOLP has been subsequently adopted, the SCNP was based upon the Core Strategy which has been withdrawn, including the out of date housing requirements derived from the old Regional Strategy, significantly reducing the weight that can be afforded to it.

12. The development plan policies that are relevant to this appeal are agreed by the main parties and are set out in SoCG 4[7] and INQ LPA6 provides an agreed schedule of the replacement policies for those cited in the decision notice.

13. The SCNP is currently under review. An initial public consultation was held between 29 February - 23 March 2020 but the Plan has not at this stage progressed further and there is as yet no agreed timetable. No weight can be given to that review.

14. SoCG 4 sets out the sections of the NPPF which are relevant in this case.[8] It also sets out a list of Supplementary Planning Documents and Guidance[9] which should be considered in this appeal and specific parts of the National Planning Practice Guidance (PPG)[10] which are considered relevant.

15. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). The Chilterns AONB is a `valued landscape' in respect of paragraph 170 of the NPPF. AONBs, along with National Parks and the Broads, benefit from the highest status of protection in relation to conserving and

[7] Paragraph 3.3
[8] Paragraph 3.5
[9] Paragraph 3.6
[10] Paragraph 3.7

enhancing landscape and scenic beauty. Section 85 of the Countryside and Rights of Way Act 2000 (CROW) places a duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB. Paragraph 172 of the NPPF requires "great weight" to be given to those matters in decision making. It is common ground that the appeal proposal involves major development within the AONB and as such should be refused other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

16. Paragraph 172 of the NPPF requires particular consideration to be given to: (a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; (b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and (c) any detrimental effects on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. I deal with these matters under the main issues but at the outset it is important to address whether or not the Council has a five year supply of housing.

Five Year Housing Land Supply

17. Paragraph 73 of the NPPF sets the requirement for Local Planning Authorities to identity and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old.

18. Since 2018, Oxfordshire only needed to demonstrate a three-year supply of housing. However, on 25 March 2021 the Minister of State for Housing confirmed that a five-year housing land supply was again required. The Council produced a Housing Land Supply Interim Statement (IHLS)[11] setting out their initial position for the period 1 April 2020 to the 1 April 2025 which asserts a 5.35-year supply. However, at the Inquiry, the Council conceded that the supply had fallen on its own case to 5.08 years. The five-year supply requirement is a minimum requirement and it needs to be deliverable. The definition of deliverable is contained in Annex 2 to the NPPF.

19. The most up-to-date position as regards the difference between the main parties is summarised in the agreed SoCG 5. There is no disagreement as to the housing need (900 dpa) or the time period for the assessment (2020/21 to 2024/25). The five-year requirement including an agreed shortfall of 922 dwellings and 5% buffer is 5,693. The difference between the main parties comes down to the Council's position that there is a 5.08 year supply of deliverable housing sites and the Appellant's assertion that it is instead a 4.21-year supply. Table 3 of SoCG 5 contains a schedule of 15 disputed sites. I have assessed these disputed sites in the context of the test of deliverability set out in Annex 2 of the NPPF. This specific guidance indicates which sites should be included within the five-year supply.

20. I have also had regard to the PPG advice published on 22 July 2019 on `Housing supply and delivery' including the section that provides guidance on

[11] CD: K.32 South Oxfordshire Local Plan Housing Land Supply Interim Statement 2021

`What constitutes a `deliverable' housing site in the context of plan-making and decision-taking.' The PPG is clear on what is required:

> *"In order to demonstrate 5 years' worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions."*

This advice indicates to me the expectation that `clear evidence' must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

21. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute `clear evidence'. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.

22. It is not necessary for me to go through all of the disputed sites in Table 3 of SoCG 5. In my view, the Council was not able to provide clear evidence of delivery on most of the disputed sites which significantly undermines its position. For example, the Council suggests that 100 dwellings would be delivered at Site 1561: Land to the south of Newham Manor, Crowmarsh Gifford whereas the Appellant says 100 dwellings should be deducted. The comments set out by the Appellant for this site in Table 3 are compelling. Similarly, at Site 1009: Land to the north east of Didcot, the Council suggests 152 dwellings would be delivered whereas the Appellant says 152 dwellings should be deducted. The Appellant provides cogent evidence to support its case. Furthermore, at Site 1418: Land at Wheatley Campus, the Council agrees a deduction but only of 62 dwellings whereas the Appellant says the deduction should be 230. There is no clear evidence before me that would suggest that these sites or indeed most of the disputed sites would deliver the completions suggested by the Council in the next five years.

23. Overall, I consider that the Appellant's assessment of supply set out in Table 2 of SoCG 5 is more realistic taking into account the test of deliverability set out in Appendix 2 to the NPPF and the PPG advice published on 22 July 2019. I am satisfied that the Appellant's approach is consistent with national policy, case law, appeal decisions and informed by current housebuilder sales rates, assessment of the technical complexities of delivering development sites and experience of the housebuilding industry including lead-in times.

24. My conclusion on housing land supply is that there are a number of sites that together significantly reduce the Council's five-year housing land supply. Many of the sites that the Council includes within the supply cannot be justified applying the current definition of deliverable. Following discussions between the main parties, deductions from the IHLS figure of 6,093 dwellings, have been identified and summarised at Table 1 of SoCG 5 and the impact which this has on the five year housing land supply is summarised at Table 2.

25. I consider that the Council's supply figure should be reduced to reflect the Appellant's position set out in Table 2 of SoCG 5. The Council's supply figure of 5,785 dwellings in Table 2 should be reduced to give a more robust total supply figure of 4,789 dwellings for the five year period. Although the Council maintains there is a 5.08 year supply, the evidence that is before me indicates a housing land supply equivalent to 4.21 years. The implications of not having a five-year housing land supply are significant. Not only is there a shortfall, but it also means most important policies for determining the application are automatically out-of-date. The Council accepts that means all the policies in the SOLP and the SCNP are out-of-date. It also means if the paragraph 172 tests in the NPPF are satisfied then the tilted balance applies.

First Issue - whether the proposed development would be in accordance ***with the Council's strategy for the delivery of older persons*** *accommodation throughout the district as set out in the development plan;*

The Need for Extra Care

26. The Council argues that the appeal proposal would be contrary to Policies H1 and H13 of the SOLP and due to its location in the AONB, outside but next to Sonning Common, brings into play Policies ENV1 and Policy H4 of the SOLP, and Policies ENV1, ENV2, H1, H2 and H2a of the SCNP. It is also claimed that the provision of 133 units of specialist housing for the elderly would be inconsistent with the proportionate growth in general housing planned for Sonning Common at both levels of the development plan.

27. Clearly the need for specialist accommodation for older people is recognised in the SOLP, which promotes the identification of suitable sites in the neighbourhood planning process and the inclusion of specialist accommodation on strategic sites,[12] and favours specialist housing for the elderly over conventional housing on unallocated sites.[13] Although extra care housing is referred to in the supporting text,[14] the SOLP does not prescribe particular levels of provision by type of accommodation, which allows flexibility in provision, adapting to what is an evolving sector. I note that no attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. No quantum for extra care accommodation is set out in the SOLP. Although Table 4f of the SOLP shows an outstanding requirement for 96 units over the plan period for Sonning Common it makes no reference to the needs arising from within existing households arising from their ageing.

28. Quantification of the need for open market extra care housing is not straightforward, in part because whether an owner-occupier moves to extra care housing is ultimately a matter of choice, in part because there is no prescribed or generally accepted methodology. The Government very clearly supports the identification and provision of extra care accommodation as a recognised form of specialist accommodation for the elderly.[15] Moreover, it is important to bear in mind that the NPPF definition[16] of `older people' does not

[12] See CD: C.4 Policy H13(2), (3)
[13] See CD: C.4 Policy H1(3)(ii)
[14] See CD: C.4 paragraph 4.70
[15] See paragraphs 59 and 61 of the NPPF
[16] See Annex 2

exclusively mean the very frail elderly rather it embraces a wide range of people in that category both in terms of a very wide age range and significant variation in issues surrounding matters like mobility and general health.

29. Within the PPG on `Housing for older and disabled people' it states that:[17]

> "*The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking*"

30. The Government plainly recognises that the need is `critical' and the importance of 'choice' and addressing 'changing needs'. Offering greater choice means a greater range of options being offered to people in later life and that the range of options should at the very least include the categories the Government recognises in its guidance. This includes extra care. The PPG also advises what `range of needs should be addressed'. It recognises the diverse range of needs that exists and states that:[18]

> "*For plan-making purposes, strategic policy-making authorities will need to determine the needs of people who will be approaching or reaching retirement over the plan period, as well as the existing population of older people*".

31. Plainly, when compared with Government guidance, the development plan is left wanting in terms of addressing a need for extra care. There is no reference in Policy STRAT 1 to the PPG insofar as assessing the needs of older people. There is no reference in Policy STRAT 2 to the accommodation needs of those local residents who will make up more than a quarter of the total population of South Oxfordshire by 2035. Policy H13 in the SOLP expressly deals with specialist housing for older people. It covers all forms of specialist housing for older people, but it is completely generic as to provision. No attempt is made to differentiate between types and tenure of specialist housing for older people, nor to address the need for each. The needs of all older people are simply lumped together. Nor is there any engagement with the market constraints and viability considerations relating to specialist accommodation for older people evidenced by Mr Garside during the Inquiry.

32. Paragraph 3 of Policy H13 suggests that provision be made within strategic allocations. The strategic sites are mostly focused around Oxford or in the more northern part of the District. Only one such strategic site has planning permission – Wheatley Campus but no extra care is proposed. The Council want to see it on Ladygrove East. That is not a strategic allocation in the SOLP. But in any event the Council is seeking affordable extra care there and the developer (Bloor Homes) is resisting it. The Council conceded that the strategic sites do not really feature at all in its five-year housing land supply calculations. The Council also accepted that landowners and developers would achieve a better return if they build market houses.

[17] See paragraph 001 Reference ID: 63-001-20190626
[18] See paragraph 003 Reference ID: 63-003-20190626

33. Reference is made to encouraging provision through the neighbourhood planning process.[19] However, without a more definitive district wide requirement it would be difficult for neighbourhood plan groups to assess the levels of provision required, which will vary; and neighbourhood plan groups generally lack the expertise to fully appreciate the requirements and the different housing models available and their viability and practicality.[20]

34. The Appellant's primary evidence on need is given by Mr Appleton, the principal author of two key publications in this area: *More Choice: Greater Voice (2008)*[21] and *Housing in Later Life (2012).*[22] Both of these publications seek to address how best to quantify the need for specialist housing for the elderly. They advocate a method which is based on the population and other nationally available data to look at the characteristics of an LPA area.

35. The PPG highlights the need to begin with the age profile of the population. I note that the proportions of people aged 65 and over within South Oxfordshire District currently sits above the national average.[23] Furthermore, there is presently a population of 15,000 in South Oxfordshire District, who are aged 75 years or older which is forecast to increase to 21,100 by 2035.[24]

36. In terms of care needs, 4,019 people in this population have difficulty managing at least one mobility activity on their own at present, set to rise to 6,046 by 2035.[25] They are overwhelmingly owner occupiers, with 81.23% of people aged 75-84 and 75.25% aged 85 and over owning their own home compared with 13.74% and 17.42% respectively Council or social rented.[26] Importantly, South Oxfordshire sits significantly above the national trend toward owner occupation as the dominant tenure for older people.

37. For the Appellant it is argued that there is a significant under-supply of retirement housing for leasehold sale to respond to the levels of owner-occupation among older people in the District.[27] There is a total of approximately 1,641 units of specialist accommodation for older people. However, there is a very marked disparity in the availability of specialised housing for older homeowners compared with the supply available to older people in other tenures.[28] The current rate of provision favours those in tenures other than home ownership with nearly four times as many units available to them in sheltered, retirement and extra care housing than are currently available for their peers who are homeowners.[29] At present, it is submitted that there are 120 units of affordable extra care housing and 113 units of market extra care housing.[30]

38. Mr Appleton sets out a provision rate for private extra care of 30 per 1,000 of the 75 and over population in the District based on a total provision of 45 extra care units per 1,000 (4.5%) across both the affordable and private sectors, but split on a ratio of one third for social rented and two thirds for

[19] See CD: C.4 Policy H13 paragraph 2
[20] POE of Simon James paragraph 5.1.11
[21] CD: K.44
[22] CD: K.45
[23] See APP 2.3 Nigel Appleton Section 6
[24] See APP 2.3 Nigel Appleton Table One
[25] See APP 2.3 Nigel Appleton Table Five
[26] See APP 2.3 Nigel Appleton Table Twelve
[27] See APP 2.3 Nigel Appleton paragraph 9.2
[28] See APP 2.3 Nigel Appleton Table Fourteen
[29] See APP 2.3 Nigel Appleton paragraphs 9.7-9.9
[30] See APP 2.3 Nigel Appleton Table Fourteen

sale. This takes into consideration the research in "*More Choice: Greater Voice"* and revisions in "*Housing in Later Life"*. I note that the 45 units per 1,000 is to be divided as suggested in order to bring supply into closer alignment with tenure choice among older people.[31] That is 450 units now. Projecting forward, an indicative provision of 633 units of market extra care would be required by 2035.[32] The Council refers to the Oxfordshire's Market Position Statement[33] which assumes a lower need figure for extra care housing but the focus there appears to be on social rented extra care housing. The Council also suggests that the SHMA[34] evidence is to be preferred. However, I note that it does not identify figures for extra care, nor does it relate to the present PPG.[35] In my view, Mr Appleton's provision rate is preferred and the need for more private extra care is overwhelming.

39. At present even a very modest level of provision of 30 units per 1,000 in the 75 and over population seems unlikely in South Oxfordshire District, especially as the SOLP now requires affordable housing to be provided, when previously it was not required. No other extra care market proposals are coming forward. The Rectory Homes proposal at Thame, refused on appeal for not providing an affordable contribution has been resubmitted but the s106 Agreement is not signed. Nor is Rectory Homes Ltd a provider of care.

40. In my view, there is a strong case that Mr Appleton's 45 per 1,000 overall, with 30 per 1,000 to market extra care, should be far more ambitious given not only the true tenure split in the District but also what it could mean for the ability to contribute towards addressing the housing crisis. Mrs Smith conceded that the figure of 30 per 1,000 was hardly ambitious and, if anything, was underplaying the scale of the potential need.

41. Turning to supply, with only 113 units of market extra care units of extra care housing existing in South Oxfordshire and a current need of 450 units this leaves a shortfall of 337. As to the existing pipeline, Mr Appleton analysed the same at Figure Two of his Needs Report, which was updated at INQ APP12. The total `pipeline' supply of extra care not already included in Mr Appleton's tabulation of current supply are the proposed 110 units in Didcot and Wallingford, and the 65 units proposed at Lower Shiplake. This gives a total gain of 175 units. However, both Wallingford and Didcot sites have been confirmed as affordable extra care. The Council did not dispute the 175 figure and Mrs Smith accepted that she did not know if the 110 units in Didcot and Wallingford would be affordable or market. I consider that only 65 units can reasonably be considered as pipeline.

42. The pipeline needs to be set against the current shortfall of 337 which still leaves 162 units even if Didcot and Wallingford are included and 272 if they are not. That is a substantial unmet need now which will only further climb and in respect of which there is nothing in the pipeline and no prospect of any strategic allocated site delivering in the five year housing land supply.

43. There is plainly a very limited supply of extra care housing for market sale (leasehold) in South Oxfordshire. Adding further concern, it is of note that

[31] See APP 2.3 Nigel Appleton paragraph 11.6
[32] See APP 2.3 Nigel Appleton Table Seventeen
[33] See CD: K.27 Market Position Statement for Oxfordshire in relation to Care Provision and Extra Care Housing Supplement assumes a need for 25 units of extra care housing for every 1,000 of the population aged 75+ page 9
[34] See CD: 14 HOUS5 Oxfordshire Strategic Housing Market Assessment April 2014
[35] Ibid

from 2012 to date just 133 units have been delivered despite there being in the same period permissions for a net gain of 447 additional Care Home beds This runs completely contrary to the policy set out in the Market Position Statement of reducing reliance on Care Home beds and increasing capacity in extra care. The case for more market extra care provision now is very clear. Furthermore, the need is set only to grow.

44. The Council sought to undermine the Appellant's need case with reference to earlier data from Housing LIN and the @SHOP tool. This on-line tool is highlighted in the PPG as a basis for calculating need. But the fact is it only provides a figure based on existing prevalence and then seeks to project that forward with a proportion increase based on the increase in the 75+ age group in the District. This is not a measure of need.

45. The Council provided a list of specialist accommodation for older people[36] most of which is not market extra care, but mostly affordable extra care. Oxfordshire County Council has two sites with market extra care, but those schemes are in Banbury and Witney and not in the District.[37] In short, the pipeline adds up to very little. I consider there is hardly any market extra care housing in the District. The stark fact is that choice is largely unavailable.

Policy Compliance

46. Plainly the proposed development would make a substantial contribution toward the provision of a more adequate level of provision for older homeowners looking for an environment in which their changing needs could be met. The fact that the need is proposed to be met at Sonning Common seems entirely appropriate. Sonning Common is one of just 12 larger villages where a need for extra care provision has been identified in the SCNP, and where there is the oldest 65 and over population in the County. The SCNP expresses support for a small scale development of extra care housing in Policy H2a but no site is allocated for such use. The Sonning Common Parish Council (SCPC) accepted that SCNP policies referred to in the RfR are out of date due to a lack of five year housing land supply. That includes Policies ENV1, ENV2 and H1, which is only expressed as a minimum.

47. Policy H13 (1) in the SOLP gives support to extra care on unallocated sites. This adds to the weight that can be given to the need case. Policy H13 is the key policy in respect of specialist accommodation for older people. Though the appeal site is not a strategic site, nor allocated in the SCNP, Policy H13 does not itself require it to be. I have already discussed the difficulties associated with any of the strategic sites coming forward with market extra care either within the five year housing land supply period or at all.

48. Policy H13 (1) is clear that encouragement will be given to developments in locations "with good access to public transport and local facilities." The Council accepted that public transport for staff on the site would be more likely to take the form of bus services and they would perhaps have no difficulty walking. For residents there is a choice and it depends on their mobility. I saw that most of the site is flat. It does have a gradual gradient to the west then a steeper gradient close to Widmore Lane. The presence of a hairpin in the proposed design is to deal with the gradient which requires a

[36] See Nicola Smith's Appendix 1
[37] CD: K.27 page 5

longer path to accommodate people with disabilities. I note that a minibus service is proposed which would take residents to the local supermarket. With regard to other trips, for example to the post office or to other facilities, residents could walk or take the minibus. Importantly, the core building has all facilities centrally. Residents could cook in their premises and meals would be provided on site. There would also be a small convenience shop on site and staff would be on hand to not only care for but also to assist people. Garden maintenance would be provided and there would be a wellbeing centre to help people's health and fitness. Overall, the facilities would take care of a considerable amount of day-to-day needs. In my view all of this would comprise "good access to public transport and local facilities."

49. With regard to matters of principle I accept that Policies ENV1 and STRAT 1 (ix) of the SOLP affords protection to the AONB and in the case of major development, it will only be permitted in exceptional circumstances and where it can be demonstrated to be in the public interest. I give these matters detailed consideration in other issues. The proposal fully accords with Policy H1 3ii) of the SOLP. With regard to Policy H4 of the SOLP, although the timeframe for review of the SCNP does not run out until December 2021 that does not bring the SCNP back into date. Whilst the review of the SCNP has commenced, it is at its earliest stage and no weight can be given to it. I conclude on the first issue that the appeal proposal would conflict with some but would comply with other elements of the Council's strategy for the delivery of older persons accommodation throughout the district.

Second issue - the impact of the proposed development on the landscape character of the AONB and the landscape setting of Sonning Common

50. SoCG 1 Landscape has been agreed between the parties and addresses landscape and visual matters. The appeal site is within the Chilterns AONB which is a `valued landscape' in respect of paragraph 170 of the NPPF. The Chilterns AONB Management Plan 2019-2024[38] defines the 'special qualities' of the AONB and the most relevant to the appeal site and its context are summarised at paragraph 3.5 of SoCG 1.

51. In essence, the Council, supported by the SCPC, the Chilterns Conservation Board and others, consider that the proposed development would create a prominent and incongruous intrusion into Sonning Common's valued rural setting, relate poorly to the village, and cause material harm to the landscape character of the AONB. It is also claimed that the proposal would not conserve or enhance the landscape and scenic beauty of the AONB and would fail to protect its special qualities.[39] The policy context at the time of the decision notice referenced policies in the South Oxfordshire Local Plan 2011 which is now superseded by the adopted policies in the SOLP.[40] Policies ENV1 and ENV2 of the SCNP are also relevant. I note the illustrative Masterplan,[41] the LVIA and the Landscape Appendix[42] submitted by the Appellant.

[38] CD: F4 pages 10 and 11
[39] See RfR 2
[40] See LPA INQ6 which sets out the relevant SOLP policies including STRAT1 (ix), ENV1 and ENV5 and Design policies DES1, DES2, DES3 and DES5
[41] See Appendix 4.3.1 of James Atkin Drawing reference 1618_L_01_01 Rev3
[42] CD: A.9 and CD A.10 Landscape and Visual Impact Assessment and Landscape Appendix

52. To address these points, it is necessary to understand what the special qualities of the Chilterns AONB are and the extent to which those special qualities relate to the appeal site and its context. From the evidence that is before me and from my site visit, I do not consider the appeal site or its local landscape context to be representative of the special qualities as set out in the Chilterns AONB Management Plan. Where the appeal site does exhibit some such qualities, they are generic. In all other respects, they are entirely absent.

53. Planning policy and statute give equal protection to all parts of the AONB. However, it would be unrealistic to expect the appeal site and its immediate context to share all or even most of these special qualities. It is important to have a balanced interpretation of how such special qualities relate. To that end, Mr Atkin's Table 1[43] summarises that relationship, drawing together judgements on the landscape and the extent to which the appeal site is characteristic, or otherwise, of the AONB. In summary, Mr Atkin's analysis demonstrates that the appeal site does not reflect the majority of the special qualities and, where there is a connection, the association is limited. It seems to me that the appeal site is more typical of an agricultural landscape that is commonplace around many settlement fringes. Plainly the appeal site and its local landscape context is less sensitive than other parts of the AONB.

54. The core characteristic of the appeal site and its context, and the most relevant of the special qualities to it, is the extensive mosaic of farmland with tree and woodland cover. However, this is probably the broadest and most generic of the special qualities acting as a 'catch all' for the extensive areas of farmland across the area. Other parts of the AONB are more distinct. The ancient woodland of Slade's Wood is located off site, outside of the AONB designation, though it does form part of its setting. As to extensive common land, this is not representative of the appeal site. In its local landscape context, Widmore Pond is designated as common land but is not an 'extensive' area contrasting with other parts of the AONB.

55. At my site visit I saw that the appeal site, being directly adjacent to the relatively modern settlement fringe of Sonning Common, detracts from any potential tranquillity. This is particularly so due to the neighbouring JMTC complex and associated car parking. It is common ground that the JMTC is `institutional in scale'. In terms of ancient routes, there is no formal access to the appeal site. In the local landscape context, the closest rights of way are the public footpaths to the north-west and east both of which give access to the wider landscape to the north and east of Sonning Common where the characteristics of the AONB are more readily apparent.

56. The Council agreed that new development can be accommodated in the AONB and as a matter of principle can be an integral component. Indeed, the SCNP allocates development within its boundaries. I saw that the AONB in this location already contains a significant amount of built development. That contrasts significantly with the deep, rural area of countryside within the AONB some of which is located to the north east of the appeal site where the road turns east down the valley bottom heading to Henley-on-Thames. There, there is no settlement or village, no industrial buildings or surface car parks

[43] See James Atkin's Appendix 4.1 pages 18-20

with 100 plus spaces. It is simply deep countryside with very limited urban development and is very attractive. That cannot be said about the appeal site.

57. Having considered how the special qualities of the AONB relate to the appeal site, I now consider the landscape character of it. The appeal site is partly located on an area of plateau between two valleys, within a landscape identified in the South Oxfordshire Landscape Character Assessment (2017)[44] as semi-enclosed dip slope, which in turn forms part of the broader Chilterns Plateau with Valleys Landscape Character Area (LCA10). The eastern part of the site is located above the 95m contour on the plateau area.[45] The southern and western parts of the site fall towards a shallow valley which contains neighbouring parts of Sonning Common. At a further distance to the north is a deeper valley which separates Sonning Common from Rotherfield Peppard.

58. The Landscape Assessment for the Local Plan 2033 for the semi enclosed dip slope LCT states:

> *"…this part of the Chilterns dip slope has a surprisingly uniform character, despite its irregular pattern of plateaux and valleys and its mosaic of farmland and woodland. This complexity is a consistent and distinctive feature of the area, and the most obvious differences in landscape character are between the very intimate, enclosed wooded landscapes and those which have a more open structure and character."*

It is clear to me that there is a difference between the parts of the AONB in the dry valley and those on the plateaus.

59. What is distinctive about this part of the landscape and relevant to the landscape of the appeal site and its context is the uniformity across a larger scale area of the landscape characterised by a complex mosaic of farmland and woodland. It is this complex mosaic at the larger scale which is more closely aligned with the special qualities of the Chilterns AONB and not the appeal site itself. It isn't the loss of a part of this mosaic that is important, which in the case of the appeal site would be a relatively small agricultural piece of the mosaic; rather, it is the implications for the wider mosaic and whether that would be disrupted in terms of a reduction of its scale, or would result in the creation of a disbalance between particular parts of the mosaic.

60. SCPC referred to the Sonning Common Character Assessment and Design Statement 2013.[46] I accept that this formed part of the evidence base to the SCNP, but it appears to still be in draft form only many years later. Its main purpose was to provide comparative comment on sites identified for potential future development limited to only the shortlisted sites. It does not address the wider appeal site. I have also taken into account the Oxfordshire Historic Landscape Characterisation Project[47] and the various landscape capacity assessments cited by Mr Jeffcock that have looked at the appeal site.

61. As I perceive it, Sonning Common is very much part of the local landscape context, just as much as the adjacent agricultural land and the wider mosaic of the AONB. The appeal site performs a role of a brief transition and gateway between the suburban and rural environments. In its local context, the settlement fringes of Sonning Common, including the residential areas across the valley and on the plateau to the west and south are influential in terms of

[44] CD: D.23, section 15.
[45] See John Jeffcock's Appendix 1, Figs 2, 7, 8
[46] CD: C.7
[47] CD: I.5

the local landscape character, as is the prominent built form of the JMTC to the north. Adjacent to the appeal site is the JMTC car park which further erodes the sense of more 'remote' or rural countryside. To the south the settlement extends some distance along Peppard Road and there is a clear experience of entering the suburban character of the village, long before the appeal site is perceptible. There are specific locations where the settlement edge is less apparent notably along Blounts Court Road from the east and in this direction the more rural aspect of the site is more dominant.

62. The Council's LCA draws a very clear distinction between the character of development on the plateau and the character found in the dry valleys.[48] The landscape strategy set out there suggests that development on the plateau is in keeping whereas into the valley is a negative thing. It seems clear to me that Sonning Common has grown up developmentally on two plateaus either side of the dry valley.

63. It is common ground that, like any development anywhere, physical impacts on the landscape fabric will be limited to those which occur within the appeal site itself. However, landscape character impacts and the consequent effects would not be limited to the appeal site. It is agreed that there are not likely to be significant effects on the wider landscape or visual effects further afield than a localised area set out in the SoCG 1.[49]

64. Although there would be localised losses of vegetation due to the access off Blounts Court Road and the proposed pedestrian connection to Widmore Lane, the proposed development would largely involve the loss of open agricultural land and the construction in its place the built development of the appeal proposals. On the most elevated part of the site, there would be a substantial, cruciform core building, 2.5 storeys (about 11.2m)[50] in height, with a footprint of approximately 3,900m^2, and four apartment blocks with ridge heights of between 10.3m and 11.2m, the largest two of which would have footprints of about 550m^2 each. However, the recent application submitted for the JMTC shows that the present buildings making up the complex are between 8.7m and 10.6m depending on ground levels with block 4 up to nearly 11m in height. I accept that there would be a physical loss to the mosaic, but in character terms, the appeal site is not essential to its character and the built elements of the scheme would be consistent with the settlement fringe.

65. There would be potential impacts arising from the 15m woodland belt along the southern and eastern edges of the appeal site. This would be beneficial in terms of moderating the effect of the development. It would also provide a green infrastructure link between Slade's Wood and the green infrastructure network in the surrounding landscape. This would have a positive impact on the 'wooded' aspects of the mosaic. The woodland belt would create a further 'layer' in the landscape which would physically and visually contain the site.

66. The overall consequence of this is that there will be a highly localised impact on the 'mosaic' in terms of agricultural land use, but not to a point where, given the scale of what makes this distinct, the mosaic is disrupted or undermined. At a local and wider scale, this would not constitute 'harm' to the Chilterns AONB. Only a small part of the mosaic would be impacted, and this

[48] CD: D18 page 572 which deals with Sonning Common at 9.10
[49] CD: H.02 SoCG 1 Landscape paragraphs 3.21-3.22
[50] See John Jeffcock's POE paragraph 4.3.3.

would not alter the overall character of the wider mosaic or the LCT. Plainly such limited impacts would not cause 'material harm' to the landscape character of the AONB, nor would it conflict with the aims of protecting its special qualities. The appeal site would, in being development on a plateau, be in keeping with the landscape character.

67. I accept that the appeal site and the immediate landscape context within the Chilterns AONB form part of a valued landscape[51] this is primarily on the basis of the landscape designation and related less to the demonstrable physical attributes of the appeal site.[52] Although the Appellant's LVIA determines landscape value to be 'high' with some localised variations, I consider that the appeal site in its local landscape context is of 'medium to high' value taking into consideration that it is in the AONB but also the site's own merits. There is, frankly, a considerable difference between this area and more typical, characteristic parts of the AONB.

68. As to landscape susceptibility, this can be appropriately described as `low to medium' in the appeal site's local landscape. This is a medium scale enclosure that has capacity to accommodate some form of development across the majority of the site. The settlement of Sonning Common provides some reference and context for development and the presence of the JMTC in this part of the AONB reduces landscape susceptibility to new development. The landscape sensitivity is appropriately judged as `medium' with the AONB designation having a high sensitivity. Mr Jeffcock considers that the appeal site has a high landscape value and high sensitivity to change. However, his assessment is overstated. In my view the appeal site has a medium to high value, and low to medium susceptibility with medium sensitivity overall.

69. The appeal site is located on the very fringe of the AONB, and Sonning Common is excluded from it. This is not a core part of the Chilterns AONB and its special qualities are largely absent. Of relevance is the mosaic of wooded farmland that characterises much of the plateau and dip slope. The appeal proposals would result in a change to this characteristic at a very localised level, with the loss of an open agricultural field to built development but balanced with the introduction of further woodland and green infrastructure. This would not disrupt, or unduly influence, the mosaic. I agree that the 'slight to moderate adverse' effect on landscape character would not represent a significant impact in respect of the Chilterns AONB.[53]

70. As for visual effects, these would differ depending on the viewer and the viewpoint. The landscape witnesses provided a number of example viewpoints and I carried out an extensive site visit with the parties to see these and other views for myself. I have also taken into account the ZTV[54] and LVIA information provided by the Appellant.

71. SoCG 1 Landscape records that the physical impacts of the proposed development would be limited to the appeal site, and that consequent impacts on landscape character would be limited to a relatively small number of areas including viewpoints to the south (the route of the B481 Peppard Road); to the south west (Sonning Common village e.g. Grove Road); to the north

[51] Within the meaning of paragraph 170(a) of the NPPF
[52] See James Atkin's Table 2 POE pages 27-28
[53] See James Atkin's POE page 33 paragraph 6.48
[54] Zone of theoretical visibility

(footpath 331/16/20) close to the southern edge of Rotherfield Peppard); to the west (the settlement edge of Sonning Common) and to the east and north east (the routes of public right of way 350/11/20 and 350/10/10). Outside of these areas it was agreed there would not likely be any significant effects on the wider landscape or on visual receptors further afield.[55]

72. In terms of visual amenity, the evidence demonstrates that potential views of the appeal proposals would be limited to a small envelope, largely related to the immediate context of the appeal site and not extending further into the Chilterns AONB landscape. This limited visibility reduces the perception of change to landscape character. The ZTV demonstrates that, aside from some locations very close to, or immediately adjacent to the appeal site, potential visibility from the wider landscape (and AONB) is limited. In my view this accords with the landscape character guidance which refers to the 'semi-enclosed dip slope' as having a 'strong structure of woods and hedgerows' which provide 'visual containment and results in moderate to low intervisibility'. This strong structure of woods and hedgerows provides containment in the landscape.

73. What is clear, is that only a small number of nearby locations would have direct views of the appeal proposals. This includes a very short section of Peppard Road, short sections of public footpaths to the east (350/11/20 and 350/11/40) and the approach to the settlement along Blounts Court Road. In each of these instances, impacts could be moderated by appropriate landscape works and particularly the inclusion of the woodland belt. The contained nature of the appeal site and the limited extent of landscape effects mean that the overall character of the semi-enclosed dip slope LCT would not be fundamentally altered and the effects on landscape character at this scale would not be significant. Plainly, the appeal proposals would not give rise to significant visual effects overall; either in the local landscape context of Sonning Common or in respect of the scenic quality of the Chilterns AONB.

74. The most relevant assessment is that of 'Year 15' once the tree planting proposals have had the opportunity to thrive. Those proposals are a specific and positive part of the proposed development which would deliver additional environmental functions to that of visual screening. It is common ground that the planting would be significant. It is reasonable to expect that the growth of native species would reach good heights in the medium term and mature heights that are comparable to the existing trees and woodland in the area. There would be glimpses of the built development through the perimeter planting. However, it would provide a substantial screen in the long term and help to integrate the appeal proposals into the landscape particularly when viewed from the east and from the south.

75. For the above reasons I conclude on this issue that the proposed development would have some localised landscape and visual effects, but these would not result in unacceptable impacts on the AONB or the landscape setting of Sonning Common. As such, in respect of this issue I consider the appeal proposal would conflict with Policies STRAT 1 (ix) and ENV1 of the SOLP together with Policy ENV1 of the SCNP. However, for the reasons set out above those adverse effects would be limited. I shall consider this further in the planning balance.

[55] CD: H.2 SoCG 1 Landscape paragraphs 3.21-3.22

Third Issue - the effect of the design of the proposed development on the character and appearance of the village

76. The Council's concerns about the design of the proposed development are based on RfR4 and are supported by the SCPC. In summary these are: (i) the development would not integrate with the village by reason of scale, massing, layout and character; (ii) it would result in a dominant and intrusive form of development having a significant urbanising effect on the settlement edge; and (iii) the layout and design would result in poor amenity for residents by virtue of the lack of access to private amenity space and publicly accessible green space, an overdominance of car parking and limited space for tree planting. I address each of these concerns in turn.

77. The main parties agreed a section on design within SoCG 4 Planning.[56] Amongst other matters it is agreed that: the detailed layout (Phase 1) is the proposed layout for that part of the site; the proposed masterplan is provided to demonstrate how the development could be laid out to respond to the physical and technical constraints and opportunities of the site; the layout for Phase 2 will be subject to future reserved matters (appearance, landscaping, layout and scale) and remain in the Council's control; the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed; and the extent of existing tree retention and the selection of proposed plant species, grass, hedge and shrub planting is agreed.

78. It is also noteworthy that policies within RfR4 relate in the main to the previous South Oxfordshire Core Strategy 2012 and South Oxfordshire Local Plan 2011. The corresponding policies are set out at INQ LPA6. Policy D1 of the SCNP 2016, the South Oxfordshire Design Guide[57] and the NPPF (in particular paragraphs 127, 130 and 131) also apply.

79. I turn first to integration with the village in terms of scale, massing, layout and character. The Council and the SCPC are concerned that the scale and layout of the proposed development are being driven by operational requirements and the business model of the Appellant. Reference is made to the large apartment blocks and the village core which it is claimed are at odds with the more modest scale of development in Sonning Common. However, I consider it is important at the outset to understand the existing context and character of Sonning Common. At my site visit I saw that Sonning Common is not the archetypal Chilterns Village, and it clearly lies outside the AONB. It was developed in a more planned manner with the character being 'plotlands' and later infill housing termed 'estates'.

80. The local vernacular consists of a mix of building types, but the immediate neighbouring existing development is comprised of the estates typology - Churchill Crescent, Pond End Road and the northern edge of Widmore Lane. The existing context has a range of design components that help create its character. In particular, I note that Sonning Common: is primarily 2 storeys but with elements of 2.5 storeys; is primarily domestic in scale; has predominantly traditional architecture; is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape; and has occasional larger built form such as the school or JMTC. Furthermore,

[56] CD: H.5 SoCG 4 Planning Section 6
[57] CD: C.8

Sonning Common has: brick walls; painted rendering on walls; clay roof tiles; chimneys; and a mix of gables, hipped roofs and porches.

81. The Design and Access Statement (DAS)[58] describes the appeal proposals as domestic in scale and character. I accept that the scheme is largely domestic in form and with detailing consistent with residential houses in the area.

82. In terms of *height*, the proposed buildings would reflect the heights of buildings within Sonning Common. Both plotlands and estate buildings include two storey buildings and two storey buildings with roof rooms. The proposed apartment buildings would be two storeys with the Village Core rising to two and a half storeys in places. The Village Core has accommodation in the roof space to keep the overall ridge height low. The height to the ridgeline from ground level of the Village Core Centre building is up to 2.5 storeys dropping to single storey on the eastern side. This must be seen in the context of the height of the adjacent JMTC, typically equivalent to 3 storeys, and groups of 2.5 storey dwellings on the northern side of Blounts Court Road to the west of the site. Most of the proposed development would be two storeys in height as is the overwhelming majority of built development in Sonning Common.

83. As to *massing*, the initial indicative sketch elevation demonstrates that the apartments and the Village Core would have the appearance of semi-detached buildings or groups of buildings combined into short terraces with a varying roofline which are reflective of the existing residential buildings in Sonning Common.[59] The massing of the apartments is derived from a variety of footprint depths which, when formed into larger blocks, allows for the scale and mass to be broken down into roof elements with simple breaks in the roofline. Appropriate equal roof pitches would give each apartment building an elegant scale. There would be elements of hipped roofs, and chimneys incorporated into the roof plane. The apartment buildings would have balconies, single and double gables further breaking down the overall mass. The Village Core would have accommodation in the roof space and the roof planes would be broken down with larger single gables, smaller double gables with a central gutter and small dormer windows.

84. In my view the *layout* of the proposed development would reflect the way existing `plotlands' and `estates' buildings in Sonning Common are orientated, with the arrangement of buildings fronting the main vehicular route with active frontages. A number of apartments would be arranged around the Village Core. Buildings fronting Blounts Court Road would be positioned so that they would replicate the linear street scenes typical of development within Sonning Common.[60] I note that the proposed building line would be setback some 15m-20m from the road edge to retain an element of openness along the streetscape allowing boundaries to be defined by planting and hard landscaping. This would reflect the layout of the 'plotlands' buildings within Sonning Common. Buildings along the main access route and internal streets would similarly front the street with setbacks from 6m-15m allowing boundaries to be defined by planting and hard landscaping. The setback for 'estate' residential buildings ranges from about 4m-14m. In my view, the proposals would be in a similar range.

[58] CD: A.31
[59] See Mr Carr's Appendix UD4
[60] See CD: C7 Sonning Common Character Assessment and Design Statement

85. The Council and SCPC argued that the appeal proposal could be smaller in scale. However, it was accepted that greater economies in scale could be achieved with larger retirement village developments with extensive communal facilities. It is noteworthy that the Appellant is proposing a development which is half the size of the optimum.[61]

86. With regard to *character* it is clear that the Council has no objection to the choice of building materials, detailing and hard landscape materials proposed, as recorded in the SoCG 4. In any event, the proposed development would accord with the local vernacular which consists of a mix of building types found within the key character areas. In summary, Sonning Common has predominantly traditional architecture and the proposed development would have traditional architectural detailing; it is relatively verdant with trees and landscaping being visible within and as a backdrop to the streetscape and the proposed development would have similarly substantial planting in the streetscape as well as proposed and existing large scale tree planting creating a tree lined backdrop. Sonning Common has also occasional larger built form such as the school or JMTC and the proposed development has a Village Core.

87. It is fair to say that Sonning Common has an eclectic architecture which is quite conventionally suburban. There is a significant amount of 1970s housing. It has a fairly bland architecture, evidenced by the images in the Sonning Common Character Assessment and Design Statement.[62] Given that the site is within the Chilterns AONB, the design should not just duplicate Sonning Common, but use materials such as flint panels and dark stained boarding and design components that respond to the AONB setting.

88. In my view, the architecture would reflect a varied composition with gables, projections and porches. The proposed elevations would respect the traditional patterns, style and scale of buildings and the fenestration would be inspired by traditional Chiltern building with a solid wall area balanced with the window and door openings, relatively pitched roofs with a ridgeline, use of `L′ and `T′ building shapes, chimneys and prominent flint panels.

89. It is clear to me that the proposed new buildings would plainly add to the sense of place and local character and would `belong′ to the Chilterns. The proposed development would also create a soft edge to the countryside[63] and would not `turn its back′ on it; particularly given the lack of any rear garden fences defining the edge of the settlement.

90. I recognise that this is a hybrid application and there is therefore an outline element to the proposals. However, to demonstrate their commitment to provide the same level of detailing and materials as presently indicated, the Appellant has produced a Design Commitment Statement.[64] Importantly, this could be conditioned to provide reassurance and an additional way of ensuring that the future reserved matters keep to the quality required in this setting.

91. The Council contended that the proposal would be a dominant and intrusive form of development and it would have an urbanising effect on the settlement edge. I disagree. The apartments and cottages proposed as part of the appeal scheme would be largely consistent with a domestic form and would be very

[61] See INQ LPA 2 page 13.
[62] See CD: C7 page 16
[63] See CD: K4 Chilterns Building Design Guide principle item 3.16 page 25
[64] See Mr Carr's Appendix UD7

similar in size and form to houses in Sonning Common and the wider AONB. It is logical to site the Village Core building where it is, on a predominately level area, avoiding any large man-made cuttings and embankments to facilitate it. Plainly having the core building on a level area is appropriate for residents in their later years of life who would want facilities to be very easy to access.

92. The NPPF emphasises the importance of making efficient use of land.[65] Clearly 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. I accept that it is imperative that sites such as the appeal site are optimised when developed. However, optimising does not mean fitting in as much as you can regardless, but it does mean using land efficiently. As this would be an apartment based development then I accept that it would have a greater density than a conventional residential scheme.

93. The Council argued that the proposal would have an urbanising effect. However, the proposed development would be very different to an urban character. There would be a significant landscape setting breaking up the built form and the countryside edge, when read in the context of the proposed planting, would be assimilated in townscape terms. Much has been made of the AONB designation in which the appeal site falls; but this does not mean preservation without any change. The proposed development would in many ways be read as part of the evolution of the area's character.[66] In my view the proposed development would create an appropriate designed edge to the settlement and an appropriate robust transition with a manged landscape that is a better edge than the back gardens adjoining the settlement boundary that can be found at the settlement edge around parts of Sonning Common.

94. I turn now to the Council's concerns that the layout and design would result in poor amenity for residents by virtue of a lack of access to private amenity space. It is common ground that in policy terms, there is no private amenity requirement prescribed for a retirement community care village. Nonetheless, the proposed development would provide a total of 1,300 msq of private amenity space[67] comprising: private balconies totalling 0.03 hectare; and directly accessible private landscape and terraces totalling 0.1 hectare.

95. Over and above the private amenity space there would be an extensive amount of publicly accessible green space provided. Again, I note that there is no policy requirement for a retirement community care village yet there would be: landscaped space amongst and between the built form (including foot and cycleways) totalling 1.7 hectares; and a native tree belt and woodland buffer totalling 1 hectare. Combined with the private amenity space there would be 2.83 hectares of amenity land which would be ample given that the site totals 4.5 hectares. That is 62.8% of the appeal site and equivalent to 212.78 msq for each of the 133 units.

96. All of the above is in the context of extra care developments being very different to general housing. I accept that residents do not want the work of managing their own garden. In my view, the layout of the development would

[65] NPPF paragraph 123.
[66] See Michael Carr's POE paragraph 7.20
[67] See Appendix UD5 of Michael Carr's POE

be safe, attractive and inclusive with plenty of natural surveillance of the landscaped spaces which is important given the age restriction of the development and why people would choose to live there.

97. The appeal proposals include access to landscaped spaces and woodland opening up an area that would otherwise be inaccessible private land. This maximises the public benefit of the scheme and would positively contribute to the health and well-being of both residents and the community, to which weight is given in the NPPF as part of the social objective. The Council agreed that there may well be community integration and intergenerational activity through the facilities on site.

98. With regard to car parking, the appeal proposals have been designed to avoid what would otherwise be unplanned 'ad hoc' parking through a formal provision. This is not in one place, rather the design would disperse the necessary parking across the proposed development in a series of clusters. These would be set back and visibly screened from the main routes through the development and would avoid harsh urban parking courts. The proposed 15m woodland belt is a relevant consideration. The proposed planting would buffer and screen views of parked cars and both soften and integrate the parking areas so that they are read as designed landscaped courts. The Council raised concerns about the space available for tree planting. However, in my view there would be ample space on site to accommodate the tree planting the final details of which would be under the Council's control.

99. Overall, I consider the proposal would be in broad accordance with the SOLP policies including DES1, DES2, DES3, DES4 and DES5, SCNP policies D1 and D1a and other design guidance and the NPPF. I conclude on the third issue there would be no reason to dismiss the appeal due to the effect of the design of the proposed development on the character and appearance of the village.

Fourth Issue - whether the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development

100. This issue relates to the absence of a completed s106 Agreement to secure infrastructure to meet the needs of the development. At the time of the decision, agreement could not be reached with the Council on the requirements for a planning obligation. Since then, agreement has been reached and a s106 Agreement was submitted at the Inquiry. I have considered the s106 Agreement in the light of the CIL Regulations 2010, as amended, the advice in the NPPF and the PPG.

101. The NPPF indicates that LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.[68] Regulation 122 of the CIL Regulations, as amended by the 2011 and 2019 Regulations, and paragraph 56 of the NPPF make clear that Planning Obligations should only be sought where they meet all of the following three tests: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably related in scale and kind to the development.

[68] NPPF paragraph 54

102. The Council's need for additional infrastructure and services is set out in relevant SOLP policies which include H9 Affordable housing; INF1 Infrastructure; DES 1 Delivering High Quality Development; TRANS2 Promoting Sustainable Transport and Accessibility; TRANS4: Transport Assessments, Transport Statements and Travel Plans; and TRANS5: Consideration of Development Proposals. The Council's SPD (2016) is also relevant. Based on the SPD and the relevant policies, the appeal proposal should provide: (i) a financial contribution towards local primary health care (£73,735); (ii) a recycling and waste contribution (£24,738); (iii) a street naming contribution (£2,977); (iv) a District S106 monitoring fee (£2,686); (v) an affordable housing contribution (£7,510,350); (vi) a public transport services contribution (£117,000); (vii) a travel plan monitoring contribution (£2,040); and (viii) a County S106 monitoring fee (£1,500).

103. The primary care contribution is directly related to the development because it results from the additional pressure on local health services as a result of the future residents. It is fair and reasonable as the amount has been calculated based on the number of future residents. The recycling and waste contribution is necessary for the development to be served by waste infrastructure and the calculation is directly related to the bins needed for this development. It is necessary for the development to be served by street naming plates and the calculation is directly related to the name plates needed for this development. The completion of a planning obligation requires the Council to administer and monitor those obligations. The monitoring fee contribution is necessary to cover the Council's costs and is directly related to the nature of the obligation.

104. The proposal will deliver affordable housing which is required under Policy H9 of the SOLP. It will do so via a contribution in lieu of on-site provision. The s106 Agreement secures the payment of £7,510,350 to be paid by the owners. A financial contribution towards off-site affordable housing is necessary to equate with a 40% affordable housing provision under Policy H9. It is directly related to the development and fairly and reasonably related in scale and kind. The financial contribution has been calculated based on the open market value of a unit to be delivered on the site.[69] The s106 Agreement requires the total affordable housing contribution to be used towards the provision of off-site affordable housing within the District.

105. The relevant policies which support the transport contributions are set out in the CIL Compliance Statement.[70] A contribution is required to provide an improved bus service (service 25) for residents, visitors and staff associated with the proposed development as an appropriate and viable alternative to the use of private cars and to promote travel by public transport. The contribution required would be used towards increasing the frequency of the existing service operating between Sonning Common and Reading to every 30 minutes between 0600 - 2030, Monday to Saturday and an hourly service in the evenings (up to 2300) and on Sundays (0800-1800). The contribution is directly related to the number of residential units but excludes the proposed 16 high care units, as these residents are unlikely to use public transport. A

[69] INQ LPA7 provides the methodology for the calculation of the commuted sums based on the open market value of a unit to be delivered on the site.
[70] INQ LPA7 NPPF paragraphs 102, 103, 108 and 111; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 1 Policy and Overall Strategy Updated 2016 Policy 3 and Policy 34; Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 2 Bus & Rapid Transit Strategy (2016) paragraphs 91, 93-95.

travel plan monitoring fee is required to monitor the implementation of the travel plan and an administration and monitoring fee is required to monitor the planning obligation.

106. In my view, all of the obligations in the Planning Obligation are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they all meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision. I conclude on the fourth issue that the proposed development makes adequate provision for any additional infrastructure and services that are necessary, including affordable housing, arising from the development.

Fifth Issue - whether, in the light of the criteria set out in paragraph 172 of the NPPF, there are exceptional circumstances to justify the proposed development within the AONB

107. There is no dispute that the appeal scheme would be a major development in the AONB. The tests relating to allowing such development are set out clearly in paragraph 172 of the NPPF. The relevant factors which must be considered are then listed in paragraph 172 a) to c) but it is not an exhaustive list. Great weight must be given to conserving and enhancing landscape and scenic beauty in AONBs and planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

The need for the development and the impact on the local economy

108. I have already discussed the need for the development in detail under the first issue. That discussion is not repeated in detail here, but it is plainly relevant to paragraph 172 a) of the NPPF. There is an immediate unmet need for extra care market housing. This arises not from some ambitious target for extra care. The target for need suggested by Mr Appleton is in fact very modest. It is just 4.5% of the District's population of people 75 years of age and over. It arises because there is hardly any of it available. There are only two schemes which have been built offering 113 units. The only future supply which is available is the market extra care that would be provided at Lower Shiplake for 65 units. Retirement Villages has now sold that site and want a larger site. Whether the Lower Shiplake scheme gets built is therefore uncertain. But even with it the supply of extra care that is available is only 178 units.

109. This against a need, based on a modest aspiration of 4.5% - that is 450 units across the whole District for an overall population of 15,000 in this age category, gives rise to an immediate shortfall of 272. The figure is 337 if the Lower Shiplake proposal is excluded. The stark fact is there is hardly any choice or to put it another way choice is largely unavailable.

110. I am in no doubt that the development of 133 units is needed. Firstly, it is needed to address the immediate shortfall in the five year housing land supply in the District which is only equivalent to some 4.21 years. Secondly, it is needed in this District where at present a population of 15,000 who are aged 75 years or older is forecast to increase to 21,100 by 2035. The demographic evidence indicates a `critical' need for extra care housing in the District. In this case, the proposed development should be of sufficient size to support the communal facilities that are necessary to ensure an effective operation.

111. Thirdly, it is important to recognise the fact that extra care accommodation, together with all other forms of specialist housing for older people can assist in `freeing up' existing family and other housing by allowing them to `right size' by moving to more appropriate accommodation. This type of specialist housing could significantly contribute towards the easing of the present housing crisis in this District where under occupancy amongst older households is greater than for England as a whole. The sale of the 133 units in the appeal proposals would release 133 family houses of three bedrooms or more.[71] The appeal scheme would be likely to free up 39 family dwellings locally but it could be as high as 64.[72] Significant weight can be given to this.

112. Fourthly, the health and well-being benefits of the appeal proposal should also be recognised and given significant weight. Such benefits to elderly people are entirely obvious. I accept that such health and care benefits apply and also that they are separate from housing delivery. The benefits specialist housing for older people can bring include addressing concerns about suitable supervision, frailty, care, assistance, recreation, loneliness and isolation.

113. I do not consider the impact of refusing the proposed development would be seriously damaging to the local economy, there is no clear evidence to that effect. There is no requirement that has to be demonstrated. However, I do accept that the proposal would deliver economic benefits to the local economy and jobs as well.[73] The Appellant has also proposed a local employment and procurement condition which I accept is plainly relevant.[74] I am satisfied that there is a need for the development and that it is in the public interest.

The cost and scope of developing elsewhere or meeting the need in another way

114. With regard to paragraph 172 b) of the NPPF, the Council's case is that with Policy H1 and H13 the need for specialised housing for the elderly can be met outside of the AONB. The Council refers to the Oxford County Council's Market Position Statement Extra Care Housing Supplement 2019-2022 and to the SHMA. However, the Council does not quantify a need for extra care, albeit the SHMA does recognize it as a category of need and distinguishes between market and affordable extra care housing.[75] The Council also suggests that the need can be met in people's homes and that needs can be met by 2035. In my view, there is a specific need for extra care provision and market extra care housing. The needs which have been identified are modest and the idea that they be met at home is misplaced. The most relevant need is the immediate need and Mr Appleton's evidence demonstrates what this is.

115. I note that at both the application and appeal stages the Appellant relied upon a sequential assessment of alternative sites to show a lack of suitable sites. The Council questioned this assessment but never really suggested any alternative sites. At the Inquiry reference was made to 8 extra care sites in Mrs Smith's Appendix 1. However, all of those sites have been addressed by Mr Appleton and that information was updated during the Inquiry to reveal that there were no sites with planning permission in the pipeline other than

[71] Paragraph 6.24 of Roland Bolton's POE
[72] Paragraph 6.27 of Roland Bolton's POE
[73] See CD: A.6 Economic Benefits Assessment Report, it is calculated that operation of the site would provide up to circa 70 jobs (FTE). This does not include construction jobs, which are assessed to be of the order of 108 over a period of 4 years, although in practice this maybe higher dependent upon individual project needs.
[74] See Verdin v SSCLG [2016] EWHC
[75] See CD: D.14 Table 6 page 25

Lower Shiplake which is now uncertain. Therefore, it seems to me that the Council's own evidence supports the Appellant on the lack of alternatives.

116. Moreover, when the Appellant persuaded the landowner to agree to pay the full affordable housing contribution, that significantly strengthened the Appellant's case in respect of paragraph 172 b). That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP now requires for C2 uses. Mrs Smith accepted that there are no other sites in the District with planning permission for extra care market housing. The problem is a combination of land economics and SOLP Policy H9 which requires affordable housing on extra care housing schemes. Given this context the appeal proposal does connote rarity and uniqueness.

117. Extra care housing undoubtedly operates in a very different market. Mr Garside provided detailed evidence to the Inquiry how the market for land operates to the detriment of extra care operators. Extra care housing providers cannot compete with house builders or with other providers of specialist housing for older people because of the build costs, the level of the communal facilities and the additional sale costs including vacant property costs. The communal facilities must be provided before any units can be sold and sales tend to be slower.[76] However, I accept that extra care schemes can charge a premium for the specialist accommodation provided and also benefit from an income from deferred management fees.

118. It seems to me that these factors, all mean that age restricted developments and in particular extra care communities are less viable than traditional housing schemes. Ultimately, age restricted developers are less able to pay the same price for land as residential developers and it is much harder for age restricted developers, and in particular those seeking to deliver extra care, to secure sites for development and meet the housing needs they aim to supply.[77] Viability is clearly a relevant factor which supports the case under paragraph 172 b) of the NPPF. There is also a strong case for the appeal scheme given the lack of alternative sites in the light of Policy H9 of the SOLP.

119. I note that the SOLP does not allocate any sites for extra care housing, unlike for example in Central Bedfordshire. I also note that the need for extra care housing is recognised in the SCNP, which supports, as was agreed, extra care housing on unallocated sites due to Policy H2a. I am satisfied that the Appellant's need could not be met elsewhere or in any other way and that it would be in the public interest for this to happen on the appeal site.

Detrimental effect on Environmental, Landscape and Recreation opportunities, and the extent to which they could be moderated.

120. This factor has been considered in the second issue above. That discussion is not repeated here but it is plainly relevant to paragraph 172 c). Suffice it to say that I have concluded that there would only be localised landscape and visual effects on the AONB. These limited impacts would not cause material harm to the landscape character of the AONB, nor would they conflict with the aims of protecting its special qualities. I have concluded there would be localised landscape and visual effects on the AONB that could be moderated.

[76] See section 4 of Richard Garside's POE
[77] See paragraph 4.65 of Richard Garside's POE

Other Benefits

121. The scheme would deliver other benefits. In my view, these can also form part of the exceptional circumstances and public interest. It is the collective benefits and harms which are relevant to paragraph 172 of the NPPF. Both Mr James and Mr Garnett gave evidence as to numerous other significant benefits, individually and cumulatively, which should be weighed in favour of the proposals. These include contributing to the overall supply of housing which is under five-years; savings in public expenditure (NHS and adult care);[78] creating new employment and other economic investment (construction and operation);[79] providing new facilities and services further reinforcing the role and function of Sonning Common; and additional net revenues from Council tax and new homes bonus receipt. Mrs Smith accepted the economic benefits and that bringing facilities to the area, particularly for the older population would be a benefit. It was also accepted that there could be benefits in supporting existing facilities in that residents of Inspired Village sites having the option to support those businesses if they wanted to. No good reason was provided by the Council for discounting the benefits evidence by Mr James or Mr Garnett. The social and economic benefits are matters to which I attribute significant weight. There is a very strong case on exceptional circumstances and public benefits here.

Conclusion

122. Section 85 of the CROW Act 2000 seeks to conserve and enhance the natural beauty of an AONB and paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty of the AONB. This is not the same as requiring that every development proposal engenders enhancement. Indeed, if that were the case it is difficult to see how major development in an AONB could ever be permitted. It is clearly a matter of balance, but in undertaking that exercise the NPPF makes clear that conserving and enhancing the designated resource is a matter of great weight. In this case I have given great weight to conserving and enhancing landscape and natural beauty of the AONB. The need for the development and the conclusion that there are presently no alternatives outside the designated area are also matters of substantial importance in the public interest. The social and economic benefits attract significant weight. Overall, the benefits would outweigh the localised landscape and visual effects to the AONB. For these reasons I conclude on this issue that exceptional circumstances are demonstrated and that the development would be in the public interest.

Other Matters

123. I have taken into account all other matters raised including the concerns raised by the SCPC, the Rotherfield Peppard Parish Council, the representations made by interested persons including those who gave evidence at the Inquiry and those who provided written submissions. I have already dealt with many of the points raised in the main issues.

124. The SCPC and others objected to the proposed development in the context of the neighbourhood planning process. However, the review of the SCNP has

[78] See paragraphs 6.16 to 6.33, PoE of Stuart Garnett. See also CD: K7, CD: K8 (Appendix 1 at page 20 onwards), CD: K12 (pages 2-3), and CD: K30 (pages 6, 12, 13, 20 and 24-26 in particular).
[79] See paragraphs 6.10 to 6.15, PoE of Stuart Garnett

been ongoing since around 2018 but there are no concrete proposals. It is suggested that the proposal is not small scale. However, site SON2 is in fact 3.3 hectares and broadly of the same scale.[80] The SCNP expressly supports extra care housing at Policy H2a albeit no site is allocated. The SCNP policies are now out of date because of the lack of a five year housing land supply to which I attach significant weight. The concerns about the neighbouring planning process are not sufficient to warrant dismissing this appeal.

125. A number of interested persons cited concerns over impacts on local services in particular the doctor's surgery and parking capacity within the centre of Sonning Common. With respect to impacts on local health services, Mr Garnett's evidence provides details of both operational efficiencies and associated social benefits of extra care, which includes the financial benefits arising from savings to the NHS and social care. I consider that extra care housing benefits elderly people in terms of health and wellbeing. The secure community environment and sense of independence can reduce social isolation and encourage greater fitness and healthy lifestyles. It is reasonable to assume that these factors would likely result in a lower number of visits to the GP, reduced hospital admissions and overall savings to the NHS. This is borne out in the research submitted to the Inquiry.

126. A number of objectors raised concerns over parking capacity within the centre of Sonning Common. However, the appeal site lies within an acceptable walking distance of a number of the facilities within the village centre. Trip generation associated with the proposals would not have a materially negative impact on the road network. I note also that a Travel Plan has been submitted in relation to the proposals.[81] I consider that this matter is capable of being secured by means of an appropriately worded planning condition. In addition to the 'supported transport provision' that would be provided for residents, it would be reasonable to expect that a number of residents would use the existing footpath links to access the village centre.

127. A number of objectors also raised concerns over transport safety and the sufficiency of parking on the appeal site. I note that a number of matters are agreed between the Council and the highway authority in SoCG2 Transport. A new vehicular access would be constructed to the east of the existing access on Blounts Court Road. The proposed scheme would provide for off-site highway improvements comprising works associated with the proposed site access, proposed works to pedestrian facilities along the site frontage either side of the site access, widening of the carriageway and a gateway feature along Blounts Court Road, and provision of a zebra crossing on Widmore Lane. Provision would also be made within the scheme for 93 car and 58 cycle parking spaces (12 visitor, 10 staff and 36 resident) that would be provided in relation to the full aspect of the development. Notwithstanding the original RfR5 the highway authority raises no objection to the proposal subject to the agreed conditions and the contributions contained within the s106 Agreement. In my view the concerns raised about transport issues would not provide a reason for rejection of this appeal.

128. A number of objections relate to the impact on local ecology. The appeal site contains habitats of a lower biodiversity value, which are common and

[80] See CD: K.18 page 580
[81] See CD: A.8

widespread throughout the District. The appeal scheme provides for a net increase in biodiversity across the site, specifically an increase of 51% for the detailed element. The Ecological Impact Assessment[82] was accepted by the Council as demonstrating net benefit[83] and I attach significant weight to this.

129. At the Inquiry reference was made to numerous appeal decisions. I have taken these into account as appropriate in coming to my decision in this case.

Planning Balance

130. I have concluded that the appeal proposals would be a major development in the AONB where exceptional circumstances apply, and which would be in the public interest. I have given great weight to conserving and enhancing landscape and scenic beauty in the AONB. In terms of paragraph 172 a) of the NPPF I am in no doubt that there is a need this development of 133 units to address the immediate shortfall in the five year housing land supply; to address the critical need for extra care housing in the District; to assist in the freeing up of family housing within South Oxfordshire and to provide the health and well-being benefits to elderly people.

131. The Council argued that with Policy H1 and Policy H13 the need for specialist housing for older people could be met outside the AONB; could be met in people's homes and that needs could be met by 2035. However, I have concluded that there is a specific and immediate need for extra care provision and market extra care housing. From the up-to-date evidence provided at the Inquiry it is clear to me that there are no sites with planning permission in the pipeline other than the Lower Shiplake site which is now uncertain. The case under paragraph 172 b) has been met. That is because the appeal site stands alone as the only site in the whole of the District which can deliver extra care market housing and deliver the affordable housing contribution which the SOLP Policy H9 now requires for C2 uses. In my view extra care housing cannot compete with housebuilders or even other forms of specialist housing for older people because of the build cost, the level of communal facilities and additional sale costs including vacant property costs.

132. In terms of paragraph 172 c) I have concluded there would be localised landscape and visual effects, but these would be relatively small. Only a limited part of the mosaic would be impacted, and this would not alter the overall character of the wider mosaic of the LCT. Plainly such limited impacts would not cause material harm to the landscape character of the AONB, nor would it conflict with the aims of protecting its special qualities. In terms of visual impact, only a small number of nearby locations would have direct views of the appeal proposals where glimpses of the development would be filtered and moderated by perimeter planting and particularly by the woodland belt. Overall, I have concluded under paragraph 172 of the NPPF that the circumstances in this case are exceptional and that the grant of planning permission would be in the public interest.

133. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this case where the test in paragraph 172 of the NPPF

[82] See CD: A32
[83] See PoE of Simon James Appendix 11

has been met it is difficult to see how a decision maker could nonetheless refuse to grant planning permission applying paragraph 11 of the NPPF. However, in terms of the development plan I accept that the proposal conflicts with some elements of the development plan, but it also complies with others. Policies in the SOLP are up-to-date and can be given full weight. The appeal proposal conflicts in part with the SOLP, in particular in terms of the overall strategy (STRAT1) and with relevant policies relating to the AONB (ENV1) However, there is partial accord with Policy H13 and full accordance with Policies H1 3ii, H4, H9, H11, DES1, DES2, DES3, DES4 and DES5.

134. With regard to the SCNP, this was made in 2016, against a different housing requirement albeit it is still within the grace period allowed by Policy H4(2) of the SOLP. The SCNP policies can only be given limited weight in the context of the NPPF as it was based on a Core Strategy which is now withdrawn, and it is out of date for that reason. Its policies reliant on the AONB are also out of date given the lack of a five year housing land supply. The proposal would conflict with Policy H1 in so far as the limitation of development is concerned but the policy is expressed as a minimum and the base target has been increased through the SOLP quantum of housing so the appeal scheme would contribute to that. There would be conflict with Policy ENV1 which aims to protect the AONB but there are exceptional circumstances here. There would be broad accordance with Policy H2a, D1 and D1a and ENV2 albeit that three storey development is an exception and must be justified. I conclude that the appeal proposal is in overall accordance with the development plan and there are no material considerations which indicate otherwise.

135. Even if I had decided that the proposal was in overall conflict with the development plan this is a case where there is no five year housing land supply and therefore the most important policies for determining the appeal are out of date.[84] As to which policies are out of date, it is agreed that the most important for determining the appeal are set out in the RfR. Thus, the tilted balance would be triggered by way of footnote 7 of the NPPF unless paragraph 11 d) i. is satisfied. In this case under paragraph 11 d) i. the adverse effects would not provide a clear reason for refusing the proposed development. It follows therefore that even if the appeal proposal was contrary to the development plan and the tilted balance under paragraph 11 d) ii. of the NPPF applied then the many and varied benefits of the proposals set out above would significantly and demonstrably outweigh any adverse effects. There is no reason to withhold planning permission in this case and I conclude that the appeal should be allowed.

Planning Conditions

136. The Council submitted a list of conditions which I have considered in the light of the advice in paragraphs 54 and 55 of the NPPF and the Government's PPG on the Use of Planning Conditions. The Appellant has agreed to all of the suggested conditions except for Condition 27 which relates to a Procurement and Employment Strategy. The Appellant has also given consent in writing that Conditions 7-27 may be applied as pre-commencement conditions.[85] Conditions 1, 4 and 5 relate to required time limits and Conditions 2 and 3 are necessary to determine the scope of the application and for the avoidance of

[84] NPPF paragraph 11 d) footnote 7
[85] See INQ APP14

doubt. Conditions 6, 7 and 29 are necessary to secure net gains for biodiversity and Condition 8 is required to minimise the impacts of the development on biodiversity. Condition 9 is necessary to limit the local impact of construction work and Condition 10 is required to ensure that electric vehicle charging is provided. Condition 11 is required in the interests of highway safety and Condition 12 is necessary to ensure adequate car parking.

137. Condition 13 is required in the interests of sustainability and to encourage the use of cycling. Condition 14 on sample materials and Condition 15 on ground levels are required in the interests of visual amenity. Condition 16 is required to ensure adequate provision for the management of waste. Condition 17 is necessary to ensure high standards of sustainable design and construction. Condition 18 is necessary to protect the appearance of the area, the environment and wildlife from light pollution. Conditions 19 and 20 are necessary to ensure that the development is assimilated into its surroundings. Condition 21 is necessary to safeguard the trees which are visually important on the site. Condition 22 is required to safeguard heritage assets of archaeological interest. Condition 23 is necessary to prevent pollution and flooding. Condition 24 is required to ensure the proper provision of foul water drainage. Condition 25 is required to prevent pollution and flooding. Condition 26 is necessary to ensure that the development is not unneighbourly.

138. Condition 27 relates to a procurement and employment strategy. The Council considers that the condition would fail the test of necessity as there is no policy support for this requirement and there would be problems about enforcement. However, it seems to me that a local employment and procurement condition is plainly relevant following the Verdin judgment.[86] Employing local people and using local produce, to save miles travelled seems to epitomize the principle of sustainable development. Moreover, the strategy would put in place arrangements to ensure that the information was regularly provided to the Council to demonstrate the performance and effectiveness of the initiatives. The condition would not impose unreasonable or unjustified demands on the Council. The condition would meet the tests in the NPPF.

139. Condition 28 is required to ensure the provision of adequate pedestrian and cycle access to the site in the interests of highway safety. Condition 30 is necessary to ensure that sustainable transport modes are taken up. Condition 31 is necessary to avoid sewage flooding and potential pollution incidents. Condition 32 is necessary to ensure that the development is not unneighbourly or detrimental to highway safety. Condition 33 is required to protect the occupants of nearby residential properties from noise disturbance. Condition 34 is required to mitigate any impacts on air pollution.

Overall conclusion

140. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

Harold Stephens

INSPECTOR

[86] See INQ APP15 Verdin v SSCLG [2016] EWHC

SCHEDULE OF PLANNING CONDITIONS (1-34)

Time limit and approved plans relating to the full planning permission

Commencement – Full

1) The development subject to full planning permission, comprising the areas shown as shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] must be begun not later than the expiration of three years beginning with the date of this permission.

Approved Plans

2) That the element of the development hereby approved full planning permission, as shown within the areas shaded red and green on Drawing No. URB SC[08]00 01 D02 (Site Location Plan), [Phase 1] shall be carried out in accordance with the details shown on the following approved plans, except as controlled or modified by conditions of this permission:

URB SC [08] 00 01 Rev D02 (Site Location Plan)
URB SC [08] 00 03 Rev D04 (Proposed Block Plan)
02 Rev 03 (Landscape Plan)
03 Rev 03 (Hard Landscaping)
04 Rev 03 (Soft Landscaping)
URB VC [08] 70 01 Rev D02 (Village Core Elevations)
URB VC [08] 70 02 Rev D01 (Village Core Elevations)
URB VC [08] 70 03 Rev D01 (Village Core Elevations)
URB VC [08] 70 04 Rev D01 (Village Core Elevations)
URB VC [08] 00 01 Rev D02 (Village Core Ground Floor Plan)
URB B01 [08] 70 01 Rev D01 (Block 1 Elevations)
URB B02 [08] 70 01 Rev D01 (Block 2 Elevations)
URB B03 [08] 70 01 Rev D01 (Block 3 Elevations)
URB B04 [08] 70 01 Rev D01 (Block 4 Elevations)
URB B01 [08] 00 01 Rev D00 (Block 1 Floor Plans)
URB B01 [08] 20 01 Rev D00 (Block 1 Roof Plan)
URB B02 [08] 00 01 Rev D00 (Block 2 Floor Plans and Roof Plan)
URB B03 [08] 10 01 Rev D00 (Block 3 Floor Plan)
URB B03 [08] 00 01 Rev D00 (Block 3 Floor Plan)
URB B03 [08] 20 01 Rev D00 (Block 3 Roof Plan)
URB B04 [08] 00 01 Rev D00 (block 4 Floor Plans)
URB B04 [08] 20 01 Rev D00 (block 4 Roof Plan)
URB SS [08] 00 01 Rev D00 (Substation)
OX5025-11PD-004 Rev H – Road Carriageway Widening
OX5025-16PD-006 Rev A - Cross Sections of Proposed Widening along Blounts Court Road
OX5025-16PD-004 Rev C - Proposed Off-Site Improvements
OX5025-16PD-002 Rev C - Proposed Site Access Arrangements
OX5025-16PD-003 Rev D - Proposed Internal Layout
OX5025-11PD-007 Rev F - Review of Revised Masterplan (6 Metres Internal Carriageway)
OX5025-11PD-009 Rev F Proposed Zebra Crossing at Widmore Lane

Outline Plans

3) That the element of the development hereby approved outline planning permission, as shown within the areas shaded blue on Drawing No. URB SC [08] 00 01 D02 (Site Location Plan) shall be carried out in general accordance with the details shown on the following documents:

Illustrative Masterplan PW.1618.L.01 Rev 03
Design and Access Statement May 2020
Design Commitment Statement URB-SC A3 90 02-D00 April 21

Reserved matters and time limit relating to the outline planning permission

Reserved Matters

4) Within a period of three years from the date of this permission all of the reserved matters shall have been submitted for approval in writing by the Local Planning Authority. The reserved matters shall comprise: details of the layout, scale, appearance and landscaping of the development. All reserved matters for any one phase shall be submitted concurrently. No development shall commence within any one phase until there is written approval of all of the reserved matters for that phase and the development shall be carried out in accordance with all of the approved reserved matters.

Commencement – Outline

5) The site subject to outline planning permission, comprising the area shown as shaded blue on Drawing No. URB SC [08]00 01 D02 (Site Location Plan) [Phase 2], shall be begun not later than whichever is the later of the following dates:

(i) 3 years from the date of this permission: or
(ii) 2 years from the approval of the final reserved matters application.

Biodiversity Enhancement Plan – Outline

6) Concurrent with the submission of any reserved matters application related to this outline planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the outline details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:

(a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
(b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
(c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.

(d) Selection of specific techniques and practices for establishing vegetation.
(e) Sources of habitat materials (e.g. plant stock) or species individuals.
(f) Method statement for site preparation and establishment of target features.
(g) Extent and location of proposed works.
(h) Details of a biodiversity metric assessment

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

Pre-commencement conditions

Biodiversity Enhancement Plan – Full

7) Prior to the commencement of the development subject of full planning permission, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP should be broadly in accordance with the details of habitat enhancements illustrated in Appendix 13 of the supporting Ecological Impact Assessment (Southern Ecological Solutions, 26/06/2020, Rev E). The BEP should include:

(a) Details of habitat creation or enhancements (this could cross reference relevant landscape plans) and include suitably detailed drawings and cross sections as required.
(b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes as appropriate.
(c) Selection of appropriate strategies for creating/restoring target habitats or introducing target species.
(d) Selection of specific techniques and practices for establishing vegetation.
(e) Sources of habitat materials (e.g. plant stock) or species individuals.
(f) Method statement for site preparation and establishment of target features.
(g) Extent and location of proposed works.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the final occupation of the relevant phase.

Construction Environmental Management Plan for Biodiversity

8) Prior to the commencement of any development (including vegetation clearance) a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

(a) Update ecological surveys for relevant habitats and species, update surveys shall follow national good practice guidelines (badgers surveys shall be no older than 6 months).
(b) Risk assessment of potentially damaging construction activities.

(c) Identification of biodiversity protection zones.
(d) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction.
(e) The location and timing of sensitive works to avoid harm to biodiversity features.
(f) The times during construction when specialist ecologists need to be present on site to oversee works.
(g) Responsible persons and lines of communication.
(h) Use of protective fences, exclusion barriers and warning signs.

Thereafter the approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Phasing

9) Prior to the commencement of any development subject to full planning permission or submission of the first Reserved Matters for the development subject to outline planning permission, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved phasing plan.

Electric Vehicle Charging

10) Prior to the commencement of each phase of development a scheme to provide that phase with Electric Vehicle Charging Points shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Electric Vehicle Charging Points shall be implemented prior to the first occupation of that phase.

Estate Roads and Footpaths

11) Prior to the commencement of each phase of development, details of the estate roads and footpaths within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, before first occupation of any unit within that phase, the whole of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained.

Car Parking Plan

12) Prior to the commencement of the reserved matters phase of the development plans showing car parking within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed car parking provision shall be provided before first occupation of that part of the site and be retained as such thereafter.

Cycle Parking

13) Prior to the commencement of each phase of development, details of cycle storage, for that phase shall be submitted to and approved in writing by the

Local Planning Authority. The agreed cycle parking shall be provided before first occupation of that part of the site and be retained as such thereafter.

Materials

14) Prior to the commencement of each phase of development, details of all materials, including samples where required, to be used in the external construction and finishes of the development within that phase shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be carried out in accordance with the approved details.

Site Levels

15) Prior to the commencement of any development, detailed plans showing the existing and proposed ground levels of that phase, together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Refuse and Recycling

16) Prior to the commencement of each phase of development, details of refuse and recycling storage for that phase shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage shall be implemented in accordance with the approved details prior to the occupation of the development in each phase and retained thereafter.

Energy Statement

17) Prior to the commencement of each phase of development, an Energy Statement demonstrating how the development within that phase will achieve at least a 40% reduction in carbon emissions compared with code 2013 Building Regulations, and details of how this will be monitored, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

External Lighting

18) Prior to the commencement of each phase of the development approved in full, and accompanying the first Reserved Matters application for the development approved in outline, a detailed lighting scheme (including street and pathway lighting) for that phase, including a programme for its delivery, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

Landscaping

19) Prior to the commencement of each phase of development, a scheme for the landscaping of that phase including the planting of trees and shrubs, the

treatment of the access road and hard standings, and the provision of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority.

The details shall include schedules of new trees and shrubs to be planted (noting species, plant sizes and numbers/densities), the identification of the existing trees and shrubs on the site to be retained (noting species, location and spread), any earth moving operations and finished levels/contours, and an implementation programme.

The scheme shall be implemented prior to the first occupation or use of that phase of development and thereafter be maintained in accordance with the approved scheme.

In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.

Landscape Management Plan

20) Prior to the commencement of the first phase of development, a maintenance schedule and a long term management plan for the soft landscaping works for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include those areas of the site which are to be available for communal use as open space. The schedule and plan shall be implemented in accordance with the agreed programme.

Tree Protection

21) Prior to the commencement of any site works or operations (including the removal of any vegetation or trees) required in relation with the full or outline planning permission, an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The matters to be encompassed within the arboricultural method statement shall include the following:

(a) A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities.
(b) The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of BS 5837 'Trees in relation to design, demolition and construction' and details of the timing and duration of its erection.
(c) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage.
(d) The means of demolition of any existing site structures, and of the re-instatement of the area currently occupied thereby.

(e) The specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees.
(f) The details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels.
(g) The details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the root protection area, which is to be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage.
(h) Provision for the supervision of any works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development; and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.
(i) The details of the materials and method of construction of the pedestrian and cycle access to Widmore Lane, which is to in part be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development'', and in accordance with current industry best practice; and as appropriate for the type of surface required in relation to its usage.
(j) A specification of the foundation design for the pedestrian and cycle access to Widmore Lane demonstrating absolute minimal soil excavation, soil compaction or soil contamination within the root protection area of the adjacent trees.

Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

Implementation of Archaeological work

22) Prior to any earth works forming part of the development or the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Ground Investigation

23) Prior to the commencement of each phase of development the results of an intrusive ground investigation, analysing the potential for dissolution features and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The results shall then be implemented in accordance

with the approved programme and used to inform the surface water drainage design.

Foul Drainage

24) Prior to the commencement of each phase of development, a detailed foul water drainage scheme for that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the foul water drainage works to serve that phase have been completed.

Surface Water Drainage

25) Prior to the commencement of each phase of development, a detailed surface water drainage scheme relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. This should be based on the principles contained within Flood Risk Assessment and Drainage Strategy reference 3424 Dec 2019 by Scott Hughes Design, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.

The scheme shall include:

(a) Discharge rates.
(b) Discharge volumes.
(c) Catchment plans.
(d) Maintenance and management of SUDS features.
(e) Sizing of features – attenuation volume.
(f) Site wide infiltration tests to be undertaken in accordance with BRE365.
(g) Ground Investigation Report.
(h) Detailed drainage layout with pipe/chamber/soakaway numbers & sizes.
(i) Proposed site levels, floor levels and an exceedance plan.
(j) Detailed network calculations to include the worst case 1:100 + 40% event.
(k) SUDS features and sections.
(l) Details of proposed Primary, Secondary and Tertiary treatment stages to ensure sufficient treatment of surface water prior to discharge.
(m) Drainage construction details.
(n) A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire."
(o) A range of SuDS techniques throughout the site to manage water quantity and maintain water quality.

The development shall be carried out in accordance with the approved details and no part of the development in the phase to which the scheme relates shall be occupied or used until the surface water drainage works to serve that phase have been completed.

Construction Method Statement

26) No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

(a) the parking of vehicles of site operatives and visitors;
(b) loading and unloading of plant and materials;
(c) storage of plant and materials used in constructing the development;
(d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
(e) wheel washing facilities;
(f) measures to control the emission of dust and dirt during construction;
(g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
(h) details of measures for the control of noise during construction works;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction methods.

Procurement and Employment Strategy

27) Prior to the commencement of development, a Local Employment and Procurement Strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The Strategy shall include:

(i) Details of recruitment within the development to achieve a minimum of 25% of village staff from within a 5 mile radius of Sonning Common;
(ii) Details of the use of local businesses, including purchase of food, beverage and other items to achieve a minimum of 50% of fresh produce (meat, bakery, dairy, fruit and vegetables) from within a 5 mile radius of Sonning Common;
(iii) The timing and arrangements for the implementation of these initiatives; and
(iv) Suitable mechanisms for monitoring the effectiveness of these initiatives.

All parts of the approved Local Employment and Procurement Strategy shall be implemented in full and retained thereafter.

Pre-occupancy conditions

Pedestrian and Cycle Access

28) Prior to occupation of any development subject to full or outline planning permission, details of the pedestrian/cycle access to the site from Widmore Lane, including a 3.5m wide combined pedestrian/cycle path through the site, associated street lighting facilities and a zebra crossing along Widmore Lane shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based on those shown on plan OX5025-11PD-009 Rev F, subject to the tree protection measure shown in condition 21. The works shall

be carried out and completed in accordance with the approved details before occupation of any part of the site, and permanently retained as such thereafter.

Landscape and Ecology Management Plan

29) Prior to the first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) for the whole site shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

(a) Description and evaluation of features to be managed.
(b) Ecological trends and constraints on site that might influence management.
(c) Proposals for ecological enhancements for habitats and species as agreed in the Biodiversity Enhancement Plan.
(d) Aims and objectives of management.
(e) Appropriate management options for achieving aims and objectives.
(f) Prescriptions for management actions.
(g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
(h) Details of the body or organization responsible for implementation of the plan.
(i) Ongoing monitoring and remedial measures.

The LEMP shall include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The development shall be implemented in accordance with the approved details and management prescriptions implemented across the site for a timeframe to be agreed within the LEMP.

Green Travel Plans

30) Prior to the occupation of the first phase of the development hereby approved a full and detailed Travel Plan and Travel Information Packs shall be submitted to and approved in writing by the Local Planning Authority. These documents will be updated upon the submission of subsequent phases of the development. Thereafter, that part of the development shall be implemented in accordance with the approved documents and the associated Travel Information Packs issued to each resident upon first occupation.

Wastewater

31) No properties shall be occupied in any phase until confirmation has been provided that either:

(i) All wastewater network upgrades required to accommodate the additional flows from the development have been completed; or-
(ii) A housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied.

Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Service and Delivery Management Plan

32) No building shall be occupied until details of a comprehensive servicing and delivery management plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Deliveries and service areas shall be managed in accordance with the agreed scheme.

Compliance conditions

Construction Hours

33) The hours of operation for construction and demolition works shall be restricted to 08:00-18:00 Monday to Friday and 08:00-13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays without the prior written permission of the Local Planning Authority.

Air Quality

34) The air quality mitigation measures outlined in the Air Quality Assessment (Ref REP-10111755A-20191212) shall be carried out in accordance with the recommendations and specifications in the report and implemented prior to occupation of each unit. Thereafter, the mitigation measures shall be retained as approved and in accordance with manufacturer's instructions.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Robin Green of Counsel	Instructed by the Solicitor to South Oxfordshire District Council
He called:	
Mr John Jeffcock BA (Hons) MA CMLI NZILA	Associate of Michelle Bolger Expert Landscape Consultancy
Mr Julian Kashdan-Brown B Arch (Hons) Dip Arch MSc MA RIBA	Architect and Urban Designer
Mrs Nicola Smith BSc (Hons) MSc	Principal Major Applications Officer
Mrs Emma Bowerman BA (Hons) MSc	Principal Major Applications Officer

FOR THE APPELLANT:

Mr Christopher Young QC Ms Leanne Buckley Thompson of Counsel	Both instructed by the Appellant
They called	
Mr Nigel Appleton MA (Cantab)	Executive Chairman of Contact Consulting (Oxford) Ltd
Mr Stuart Garnett BSc Dip TP MRTPI	Planning Director Inspired Villages
Mr James Atkin BSc (Hons) Dip LM CMLI	Director (Landscape) Pegasus Group
Mr Michael Carr BA (Hons) Dip LA Dip UD RUDP	Director (Design and Master Planning) Pegasus Group
Mr Roland Bolton BSc (Hons) MRTPI	Senior Director, DLP Planning Ltd
Mr Richard Garside RICS	Director and Head of Development Consultancy at Newsteer
Mr Simon James BA Dip TP MRTPI MIEMA	Managing Director DLP Planning Ltd

FOR SONNING COMMON PARISH COUNCIL:

Mr Ben Du Feu of Counsel	Instructed by the Parish Council
He called	
Mrs Emily Temple BSc (Hons) MSc MRTPI	Director ET Planning Ltd

FOR OXFORDSHIRE COUNTY COUNCIL:

Mr Dave Harrison BSc (Hons) MSc CMILT M Inst TA	Senior Public Transport Planner
Ms Judith Coats LLB	Infrastructure Funding Team Leader

Interested Persons

Mr Tom Fort	Chairman of Sonning Common Parish Council
Ms Julia Whitelaw	Local Resident
Dr Kim Emmerson	General Practitioner
Ms Georgina Forbes	Local Resident
Mr Jonathan Berger	Acting Chair of the Rotherfield Peppard Parish Council
Mrs Joanne Shanagher	Local Resident
Dr Michael Stubbs PhD MSc MRICS MRTPI	Planning Adviser, The Chilterns Conservation Board

DOCUMENTS SUBMITTED AT THE INQUIRY:

Local Planning Authority Documents

INQ LPA1 Opening Statement
INQ LPA2 Factsheet 6 Design Principles for Extra Care Housing (3rd edition)
INQ LPA3 Proof of evidence Erratum sheet, Nicola Smith
INQ LPA4 Appendix 1 update, Nicola Smith
INQ LPA5 Five-year Housing Land Supply Erratum, Nicola Smith
INQ LPA6 Replacement Policies Schedule
INQ LPA7 CIL Compliance Statement
INQ LPA8 CIL Compliance Statement Addendum
INQ LPA9 Costs application
INQ LPA10 Conditions
INQ LPA11 Closing Submissions

Appellant Documents

INQ APP1 Opening Statement
INQ APP2 Summary and comparison of landscape and visual effects
INQ APP3 Correction sheet to JWA06
INQ APP4 Open letter to Boris Johnson
INQ APP5 Briefing Note Errata to Contextual Study of James Atkin
INQ APP6 Service Charges Note of Stuart Garnett
INQ APP7 References to height Johnson Matthey Planning Statement

INQ APP8 NPPF consultation document
INQ APP9 Mr Doyle email
INQ APP10 Extracts from Village News by Tom Fort
INQ APP11 s106 Agreement
INQ APP12 Nigel Appleton's Note
INQ APP13 Central Bedfordshire Policy H3 Main Modifications
INQ APP14 Pre commencement note
INQ APP15 Verdin Judgment
INQ APP16 Closing Submissions
INQ APP17 Appellant's response to the Costs application

R6 Party Documents

INQ PC1 Opening Statement
INQ PC2 Closing Submissions

Interested Persons Documents

IP1 Statement by Mr Tom Fort
IP2 Statement by Ms Julia Whitelaw
IP3 Statement by Dr Kim Emmerson
IP4 Statement by Ms Georgina Forbes
IP5 Statement by Mr Jonathan Berger
IP6 Statement by Mrs Joanne Shanagher
IP7 Statement by Dr Michael Stubbs

Appendix DV7

Large Sites Delivery Rates Analysis

Delivery Rates and Lead in Times for Large Sites within Wealden District

Site Name	Initial Outline Planning Permission Granted	Total (Gross)	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Annual Average
Sites comprising between 100 and 200 dwellings												
Land off Amberstone, A271, Hailsham	14/10/2016	110	-	-	-	0	0	31	62	17	-	37
Land Rear of Police Station, High Street, Heathfield	26/02/2014	115	0	0	0	0	20	57	38	-	-	29
Land South of Rattle Road, Stone Cross	09/04/2013	120	0	0	0	0	53	51	16	-	-	40
Land at Walsh Manor Farm, Crowborough	18/12/2015	160	-	-	0	0	0	5	65	31	59	40
Land off Mill Road, Hailsham	01/06/2016	183	-	-	-	0	0	63	63	35	22	46
Land at Uplands Farm, Rattle Road, Stone Cross	14/04/2016	183	-	-	-	0	0	0	0	13	52	33
Annual Average			**0**	**0**	**0**	**0**	**12**	**35**	**41**	**24**	**44**	**37**
Sites comprising more thn 200 dwellings												
Land West of Park Road, Hellingly	02/10/2013	240	0	0	0	47	86	28	33	20	7	37
The Wells, Rattle Road, Stone Cross	28/10/2013	276	0	0	8	85	82	87	14	-	-	55
Land East of Park Road, Hellingly	30/04/2014	460	-	0	0	0	0	76	176	39	75	92
Land West of Uckfield	24/03/2016	1,000	-	-	0	0	0	3	50	45	35	33
Annual Average			**0**	**0**	**2**	**33**	**42**	**49**	**68**	**35**	**39**	**54**
All Sites Annual Average			**0**	**0**	**1**	**17**	**27**	**42**	**54**	**29**	**42**	**46**

Source: Wealden District Five Year Housing Land Supply Statement - 1 April 2022, Table 3 (CD7/2) and Mr Veasey's analysis

Appendix DV8

Start to Finish (second edition), Lichfields, February 2020

INSIGHT
FEBRUARY 2020

Start to Finish

What factors affect the build-out rates of large scale housing sites?

SECOND EDITION



LICHFIELDS

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Executive summary

Lichfields published the first edition of Start to Finish in November 2016. In undertaking the research, our purpose was to help inform the production of realistic housing trajectories for plan making and decision taking. The empirical evidence we produced has informed numerous local plan examinations, S.78 inquiries and five-year land supply position statements.

Meanwhile, planning for housing has continued to evolve: with a revised NPPF and PPG; the Housing Delivery Test and Homes England upscaling resources to support implementation of large sites. Net housing completions are also at 240,000 dwellings per annum. With this in mind, it is timely to refresh and revisit the evidence on the speed and rate of delivery of large scale housing sites, now looking at 97 sites over 500 dwellings. We consider a wide range of factors which might affect lead-in times and build-out rates and have drawn four key conclusions.

In too many local plans and five-year land supply cases, there is insufficient evidence for how large sites are treated in housing trajectories. Our research seeks to fill the gap by providing some benchmark figures - which can be of some assistance where there is limited or no local evidence - but the averages derived from our analysis are not intended to be definitive and are no alternative to having a robust, bottom-up justification for the delivery trajectory of any given site.

We have drawn four key conclusions:

1 Large schemes can take 5+ years to start

Our research shows that if a scheme of more than 500 dwellings has an outline permission, then on average it delivers its first home in c.3 years. However, from the date at which an outline application is validated, the average figures can be 5.0-8.4 years for the first home to be delivered; such sites would make no contribution to completions in the first five years.

2 Lead-in times jumped post recession

Our research shows that the planning to delivery period for large sites completed since 2007/08 has jumped compared to those where the first completion came before 2007/08. This is a key area where improvements could be sought on timeliness and in streamlining pre-commencement conditions, but is also likely impacted by a number of macro factors.

3 Large greenfield sites deliver quicker

Large sites seem to ramp up delivery beyond year five of the development on sites of 2,000+ units. Furthermore, large scale brownfield sites deliver at a slower rate than their greenfield equivalents: the average rate of build out for greenfield sites in our sample is 34% greater than the equivalent brownfield.

4 Outlets and tenure matter

Our analysis suggests that having additional outlets on site has a positive impact on build-out rates. Interestingly, we also found that schemes with more affordable housing (more than 30%) built out at close to twice the rate as those with lower levels of affordable housing as a percentage of all units on site. Local plans should reflect that – where viable – higher rates of affordable housing supports greater rates of delivery. This principle is also likely to apply to other sectors that complement market housing for sale.

Key figures

180 sites assessed, with combined yield of 213k+ dwellings; 97 sites had 500+ homes

c.3yrs average time taken from outline decision notice to first dwelling completions on sites of 500+ homes

8.4yrs the average time from validation of the first planning application to the first dwelling being completed on schemes of 2,000+ dwellings

160 dpa the average annual build-out rate for a scheme of 2,000+ dwellings (median: 137)

68 dpa the average annual build rate of a scheme of 500-999 dwellings (median: 73)

+34% higher average annual build-out rate on greenfield sites compared with brownfield sites

61 dpa average completions per outlet on sites with one outlet, dropping to 51 for sites of two outlets, and 45 for sites with three outlets

01
Introduction

This is the second edition of our review on the speed of delivery on large-scale housing development sites. The first edition was published in November 2016 and has provided the sector with an authoritative evidence base to inform discussions on housing trajectories and land supply at planning appeals, local plan examinations and wider public policy debates.

Over this period, housing delivery has remained at or near the top, of the domestic political agenda: the publication of the Housing White Paper, the new NPPF, an emboldened Homes England, a raft of consultations on measures intended to improve the effectiveness of the planning system and speed up delivery of housing. Of particular relevance to *Start to Finish* was the completion of Sir Oliver Letwin's independent review of build out ("the Letwin Review"), the inclusion within the revised NPPF of a tighter definition of 'deliverable' for the purposes of five-year housing land supply (5YHLS) assessment, and the new Housing Delivery Test which provides a backward looking measure of performance. The policy aim is to focus more attention on how to accelerate the rate of housing build out, in the context of the NPPF (para 72) message that the delivery of a large numbers of new homes can often be best achieved through larger scale development such as new settlements or significant extensions to existing villages and towns, but that these need a realistic assessment of build-out rates and lead in times of large-scale development.

This second edition of *Start to Finish* is our response to the latest policy emphasis. It provides the planning sector with real-world benchmarks to help assess the realism of housing trajectory assumptions, particularly for locations where there have been few contemporary examples of strategic-scale development. The first edition looked in detail at how the size of the site affected build-out rates and lead in times, as well as other factors such as the value of the land and whether land was greenfield or brownfield. We have updated these findings, as well as considering additional issues such as how the affordability of an area and the number of outlets on a site impacts on annual build-out rates.

We have also expanded the sample size (with an extra 27 large sites, taking our total to 97 large sites, equivalent to over 195,000 dwellings) and updated with more recent data to the latest monitoring year (all data was obtained at or before the 1st April 2019).



Our research complements, rather than supplants, the analysis undertaken by Sir Oliver Letwin in his Review. The most important differentiation is that we focus exclusively on what has been built, whereas each of the sites in the Letwin Review included forecasts of future delivery. Additionally, the Letwin Review looked at 15 sites of 1,500+ homes, of which many (including the three largest) were in London. By contrast, the examples in this research sample include 46 examples of sites over 1,500 homes across England and Wales, the majority of which are currently active. As with the first edition of our research, we have excluded London because of the distinct market and delivery factors in the capital.

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05	**What factors influence build-out rates?**	14
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180
sites

97
large sites of 500 units or more

27
additional sites compared with our 2016 research

8
sites also included in Sir Oliver Letwin's review

02 Methodology

The evidence presented in this report analyses how large-scale housing sites emerge through the planning system, how quickly they build out, and identifies the factors which lead to faster or slower rates of delivery.

We look at the full extent of the planning and delivery period. To help structure the research and provide a basis for standardised measurement and comparison, the various stages of development have been codified. Figure 1 sets out the stages and the milestones used, which remain unchanged from the first edition of this research. The overall 'lead-in time' covers stages associated with gaining an allocation, going through the 'planning approval period' and 'planning to delivery period', finishing when the first dwelling is completed. The 'build period' commences when the first dwelling is completed, denoting the end of the lead-in time. The annualised build-out rates are also recorded for the development up until the latest year where data was available at April 2019 (2017/18 in most cases). Detailed definitions of each of these stages can be found in Appendix 1. Not every site assessed will necessarily have gone through each component of the identified stages as many of the sites we considered had not delivered all dwellings permitted at the time of assessment, some have not delivered any dwellings.

Information on the process of securing a development plan allocation (often the most significant step in the planning process for large-scale schemes, and which – due to the nature of the local plan process - can take decades) is not easy to obtain on a consistent basis across all examples, so is not a significant focus of our analysis. Therefore, for the purposes of this research the lead-in time reflects the start of the planning approval period up to the first housing completion.

The 'planning approval period' measures the validation date of the first planning application on the site (usually an outline application but sometimes hybrid), to the decision date of the first detailed application to permit dwellings in the scheme (either full, hybrid or reserved matters applications). It is worth noting that planning applications are typically preceded by significant amounts of pre-application engagement and work, plus the timescale of the local plan process.

The 'planning to delivery' period follows immediately after the planning approval period and measures the period from the approval of the first detailed application to permit development of dwellings and the completion of the first dwelling.

Development and data

Whilst our analysis focuses on larger sites, we have also considered data from the smaller sites for comparison and to identify trends. The geographic distribution of the 97 large sites and comparator small sites is shown in Figure 2 and a full list can be found in Appendix 2 (large sites) and Appendix 3 (small sites).

Efforts were made to secure a range of locations and site sizes in the sample, but there is no way of ensuring it is representative of the housing market in England and Wales as a whole, and thus our conclusions may not be applicable in all areas or on all sites. In augmenting our sample with 27 additional large sites, new to this edition of our research, we sought to include examples in the Letwin Review that were outside of London, only excluding them

Box I: Letwin Review sites

1. Arborfield Green (also known as Arborfield Garrison), Wokingham
2. Ledsham Garden Village, Cheshire West & Chester
3. Great Kneighton (also known as Clay Farm), Cambridge (included in the first edition of this research)
4. Trumpington Meadows, Cambridge
5. Graven Hill, Cherwell
6. South West Bicester, Cherwell
7. Great Western Park, South Oxfordshire
8. Ebbsfleet, Gravesham and Dartford (included in the first edition of this research)

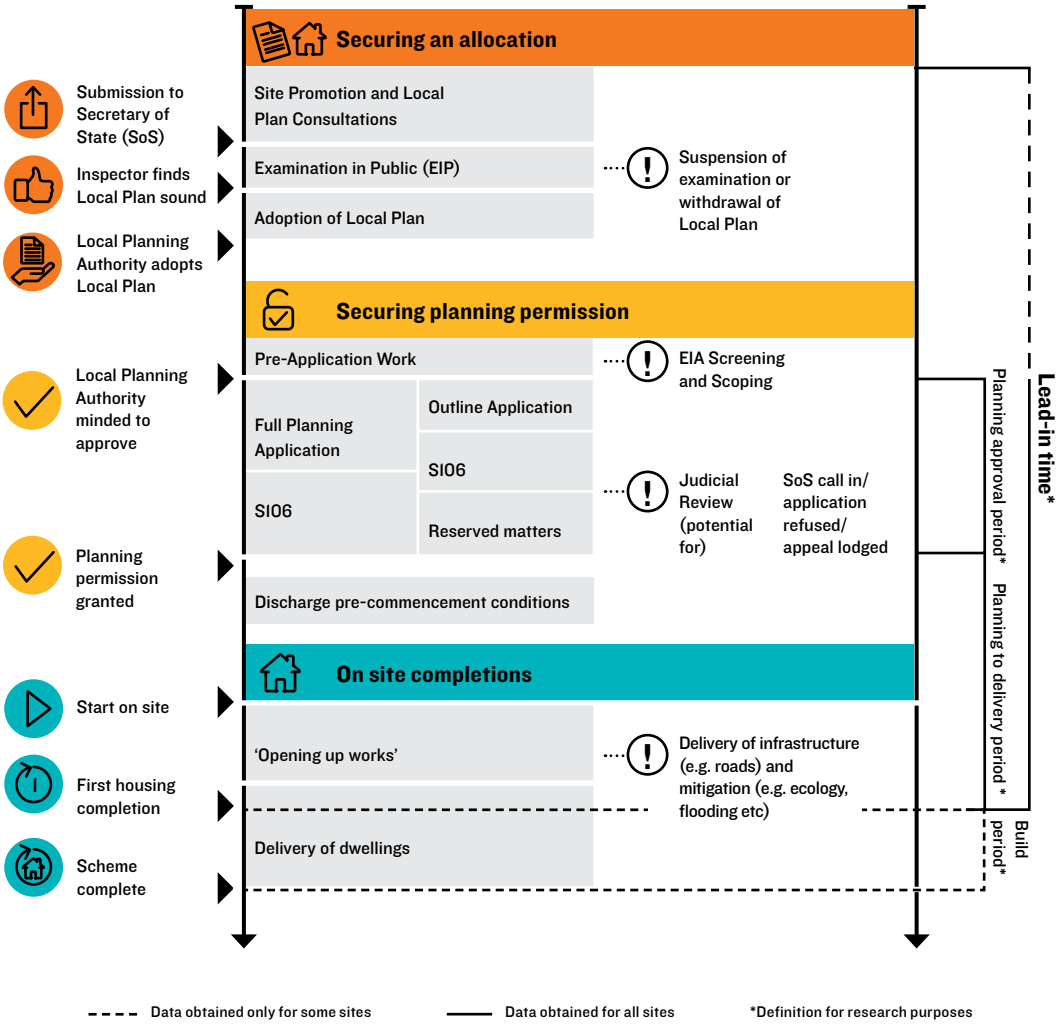
when it was difficult to obtain reliable data. The study therefore includes the Letwin Review's case studies listed in Box 1.

In most instances, we were unable to secure the precise completion figures for these sites that matched those cited in the Letwin Review. Sources for data Lichfields has obtained on completions for those sites that also appear in the Letwin Review are included at the end of Appendix 2.

The sources on which we have relied to secure delivery data on the relevant sites include:

1. Annual Monitoring Reports (AMRs) and other planning evidence base documents[1] produced by local authorities;
2. By contacting the relevant local planning authority, and in some instances the relevant County Council, to confirm the data or receive the most up to date figures from monitoring officers or planners; and
3. In a handful of instances obtaining/ confirming the information from the relevant house builders.

Figure I: Timeline for the delivery of strategic housing sites



Source: Lichfields analysis

[1] Monitoring documents, five-year land supply reports, housing trajectories (some in land availability assessments), housing development reports and newsletters

196,714

units on large sites of 500 or more homes

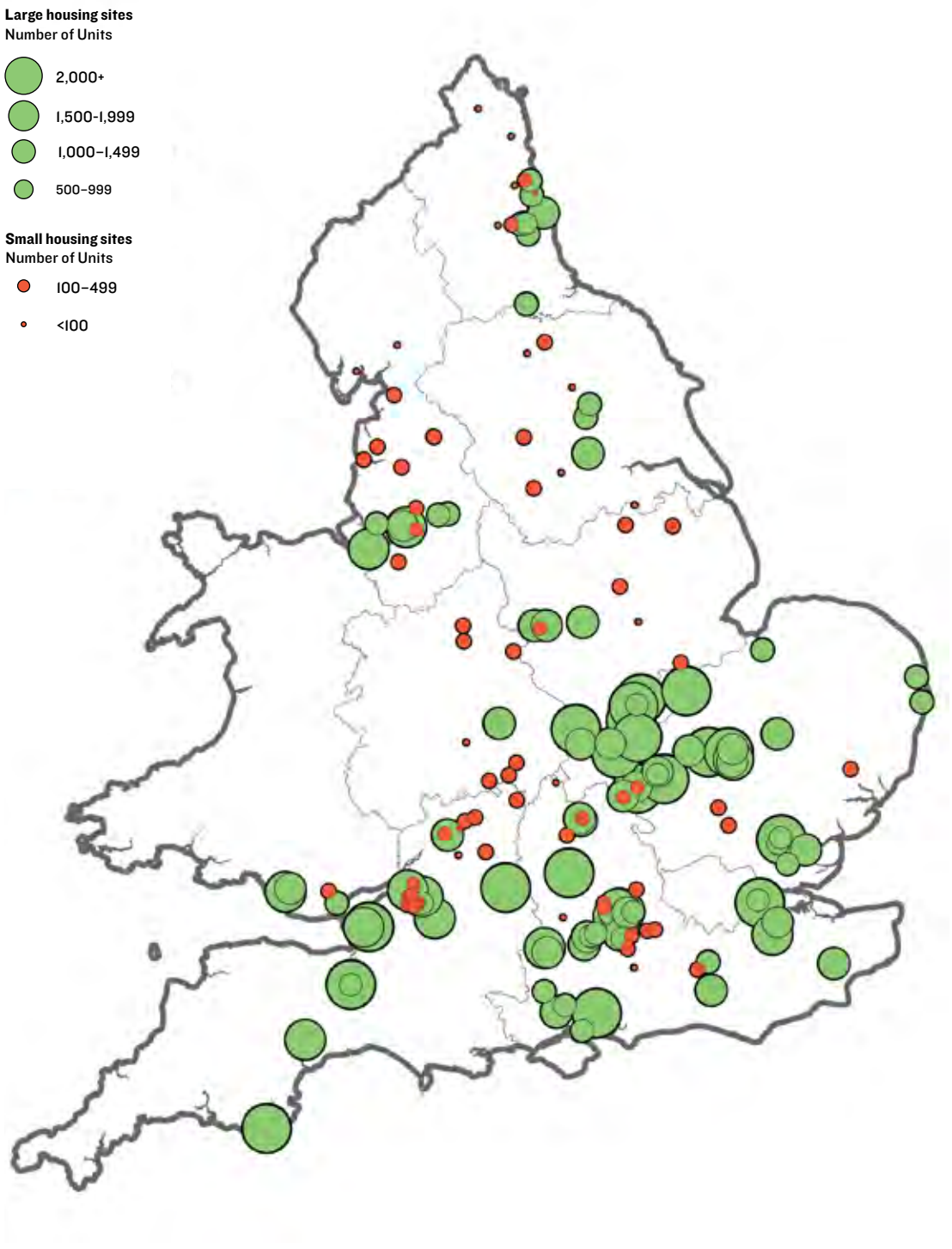
16,467

units on small sites under 500 homes

35

sites of 2,000 homes or more

Figure 2: Map of site sample by size of site (total dwellings)



Source: Lichfields analysis

03
Timing is everything: how long does it take to get started?

In this section we look at lead in times, the time it takes for large sites to get the necessary planning approvals. Firstly, the changing context of what 'deliverable' means for development. Secondly, the 'planning approval period' (the time it takes for large sites to get the necessary planning approvals). And thirdly, the 'planning to delivery period' (the time from approval of the first detailed application to permit development of dwellings to the completion of the first dwelling).

The new definition of 'Deliverable'

The question of how quickly and how much housing a site can begin delivering once it has planning permission, or an allocation, has become more relevant since the publication of the new NPPF with its new definition of deliverable. Only sites which match the deliverability criteria (i.e. suitable now, available now and achievable with a realistic prospect that housing will be delivered on the site within five years) can be included in a calculation of a 5YHLS by a local authority. This definition was tightened in the revised NPPF which states that:

"sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years". (emphasis added)

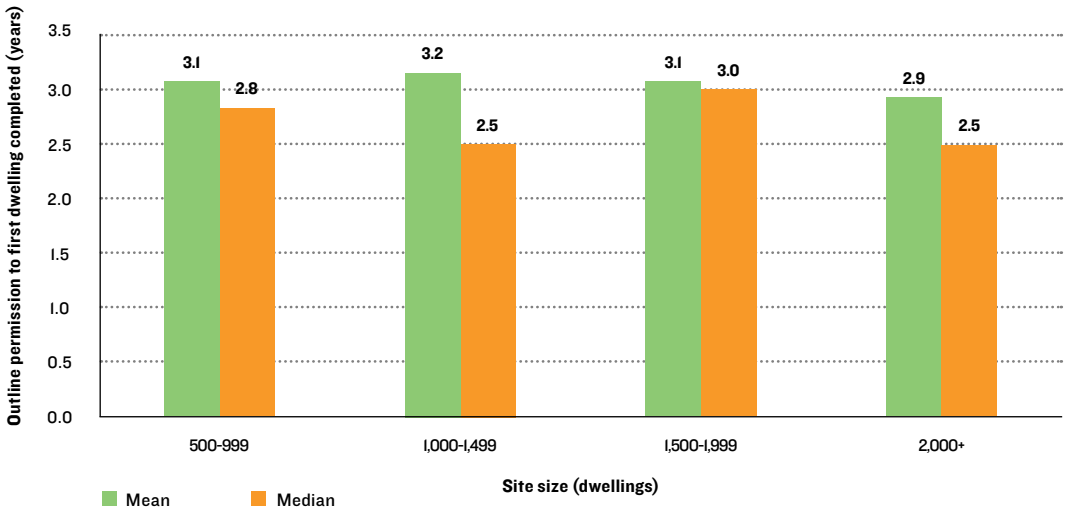
What constitutes 'clear evidence' was clarified in a number of early appeal decisions and in the Planning Practice Guidance[2] and can include information on progress being made towards submission of a reserved matters application, any progress on site assessment work and any relevant information about site viability, ownership constraints or infrastructure provision. In this context, it is relevant to look at how long it takes, on average, for a strategic housing site to progress from obtaining outline permission to delivering the first home (or how long it takes to obtain the first reserved matters approval, discharge pre-commencement conditions and open up the site), and then how much housing could be realistically expected to be completed in that same five-year period.

Based on our sample of large sites, the research shows that, upon granting of outline permission, the time taken to achieve the first dwelling is – on average c.3 years, regardless of site size. After this period an appropriate build-out rate based on the size of the site should also be considered as part of the assessment of deliverability (see Section 4). Outline planning permissions for strategic development are not

c.3 years

average time from obtaining outline permission to first dwelling completion on sites of 500+ homes

Figure 3: Average time taken from gaining outline permission to completion of the first dwelling on site (years), compared to site size



Source: Lichfeilds analysis

[2] Planning Practice Guidance Reference ID: 68-007-20190722

Only sites of fewer than 499 dwellings are on average likely to deliver any homes within an immediate five year period.

always obtained by the company that builds the houses, indeed master developers and other land promoters play a significant role in bringing forward large scale sites for housing development[3]. As such, some of these examples will include schemes where the land promoter or master developer will have to sell the site (or phases/parcels) to a housebuilder before the detailed planning application stage can commence, adding a step to the planning to delivery period.

Figure 4 considers the average timescales for delivery of the first dwelling from the validation of an outline planning application. This demonstrates that only sites comprising fewer than 499 dwellings are – on average - likely to deliver anything within an immediate five year period. The average time from validation of an outline application[4] to the delivery of the first dwelling for large sites ranges from 5.0 to 8.4 years dependent on the size of the site, i.e. beyond an immediate five-year period for land supply calculations.

Comparison with our 2016 findings

Planning Approval Period

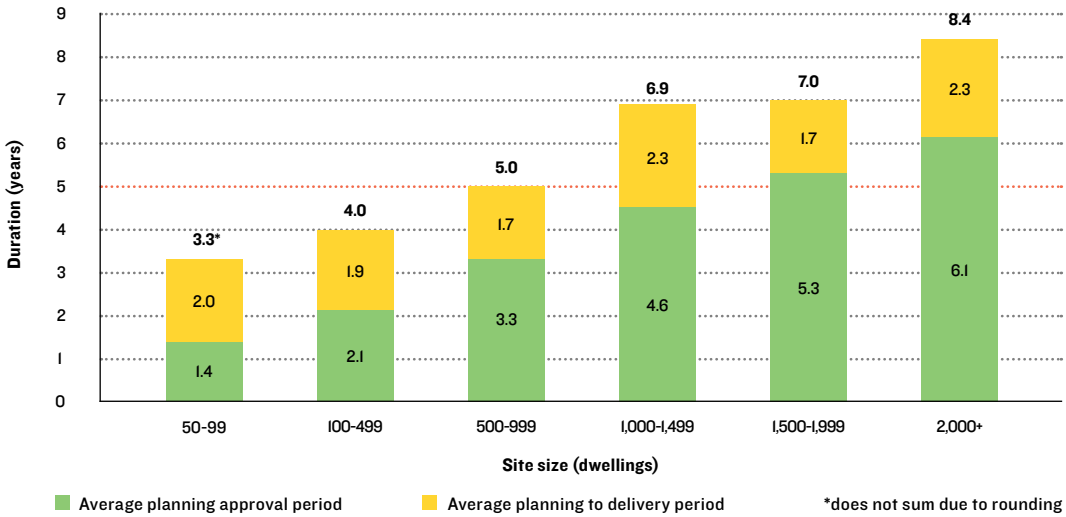
Our latest research reveals little difference between the average planning approval period by site size compared to the same analysis in the first edition (see Table 1). However, it is important to remember that these are average figures which come from a selection of large sites. There are significant variations within this average, with some sites progressing very slowly or quickly compared to the other examples. This is unsurprising as planning circumstances will vary between places and over time.

Table 1: Average planning approval period by size of site (years)

Site Size	1st edition research (years)	This research (years)
50-99	1.1	1.4
100-499	2.4	2.1
500-999	4.2	3.3
1,000-1,499	4.8	4.6
1,500-1,999	5.4	5.3
2,000+	6.1	6.1

Source: Lichfields analysis

Figure 4: Average timeframes from validation of first application to completion of the first dwelling



Source: Lichfields analysis

[3] Realising Potential - our research for the Land Promoters and Developers Federation in 2017 - found that 41% of homes with outline planning permission were promoted by specialist land promoter and development companies, compared to 32% for volume house builders.

[4] The planning approval period could also include a hybrid or full application, but on the basis of our examples this only impacts a small number of sites

Planning to Delivery Period

Although there is little difference between the average planning approval periods identified in this research compared to our first edition findings, the average lead-in time after securing planning permission is higher (Figure 5). It is this period during which pre-commencement planning conditions have to be discharged as well as other technical approvals and associated commercial agreements put in place.

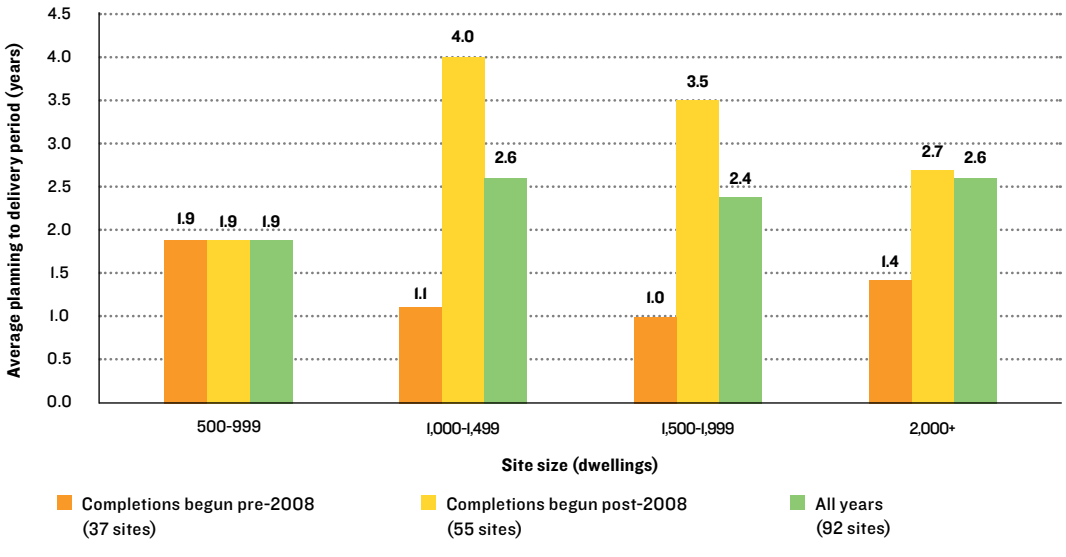
This is likely due to the inclusion of more recent proposed developments in this edition. Of the 27 new sites considered, 17 (63%) completed their first dwelling during or after 2012; this compares to just 14 (20%) out of 70 sites in the first edition of this research (albeit at the time of publication 8 of these sites had not delivered their first home but have subsequently). This implies that the introduction of more recent examples into the research, including existing examples which have now commenced delivery[5], has seen the average for planning to delivery periods lengthening.

A similar trend is apparent considering the 55 sites that delivered their first completions after 2007/08. These have significantly longer planning to delivery periods than those where completions began prior to the recession. The precise reasons are not clear, but is perhaps to be expected given the slowdown in housing delivery during the recession, and the significant reductions in local authority planning resources which are necessary to support discharge of pre-commencement conditions. However, delays may lie outside the planning system; for example, delays in securing necessary technical approvals from other bodies and agencies, or market conditions.



Sites that delivered their first completion during or after the 2007/08 recession have significantly longer planning to delivery periods than sites which began before.

Figure 5: Planning to delivery period, total average, pre and post-2008



Source: Lichfeilds analysis

Figure 5: Five of the large sites examples do not have a first dwelling completion recorded in this research

[5] Priors Hall has been amended since the first edition based on more recent data

In demand: how quickly do high pressure areas determine strategic applications for housing?

Using industry-standard affordability ratios, we found that areas with the least affordable places to purchase a home (i.e. the highest affordability ratios) tended to have longer planning to delivery times than areas that were more affordable. This is shown in Figure 6, which splits the large site sample into national affordability quartiles, with the national average equating to 8.72.

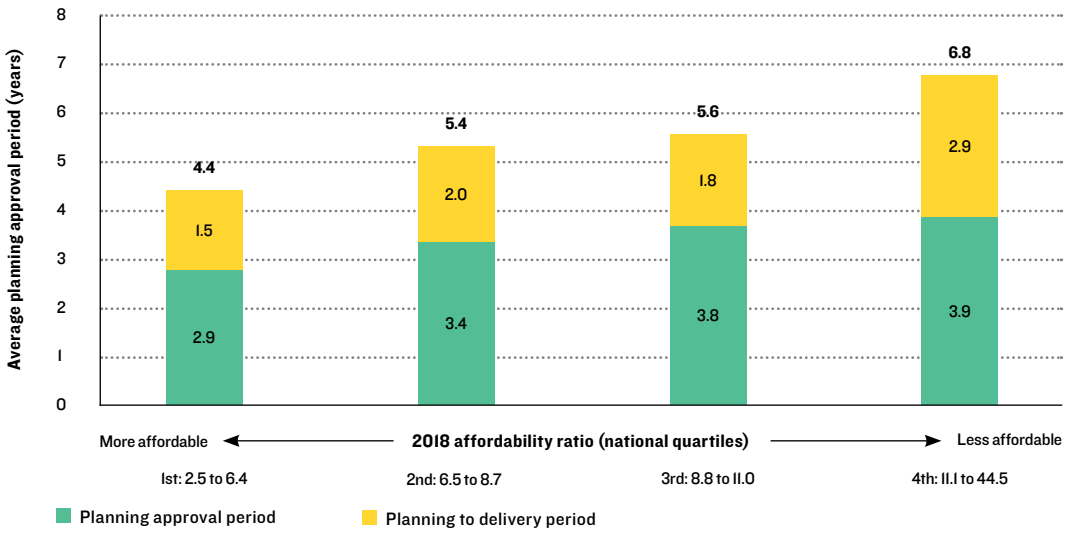
The above analysis coincides with the fact (Table 2) that sites in the most affordable locations (lowest quartile) tend to be smaller than those in less affordable locations (an average site size of c.1,150 compared to in excess of 2,000 dwellings for the three other quartiles). Even the least affordable LPAs (with the greatest gap between workplace earnings and house prices) have examples of large schemes with an average site size of 2,000+ dwellings. It may be that the more affordable markets do not support the scale of up-front infrastructure investment that is required for larger-scale developments and which lead to longer periods before new homes can be built. However, looking at the other three quartiles, the analysis does also suggest that planning and implementation becomes more challenging in less affordable locations.

Table 2: Site size by 2018 affordability ratio

Affordability ratio (workplace based)	Average site size
2.5 – 6.4	1,149
6.5 – 8.7	2,215
8.8 – 11.0	2,170
11.1 – 44.5	2,079

Source: Lichfields analysis

Figure 6: Planning approval period (years) by 2018 affordability ratio



Source: Lichfields analysis

04
How quickly do sites build out?

The rate at which new homes are built on sites is still one of the most contested matters at local plan examinations and planning inquiries which address 5YHLS and housing supply trajectories. The first edition of this research provided a range of 'real world' examples to illustrate what a typical large-scale site delivers annually. The research showed that even when some schemes were able to achieve very high annual build-out rates in a particular year (the top five annual figures were between 419-620 dwellings per annum), this rate of delivery was not always sustained. Indeed, for schemes of 2,000 or more dwellings the average annual completion rate across the delivery period was 160 dwellings per annum.

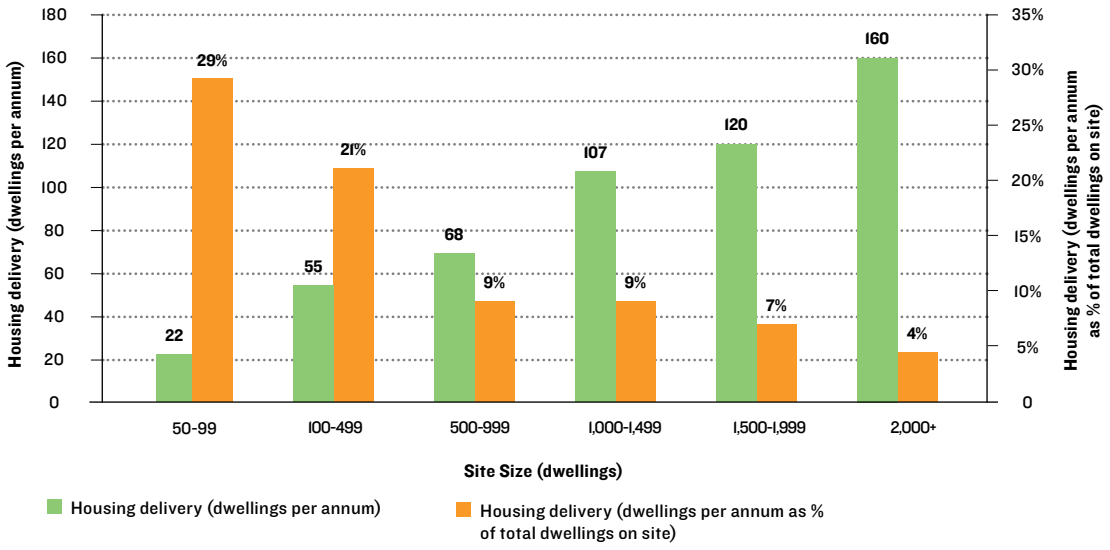
Average Annual Build-out rates

Figure 7 presents our updated results, with our additional 27 sites and the latest data for all sites considered. The analysis compares the size of site to its average annual build-out rate. Perhaps unsurprisingly, larger sites deliver on average more dwellings per year than smaller sites. The largest sites in our sample of over 2,000 dwellings, delivered on average more than twice as many dwellings per year than sites of 500-999 dwellings, which in turn delivered an average of three times as many units as sites of 1-99 units. To ensure the build-out rates averages are not unduly skewed, our analysis excludes any sites which have only just started delivering and have less than three years of data. This is because it is highly unlikely that the first annual completion figure would actually cover a whole monitoring year, and as such could distort the average when compared to only one other full year of delivery data.

160 dpa

the average annual build rate for schemes of 2,000+ dwellings

Figure 7: Build-out rate by size of site (dpa)



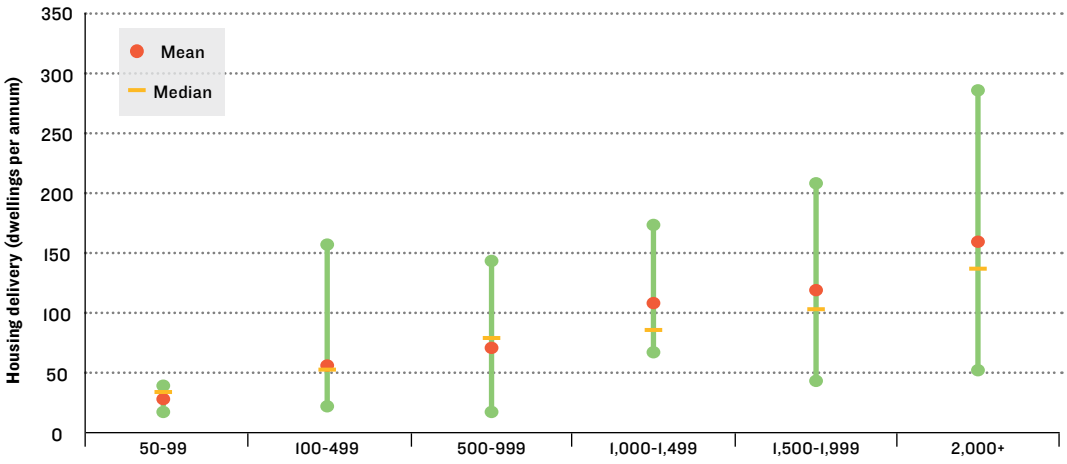
Source: Lichfields analysis

In most cases the median annual delivery rate is lower than the mean for larger sites.

We include the relevant percentage growth rates in this edition's analysis; this shows that the proportion of a site's total size that is build out each year reduces as site size increases.

Our use of averages refers to the arithmetic mean across the sample sites. In most cases the median of the rates seen on the larger sample sites is lower, as shown in Figure 8; this reflects the small number of sites which have higher delivery rates (the distribution is not equal around the average). The use of mean average in the analysis therefore already builds in a degree of optimism compared with the median or 'mid-point scheme'.

Figure 8: Minimum, mean, median and maximum build-out rates by size of site (dpa)



Source: Lichfields analysis

Table 3: Median and mean delivery rates by site size

Site Size	Number of sites	Median housing delivery (dwellings per annum)	Median delivery as % of total on site	Mean annual delivery (dwellings per annum)	Mean annual delivery as % of total units on site
50-99	29	27	33%	22	29%
100-499	54	54	24%	55	21%
500-999	24	73	9%	68	9%
1,000-1,499	17	88	8%	107	9%
1,500-1,999	9	104	7%	120	7%
2,000+	27	137	4%	160	4%

Source: Lichfields analysis

Comparison with our 2016 findings

Comparing these findings to those in the first edition of this research, there is very little difference between the averages observed (median was not presented) for different site sizes, as set out below. The largest difference is a decrease in average annual build-out rates for sites of 1,000-1,499 dwellings, but even then, this is only a reduction of 10 dpa or 9%.

As with the first edition of the research, these are averages and there are examples of sites which deliver significantly higher and lower than these averages, both overall and in individual years. Figure 8 shows the divergence from the average for different site size categories. This shows that whilst the average for the largest sites is 160 dpa and the median equivalent 137 dpa, the highest site average was 286 dpa and the lowest site average was 50 dpa for sites of 2,000+ dwellings. This shows the need for care in interpreting the findings of the research, there may well be specific factors that mean a specific site will build faster or slower than the average. We explore some of the factors later in this report.

Variations for individual schemes can be marked. For example, the 2,605 unit scheme South of the M4 in Wokingham delivered 419 homes in 2017/18, but this was more than double the completions in 2016/17 (174) and the average over all six years of delivery so far was just 147 dwellings per annum.

Even when sites have seen very high peak years of delivery, as Table 5 shows, no sites have been able to consistently delivery 300 dpa.



Site build-out rates for individual years are highly variable. For example, one scheme in Wokingham delivered more than twice as many homes in 2017/18 as it did in the year before.

Table 4: Mean delivery rates by site sizes, a comparison with first edition findings

Site size (dwellings)	2016 edition research (dpa)	2020 edition research (dpa)	Difference
50-99	27	22	-5 (-19%)
100-499	60	55	-5 (-8%)
500-999	70	68	-2 (-3%)
1,000-1,499	117	107	-10 (-9%)
1,500-1,999	129	120	-9 (-7%)
2,000+	161	160	-1 (-0.62%)

Source: Lichfields analysis

Table 5: Peak annual build-out rates compared against average annual delivery rates on those sites

Site	Site size (dwellings)	Peak annual build-out rate (dpa)	Average annual build-out rate (dpa)
Cambourne, South Cambridgeshire	4,343	620	223
Oakley Vale, Corby	3,100	520	180
Eastern Expansion Area, Milton Keynes	4,000	473	268
Clay Farm, Cambridge	2,169	467	260
South of M4, Wokingham	2,605	419	147
Cranbrook, East Devon	2,900	419	286

Source: Lichfields analysis

Table 5: Please note The Hamptons was included as an example of peak annual delivery in the first edition with one year reaching 520 completions. However, evidence for this figure is no longer available and as it was not possible to corroborate the figure it has been removed. The analysis has been updated to reflect the latest monitoring data from Peterborough City Council.

Longer term trends

This section considers the average build-out rates of sites which have been delivering over a long period of time. This is useful in terms of planning for housing trajectories in local plans when such trajectories may span an economic cycle.

In theory, sites of more than 2,000 dwellings will have the longest delivery periods. Therefore, to test long term averages we have calculated an average build-out rate for sites of 2,000+ dwellings that have ten years or more of completions data available.

For these sites, the average annual build-out rate is slightly higher than the average of all sites of that size (i.e. including those only part way through build out), at 165 dwellings per annum[6]. The median for these sites was also 165 dwellings per annum.

This indicates that higher rates of annual housing delivery on sites of this size are more likely to occur between years five and ten, i.e. after these sites have had time to 'ramp up'.

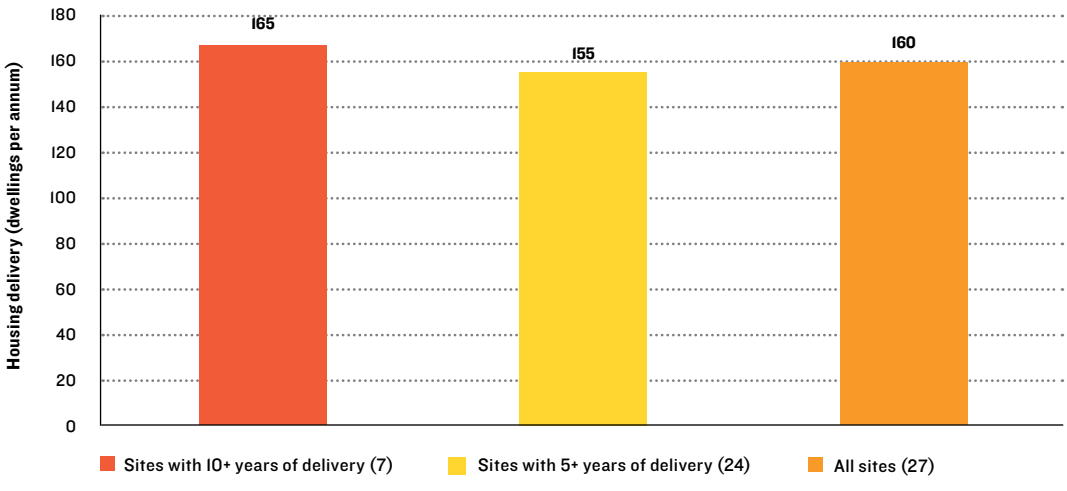
It might even relate to stages in delivery when multiple phases and therefore multiple outlets (including affordable housing) are operating at the same time. These factors are explored later in the report.

The impact of the recession on build-out rates

It is also helpful to consider the impact of market conditions on the build-out rate of large scale housing sites. Figure 10 overleaf shows the average delivery rate of sites of 2,000 or more dwellings in five-year tranches back to 1995/96. This shows that although annual build-out rates have improved slightly since the first half of the 2010's, they remain 37% below the rates of the early 2000's. The reasons for the difference are not clear and are worthy of further exploration – there could be wider market, industry structure, financial, planning or other factors at play.

In using evidence on rates of delivery for current/historic schemes, some planning authorities have suggested that one should adjust for the fact that rates of build out may have been affected by the impact of the recession. We have therefore considered how the average rates change with and without including the period of economic downturn (2008/09 – 2012/13). This is shown in Table 6 and it reveals that average build-out rates are only slightly depressed when one includes this period, but may not have fully recovered to their pre-recession peaks. We know that whilst the recession – with the crunch on mortgage

Figure 9: Average build-out rate for sites over 2,000 homes by length of delivery period (dpa)



Source: Lichfields analysis

[6] This is based on the completions of seven examples, Chapelford Urban Village, Broadlands, Kings Hill, Oakley Vale, Cambourne, The Hamptons and Wixhams

availability – did have a big impact and led to the flow of new sites slowing, there were mechanisms put in place to help sustain the build out of existing sites.

However, setting aside that stripping out the recession has a modest impact on the statistical averages for the sites in our sample, the more significant point is that – because of economic cycles - larger sites which build out over five or more years are inherently likely to coincide with a period of economic slowdown at some point during their build out. It therefore makes sense for housing trajectories for such sites to include an allowance for the prospect that, at some point, the rate of build out may slow due to a market downturn, albeit the effect may be smaller than one might suspect.

Table 6: Impact of recession on build-out rates

	Build-out rates in all years		Build-out rates excluding recession years (2008/9-2012/13)		Build-out rates pre-recession	
	Average rate	Sample size	Average rate	Sample size	Average rate	Sample size
All large sites 500+	115	77	126	68	130	21
All large sites 2,000+	160	27	171	25	242	6
Greenfield sites 2,000+	181	14	198	12	257	3

Source: Lichfields analysis

Figure 10: Average build-out rate by five year period for sites over 2,000 dwellings (dpa)



Source: Lichfields analysis

05
What factors can influence build-out rates?

+34%

higher average annual build-out rates on greenfield land compared with brownfield

Having established some broad averages and how these have changed over time, we turn now to look at what factors might influence the speed at which individual sites build out. How does housing demand influence site build out? What is the impact of affordable housing? Does it matter whether the site is greenfield or brownfield? What about location and site configuration?

In demand: do homes get delivered faster in high pressure areas?

One theory regarding annual build-out rates is that the rate at which homes can be sold (the 'absorption rate') determines the build-out rate. This is likely to be driven by levels of market demand relative to supply for the product being supplied.

This analysis considers whether demand for housing at the local authority level affects delivery rates by using (industry-standard) affordability ratios. Higher demand areas are indicated by a higher ratio of house prices to earnings i.e. less affordable. Whilst this is a broad-brush measure, the affordability ratio is a key metric in the assessment of local housing need under the Government's standard methodology. Figure 11 shows the sample of 500+ unit schemes divided into those where the local authority in which they are located is above or below the national median affordability ratio (8.72) for sites which have delivered for three years or more. This analysis shows that sites in areas of higher demand (i.e. less affordable) deliver on average more dwellings per annum.

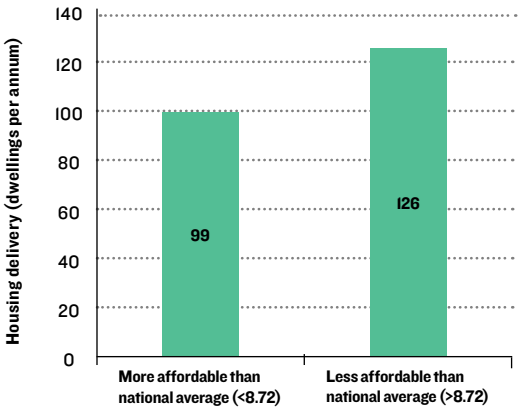
Our analysis also coincides with the fact that sites in less affordable areas are on average c.17% larger than those in more affordable areas. The average site size for schemes in areas where affordability is below the national average is 1,834 dwellings. For those delivered in areas where the affordability is greater than the national average, average site size is 2,145 dwellings. So, it is possible that the size of site – rather than affordability *per se* – is a factor here.

Do sites on greenfield land deliver more quickly?

The first edition of this research showed that greenfield sites on average delivered quicker than their brownfield counterparts. In our updated analysis this remains the case; large greenfield sites in our sample built out a third faster than large brownfield sites.

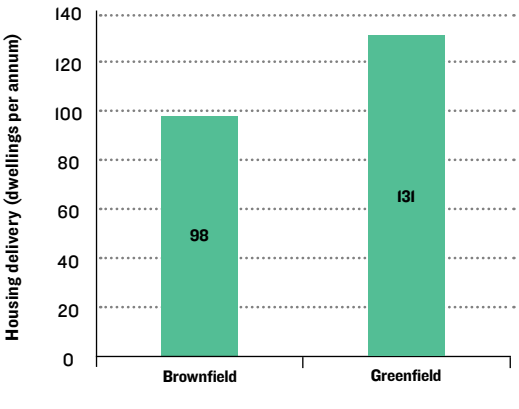
In the life cycle of a site, our data also shows that greenfield sites had shorter planning to delivery periods (2.0 years compared to 2.3 for brownfield sites), although on average, longer planning approval periods (5.1 years compared to 4.6 for brownfield sites).

Figure 11: Build-out rates by level of demand using national median 2018 workplace based affordability ratio (dpa)



Source: Lichfields analysis

Figure 12: Build-out rates on brownfield and greenfield sites (dpa)



Source: Lichfields analysis

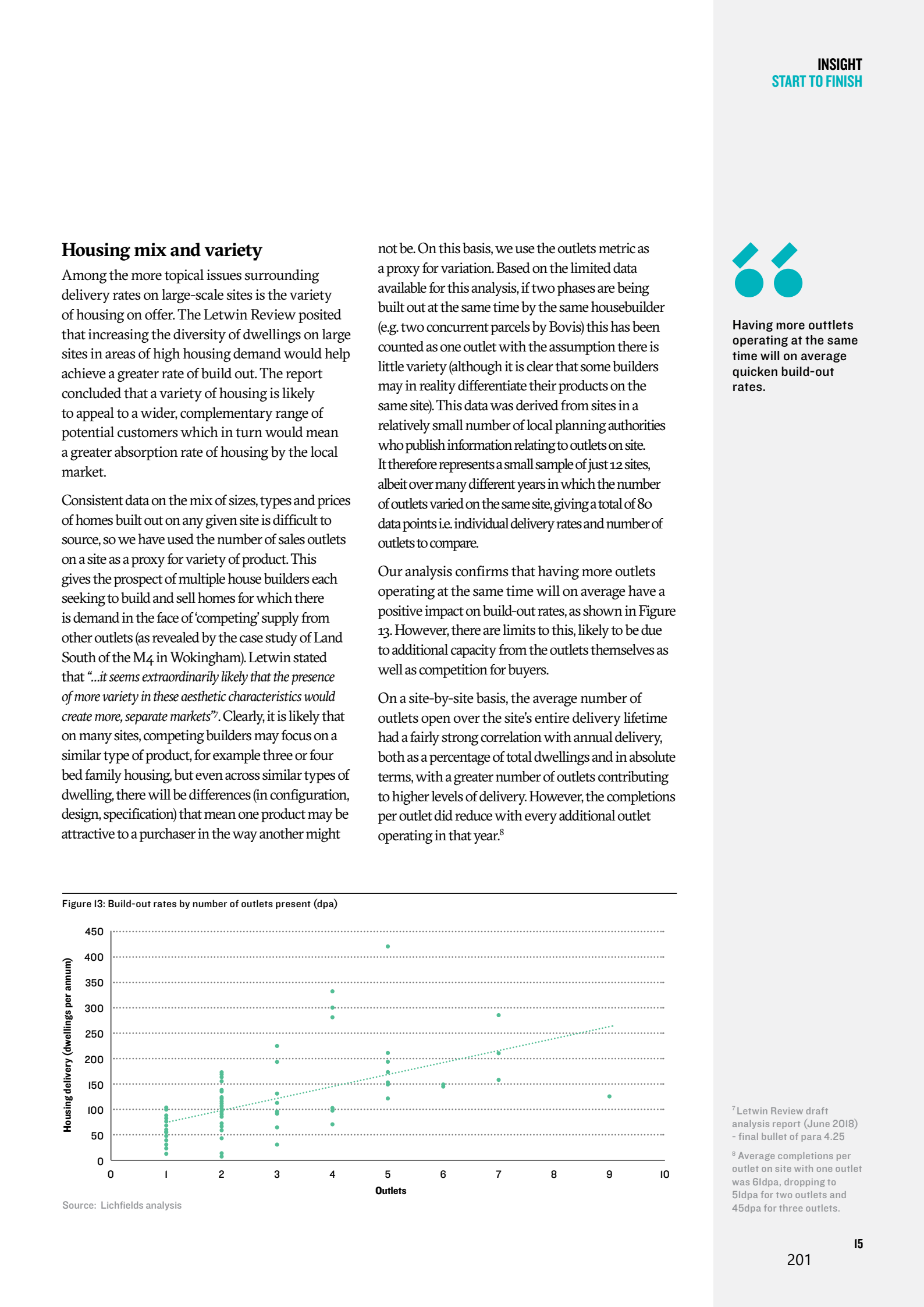
Housing mix and variety

Among the more topical issues surrounding delivery rates on large-scale sites is the variety of housing on offer. The Letwin Review posited that increasing the diversity of dwellings on large sites in areas of high housing demand would help achieve a greater rate of build out. The report concluded that a variety of housing is likely to appeal to a wider, complementary range of potential customers which in turn would mean a greater absorption rate of housing by the local market.

Consistent data on the mix of sizes, types and prices of homes built out on any given site is difficult to source, so we have used the number of sales outlets on a site as a proxy for variety of product. This gives the prospect of multiple house builders each seeking to build and sell homes for which there is demand in the face of 'competing' supply from other outlets (as revealed by the case study of Land South of the M4 in Wokingham). Letwin stated that *"...it seems extraordinarily likely that the presence of more variety in these aesthetic characteristics would create more, separate markets"*[7]. Clearly, it is likely that on many sites, competing builders may focus on a similar type of product, for example three or four bed family housing, but even across similar types of dwelling, there will be differences (in configuration, design, specification) that mean one product may be attractive to a purchaser in the way another might not be. On this basis, we use the outlets metric as a proxy for variation. Based on the limited data available for this analysis, if two phases are being built out at the same time by the same housebuilder (e.g. two concurrent parcels by Bovis) this has been counted as one outlet with the assumption there is little variety (although it is clear that some builders may in reality differentiate their products on the same site). This data was derived from sites in a relatively small number of local planning authorities who publish information relating to outlets on site. It therefore represents a small sample of just 12 sites, albeit over many different years in which the number of outlets varied on the same site, giving a total of 80 data points i.e. individual delivery rates and number of outlets to compare.

Our analysis confirms that having more outlets operating at the same time will on average have a positive impact on build-out rates, as shown in Figure 13. However, there are limits to this, likely to be due to additional capacity from the outlets themselves as well as competition for buyers.

On a site-by-site basis, the average number of outlets open over the site's entire delivery lifetime had a fairly strong correlation with annual delivery, both as a percentage of total dwellings and in absolute terms, with a greater number of outlets contributing to higher levels of delivery. However, the completions per outlet did reduce with every additional outlet operating in that year.[8]



Having more outtlets operating at the same time will on average quicken build-out rates.

Figure 13: Build-out rates by number of outlets present (dpa)

Source: Lichfields analysis

[7] Letwin Review draft analysis report (June 2018) - final bullet of para 4.25

[8] Average completions per outlet on site with one outlet was 61dpa, dropping to 51dpa for two outlets and 45dpa for three outlets.

Geography and Site Configuration

An under-explored aspect of large-scale site delivery is the physical opportunity on site. For example, some schemes lend themselves to simultaneous build out of phases which can have the impact of boosting delivery rates in that year, for example, by having access points from two alternative ends of the site. Other sites may be reliant on one key piece of infrastructure which make this opportunity less likely or impractical. In the first edition of this research we touched on this point in relation to Eastern Expansion Area (Broughton Gate & Brooklands) of Milton Keynes. As is widely recognised, the planning and delivery of housing in Milton Keynes is distinct from almost all the sites considered in this research as serviced parcels with the roads already provided were delivered as part of the Milton Keynes delivery model. Multiple house builders were able to proceed straight onto the site and commence delivery on different serviced parcels, with monitoring data from Milton Keynes Council suggesting an average of c.12 parcels were active across the build period. In this second edition of this research the Milton Keynes examples remain some of the sites with the highest annual build-out rates.

Table 7: Parcels at Land South of M4, Wokingham

Parcel reference	Developers (active outlets)	Completions in 2017/18
SP1	Bellway (1)	59
SP2w	Bellway and Bovis (-)	None - parcel completed
SP3	Crest Nicholson (1)	47
SP4	Taylor Wimpey and David Wilson Homes (2)	140
SP9_1	Bloor, Bovis and Linden (3)	169
SP10	Darcliffe Homes (-)	None - parcel completed
SP11	Taylor Wimpey (1)	4

Source: Lichfields analysis

Figure 14: Map of parcels at Land South of M4, Wokingham



Source: © Google Earth 2020/ Wokingham Local Plan

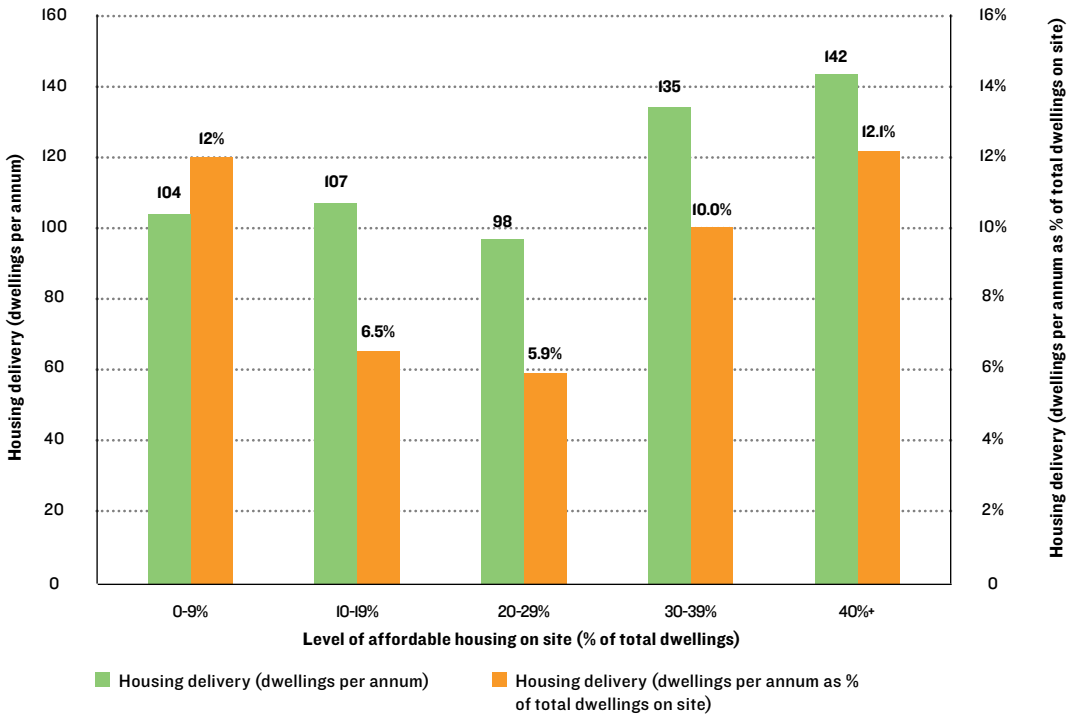
In this edition we look at the case study of Land South of the M4 in Wokingham. In 2017/18 the site achieved a significant 419 completions. Using the local authority's granular recording of delivery on the site to date, we have been able to consider where these completions were coming forward from within the wider 2,605 dwelling scheme. As shown in Figure 14, in that year new homes were completed on five separate parcels with completions ranging from 4 to 169 dwellings. On some of these parcels (SP9_1 and SP4) there were two or three separate housebuilders building out, and in total on the site there were seven different house building companies active (the impact of multiple outlets on build-out rates is explored later in this report). The parcels are located in separate parts of the site and each had their own road frontages and access arrangements which meant they are able to come forward in parallel. This can enable an increased build rate.

Affordable choices: do different tenures provide more demand?

Our findings on tenure, another form of 'variety' in terms of house building products, are informed by data that is available on about half the sites in our large site sample. From this the analysis shows schemes with more affordable housing built out at close to twice the rate as those with lower levels of affordable housing as a percentage of all dwellings on site. However this is not always the case. Schemes with 20-29% affordable housing had the lowest build-out rates, both in terms of dwellings and proportionate to their size.

Schemes with more affordable housing built out at close to twice the rates as those with lower levels.

Figure 15: Build-out rates by level of affordable housing (dpa and percentage)



Source: Lichfields analysis

06
Conclusions

Recent changes to national planning policy emphasise the importance of having a realistic expectation of delivery on large-scale housing sites, whilst local authorities now find themselves subject to both forward and backward-looking housing delivery performance measures. A number of local plans have hit troubles because they over-estimated the yield from some of their proposed allocations. Meanwhile, it is no longer sufficient for a 5YHLS to look good on paper; the Housing Delivery Test means there are consequences if it fails to convert into homes built.

To ensure local authorities are prepared for these tests, plan making and the work involved in maintaining housing land supply must be driven by realistic and flexible housing trajectories, based on evidence and the specific characteristics of individual sites and local markets. For local authorities to deliver housing in a manner which is truly plan-led, this is likely to mean allocating more sites rather than less, with a good mix of types and sizes, and being realistic about how fast they will deliver so supply is maintained throughout the plan period. Equally, recognising the ambition and benefits of more rapid build out on large sites, it may mean a greater focus on how such sites are developed.

Our research provides those in the public and private sector with a series of real-world benchmarks in this complex area of planning for large scale housing, which can be particularly helpful in locations where there is little recent experience of such strategic developments. Whilst we present some statistical averages, the real relevance of our findings is that there are likely to be many factors which affect lead-in times and build-out rates, and that these - alongside the characteristics of individual sites - need to be considered carefully by local authorities relying on large sites to deliver planned housing.

In too many local plans and 5YHLS cases, there is insufficient evidence for how large sites are treated in housing trajectories. This research seeks to fill the gap with some benchmark figures - which can be of some assistance where there is limited or no local evidence. But the average derived from our analysis are not intended to be definitive and are no alternative to having a robust, bottom-up justification for the delivery trajectory of any given site. It is clear from our analysis that some sites start and deliver more quickly than the average, whilst others have delivered much more slowly. Every site is different. Therefore, whilst the averages observed in this research may be a good starting point, there are a number of key questions to consider when estimating delivery on large housing sites, based around the three key elements in the three-tier analytical framework at Figure 16.

Key findings:

1 Large schemes can take 5+ years to start

In developing a local plan, but especially in calculating a 5YHLS position, it is important to factor in a realistic planning approval period dependent on the size of the site. Our research shows that if a scheme of more than 500 dwellings has an outline permission, then the average time to deliver its first home is two or three years. However, from the date at which an outline application is validated it can be 5.0 - 8.4 years for the first home to be delivered dependent on the size of the site. In these circumstances, such sites would make no contribution to completions in the first five years.

2 Lead-in times jumped post-recession

Whilst attention and evidence gathering is often focused on how long it takes to get planning permission, the planning to delivery period from gaining permission to building the first house has also been increasing. Our research shows that the planning to delivery period for large sites completed since 2007/08 has jumped compared to those where the first completion came before 2007/08. This is a key area where improvements could be sought on timeliness and in streamlining pre-commencement conditions, but is also likely impacted by a number of macro factors including the recession and reductions in local authority planning resources.

3 Large greenfield sites deliver quicker

Large sites can deliver more homes per year over a longer time period, with this seeming to ramp up beyond year five of the development on sites of 2,000+ units. However, on average these longer-term sites also have longer lead-in times. Therefore, short term boosts in supply, where needed, are likely to also require a good mix of smaller sites. Furthermore, large scale greenfield sites deliver at a quicker rate than their brownfield equivalents: the average rate of build out for greenfield sites in our sample was 34% greater than the equivalent figure for those on brownfield land. In most locations, a good mix of types of site will therefore be required.

4 Outlets and tenure matter

Our analysis suggests that having additional outlets on site has a positive impact on build out rates, although there is not a linear relationship. Interestingly, we also found that schemes with more affordable housing (more than 30%) built out at close to twice the rate as those with lower levels of affordable housing as a percentage of all units on site, but those with 20-29% had the lowest rates of all. Local plans should reflect that – where viable – higher rates of affordable housing supports greater rates of delivery. This principle is also likely to apply to other sectors that complement market housing for sale, such as build to rent and self-build (where there is demand).

Figure I6: Key questions for assessing large site build-out rates and delivery timelines

Planning Approval

- Is the site already allocated for development? If it is in an emerging Plan, does it need to be adopted before the site can be brought forward?
- Is an SPD, masterplan or development brief required and will it help resolve key planning issues?
- Is there an extant planning permission or live planning application submitted?
- If outline permission is granted, when will reserved matters be submitted?
- Is the proposal of the promoter consistent with local policy and/or SPD/Masterplan?
- Are there significant objections to the proposal from local residents?
- Are there material objections to the proposal from statutory bodies?
- If planning permission is secured, is reserved matters approval required?

Lead In

- Does the scheme have pre-commencement conditions?
- Is the land in existing use?
- Has the land been fully assembled?
- Are there any known technical constraints that need to be resolved?
- If in multiple ownership/control, are the interests of all parties aligned?
- Is there up-front infrastructure required before new homes can be built?
- Has the viability of the proposal been established and is the feasibility consistent with known infrastructure costs and the likely rate of development?
- Does the proposal rely on access to public resources and what evidence is there on when those will be available?
- Is the scheme led by a promoter or master developer who will need to dispose of phases to a house builder before completions begin?

Build Out

- How large is the site?
- How strong is the local market?
- Does the site tap into local demand from one or more existing neighbourhoods?
- Will delivery be affected by competing sites?
- How many sales outlets will be supported by the scale, configuration and delivery model for the site?
- What is the track record of the promoter/master developer in delivery of comparable sites?
- How active are different housebuilders in the local market?
- What proportion of affordable housing is being delivered?
- Are there policy requirements for a specific mix of housing types and are there other forms of housing – such as build to rent?
- When will new infrastructure – such as schools – be provided to support the new community?
- Are there trigger points or phasing issues that may affect the build-out rate achievable in different phases?

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Appendix 1: Definitions and notes

The 'lead in'

Measures the period up to first completion of a house on site from the validation date of the first planning application made for the scheme. The lead-in time covers both the planning approval period and planning to delivery periods set out below. The lead-in time does also include the date of the first formal identification of the site as a potential housing allocation (e.g. in a LPA policy document), but consistent data on this for the sample is not available.

The 'planning period'

Measured from the validation date of the first application for the proposed development (be that an outline, full or hybrid application). The end date is the decision date of the first detailed application which permits the development of dwellings on site (this may be a full or hybrid application or the first reserved matters approval which includes details for housing). A measurement based on a detailed 'consent' was considered reasonable and proportionate milestone for 'planning' in the context of this research.

The 'planning to delivery period'

Includes the discharge of any pre-commencement and any opening up works required to deliver the site. It finishes on completion of the first dwelling.

The date of the 'first housing completion'

On site (the month and year) is used where the data is available. However, in most instances the monitoring year of the first completion is all that is available and in these cases a mid-point of the monitoring period (1st October, falling halfway between 1st April and the following 31st March) is used.

The 'annual build-out rate'

Each site is taken or inferred from a number of sources. This includes Annual Monitoring Reports (AMR's) and other planning evidence base documents produced by local authorities (see footnote 1), contacting the local planning authority monitoring officers or planners and in a handful of instances obtaining the information from housebuilders.

Due to the varying ages of the assessed sites, the implementation of some schemes was more advanced than others and, as a function of the desk-based nature of the research and the age of some of the sites assessed, there have been some data limitations, which means there is not a complete data set for every assessed site. For example, lead-in time information prior to submission of planning applications is not available for the vast majority of sites. And because not all of the sites assessed have commenced housing delivery, build-out rate information is not universal. The results are presented accordingly.

Appendix 2: Large sites tables

Site name	Local Planning Authority	Site size	Year of first housing completion	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22
				Dwellings per annum																					
Ebbsfleet	Gravesham/ Dartford	15,000	2009/10	127	79	55	50	44	40	60	141	312													
The Hamptons	Peterborough	6,320	1997/98	290.3	290.3	290.3	290.3	290.3	290.3	290.3	290.3	290.3	290.3	290.3	224	224	154	157	71	67	101	34	54	100	
Rugby Radio Station	Rugby	6,200	N/A																						
East of Kettering	Kettering	5,500	2016/17	43	93																				
Sherford	Plymouth	5,500	2016/17	7	106																				
Priors Hall	Corby	5,200	2011/12	56	21	59	87	170	155	273															
Wichelstowe	Swindon	4,500	2008/09	158	93	195	64	100	61	44	60	57													
Monkton Heathfield	Taunton Deane	4,500	2012/13	22	76	220	191	222	148																
The Wixams	Bedford	4,500	2008/09	8	190	160	138	113	109	109	44	37	47												
Cambourne	South Cambridgeshire	4,343	1999/2000	42	361	213	337	620	151	377	267	219	190	162	206	154	151	129	239	201	95	126			
Eastern Expansion Area (Broughton Gate & Brooklands)	Milton Keynes	4,000	2008/09	154	359	371	114	473	138																
Locking Parklands	North Somerset	3,700	2011/12	23	45	97	75	10	21	86															
Stanton Cross	Wellingborough	3,650	N/A																						
Beaulieu Park	Chelmsford	3,600	2015/16	40	110	262																			
Northampton North SUE	Daventry	3,500	2017/18	50																					
Great Western Park	South Oxfordshire	3,300	2011/12	110	204	232	392	237	274	78															
Oakley Vale	Corby	3,100	2001/02	35	89	289	258	346	487	520	233	174	159	107	96	103	51	40	9	70					
Kings Hill	Tonbridge and Malling	3,024	1996/97	140	140	140	140	140	126	219	104	237	166	281	300	224	93	55	90	84	108	91	74	41	31
North West Cambridge	Cambridge and South Cambridgeshire	3,000	2016/17	73																					
West of Waterloo	Havant and Winchester	3,000	2009/10	38	71	30	82	112	135	196	241														
Cranbrook	East Devon	2,900	2012/13	187	419	356	299	214	241																
West of Kempston	Bedford	2,760	2010/11	52	102	144	167	124	175	103	93														
South of the M4	Wokingham	2,605	2012/13	37	175	56	29	166	419																
Winterstoke Village	North Somerset	2,550	2014/15	132	185	242	161																		
Emersons Green East	South Gloucestershire	2,550	2014/15	274	197	318	280																		

Site name	Local Planning Authority	Site size	Year of first housing completion	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22
				Dwellings per annum																					
Land East Icknield Way	Test Valley	2,500	2009/10	184	257	103	181	135	229	146	184														
South Wokingham	Wokingham	2,490	2013/14	6	104	120	135	118																	
North Wokingham	Wokingham	2,391	2010/11	28	99	23	0	95	112	66	154														
Broadlands	Bridgend	2,309	1999/2000	288	331	307	193	204	156	64	104	91	28	81	50	147	11								
Western Riverside	Bath and North East Somerset	2,281	2011/12	59	147	93	61	163	154	45															
Arborfield Garrison	Wokingham	2,225	2016/17	57	114																				
Charlton Hayes, Northfield	South Gloucestershire	2,200	2010/11	83	87	163	333	281	193	301	168														
Clay Farm/ Showground Site (Great Kneighton)	Cambridge	2,169	2012/13	16	265	399	153	467																	
Chapelford Urban Village	Warrington	2,144	2004/05	211	214	166	262	224	141	180	183	247	60	160	66	30									
Ledsham Garden Village	Cheshire West and Chester	2,000	2016/17	41	90																				
Graven Hill	Cherwell	1,900	2016/17	1	28																				
Elvetham Heath	Hart	1,869	2000/01	192	300	297	307	287	238	103	139	6													
Hunts Grove	Stroud	1,750	2010/11	2	87	106	80	58	7	2	22														
Dickens Heath	Solihull	1,672	1997/98	2	179	196	191	207	88	124	64	249	174	16	96	110	4	0	0	13	10	26	12	96	
Red Lodge	Forest Heath	1,667	2004/05	65	93	181	79	57	79	61	101	213	101	78	23	75	111								
South West Bicester (Phase 1 Kingsmere)	Cherwell	1,631	2011/12	40	107	133	179	210	231	196															
Centenary Quay	Southampton	1,620	2011/12	102	58	103	137	257	8																
Northumberland Park	North Tyneside	1,513	2003/04	54	194	171	93	179	100	69	117	96	53	82	64	86									
Parc Derwen	Bridgend	1,500	2010/11	8	103	134	201	199	197	157	186														
Jennet's Park	Bracknell Forest	1,500	2007/08	153	154	145	168	136	179	235	93	37	0	28											
Melton Road	Rushcliffe	1,500	2016/17	40	126																				
Great Denham	Bedford	1,450	data only avalibale from 2009/10	92	150	159	71	122	150	125	211	168													
Love's Farm, St Neots	Huntingdonshire	1,438	2007/08	34	186	336	302	216	60	108	59	85													
South Maldon Garden Suburb	Malden	1,428	2017/18	1																					

Site name	Local Planning Authority	Site size	Year of first housing completion	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22
				Dwellings per annum																					
Bolnore Village	Mid Sussex	1,358	2012/13	30	54	88	73	36	124																
Park Prewett Hospital	Basingstoke and Deane	1,341	1998/99	58	82	37	102	0	0	0	0	0	307	214	219	146	33	34	56	7	30	16			
Ashford Barracks (Repton Park)	Ashford	1,300	2005/06	83	0	124	14	64	58	155	103	49	70	67	138	90									
Oxley Park (East & West)	Milton Keynes	1,300	2004/05	52	166	295	202	115	91	75	163														
Kempshott Park	Basingstoke and Deane	1,252	2000/01	78	310	229	213	281	84	33	24														
Holborough Quarry	Tonbridge and Malling	1,211	2006/07	85	137	91	47	18	100	59	12	43	64	60	101										
Staynor Hall	Selby	1,200	2005/06	12	141	115	10	43	62	46	59	79	162	79	34	50									
Picket Twenty	Test Valley	1,200	2011/12	147	178	180	176	164	145	175															
Trumpington Meadows	Cambridge and South Cambridgeshire	1,200	2012/13	141	143	67	100	94																	
Broughton (Broughton & Atterbury)	Milton Keynes	1,200	2003/04	114	105	170	409	204	180	18															
Orchard Park	Cambridge	1,120	2006/07	100	290	148	103	95	56	34	15	75	39	30	2										
Velmead Farm	Hart	1,112	1989/90	1	104	193	89	101	52	101	113	130	74	102	48	4									
Cheeseman's Green (Finberry)	Ashford	1,100	2014/15	59	47	102	157																		
Zones 3 to 6, Omega South	Warrington	1,100	2017/18	15																					
Boulton moor	South Derbyshire	1,058	2014/15	22	96	96	116																		
Highfields Farm	South Derbyshire	1,056	2016/17	141	204																				
Monksmoor Farm	Daventry	1,000	2013/14	6	65	98	128	122																	
Northampton North of Whitehills SUE	Daventry	1,000	2016/17	108	100																				
Taylors Farm/Sherfield Park	Basingstoke and Deane	991	2004/05	56	79	81	86	88	51	143	141	88	91	75	0	12									
Queen Elizabeth II Barracks	Hart	972	2012/13	56	165	110	228	213	96																
Little Staniton	Corby	970	2009/10	106	116	74	121	102	93	89	86	26													
North of Popley	Basingstoke and Deane	951	2007/08	65	57	16	28	0	0	15	118	84	60												
Ingress Park	Dartford	950	2002/03	184		275	100	74	0	119	0	0													
Nar Ouse Millenium Commuity	Kings Lynn and West Norfolk	900	2007/08	32	77	0	0	0	0	30	22.5	22.5	68	0											
West Park	Darlington	893	2004/05	60	104	98	66	69	19	35	10	16	51	35	28	14	42								
South Bradwell	Great Yarmouth	850	2015/16	60.3	60.3	60.3																			

Site name	Local Planning Authority	Site size	Year of first housing completion	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22
				Dwellings per annum																					
Prospect Place	Cardiff	826	2007/08	185	48	0	0	0	0	0	76	170													
Abbotswood	Test Valley	800	2011/12	30	190	157	114	152	90	20															
Dowds Farm	Eastleigh	795	2006/07	54	189	187	44	102	47	66	76		30												
Land at Popley Fields/ Marnell Park	Basingstoke and Deane	751	2006/07	105	172	118	186	126	44																
Hungate	York	720	2009/10	90	52	11	9	7			187	8													
Northside	Gateshead	718	1999/2000	46.8	46.8	46.8	46.8	46.8	56	46.8	46.8	46.8	46.8	46.8	16	30	31	33	25	43					
Land at West Blyth	Northumbeland	705	2008/09	6.25	6.25	6.25	6.25	32	66	51	127	78	90												
Rowner Renewal Project	Gosport	700	2010/11	4	100	70	45	89	101	79	97														
Channels - North Chelmsford	Chelmsford	700	2015/16	31	172	110																			
The Parks, formally Staff College	Bracknell Forest	697	2006/07	-94	104	88	101	54	47	72	59	94	78												
Staiths South Bank	Gateshead	667	2003/04	24	58		44		48																
Land south of Wansbeck General Hospital	Northumberland	644	2005/06	18.7	18.7	18.7	18.7	18.7	18.7	18.7	17	24	37	60	57	54									
Former Pontins Holiday Camp	Lancaster	626	2006/07	16	22	4	5																		
Ochre Yards	Gateshead	606	2004/05	83	68.2	68.2	68.2	68.2	68.2			46	4	52	2										
Former Runwell Hospital	Chelmsford	575	2016/17	91	90																				
Land adjoining Manchester Ship Canal	Trafford	550	N/A																						
Pamona Docks	Trafford	546	N/A																						
Thingwall Lane	Knowlsey	525	2013/14	79																					
St. James Village	Gateshead	518	2000/01	41.4	41.4	41.4	41.4	41.4	41.4	41.4	41.4	41.4	41.4	14	13	18	15								
University Campus Chelmsford	Chelmsford	507	2014/15	216	3																				
Land at Siston Hill	South Gloucestershire	504	2006/07	77	211	96	63	57																	
Land West of Copthorne	Mid Sussex	500	N/A																						

Sources for sites also found in the Letwin Review

Arborfield Green (Arborfield Garrison)		Five Year Housing Land Supply Statement and appendix on Strategic Development Locations at 31st March 2018 published 9th October 2018 http://www.wokingham.gov.uk/planning-policy/planning-policy-information/evidence-topics/
Ledsham Garden Village		Various Housing Land Monitor Reports https://consult.cheshirewestandchester.gov.uk/portal/cwc_ldf/mon/
Great Kneighton (Clay Farm)		Partly provided by Cambridgeshire County Council and included in numerous AMR's https://www.cambridge.gov.uk/annual-monitoring-reports
Trumpington Meadows		Included in numerous AMR's for Cambridge and South Cambridgeshire (site crosses boundaries) https://www.cambridge.gov.uk/annual-monitoring-reports and https://www.scambs.gov.uk/planning/local-plan-and-neighbourhood-planning/annual-monitoring-report/
Graven Hill		Various Annual monitoring reports https://www.cherwell.gov.uk/info/33/planning-policy/370/monitoring-reports
South West Bicester (Kingsmere Phase I)		Various Annual monitoring reports https://www.cherwell.gov.uk/info/33/planning-policy/370/monitoring-reports
Great Western Park		Housing Land Supply Statement April 2018 http://www.southoxon.gov.uk/sites/default/files/30.04.2018%20Housing%20Land%20Supply%20Statement%20FINAL%20(2)%20combined.pdf
Ebbsfleet:		First phase at Springhead Park and Northfleet South from Gravesham AMR's 2009/10 to 2012/13
	2009-10:	127 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0010/69823/AMR2010.pdf
	2010-11:	79 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0010/69814/AMR2011.pdf
	2011-12:	55 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0009/92448/Gravesham-Authority-Monitoring-Report-2011-12-May-2013.pdf
	2012-13:	50 completions https://www.gravesham.gov.uk/__data/assets/pdf_file/0010/92449/Gravesham-Authority-Monitoring-Report-2012-13-interim-May-2013.pdf
	2013/14:	87 dwellings, based on total completions form Gravesham to 2012/13 of 311 and total completions to the start of 2014/15 in the Ebbsfleet Garden City Latest Starts and Completion Figures totalling 398.
	2014/15 to 2017/18:	Ebbsfleet Garden City Latest Starts and Completion Figures: https://ebbsfleetdc.org.uk/tracking-our-performance/

Appendix 3: Small sites tables

Site Name	Local Planning Authority	Size
Cookridge Hospital	Leeds	495
Stenson Fields	South Derbyshire	487
Horfield Estate Phase I	Bristol City Council	485
Farnborough Business Park	Rushmoor	476
Bickershaw Colliery	Wigan	471
Farington Park, east of Wheelton Lane	South Ribble	468
Bleach Green	Gateshead	456
Kingsmead South	Milton Keynes Council	450
New Central	Woking Borough Council	445
Land at former Battle Hospital	Reading Borough Council	434
New World House	Warrington	426
Radyr Sidings	Cardiff	421
Luneside West	Lancaster	403
Woolley Edge Park	Wakefield	375
Former Masons Cerement Works and Adjoining Ministry of Defence Land	Mid Suffolk	365
Former NCB Workshops (Portland Park)	Northumberland	357
Chatham Street Car Park Complex	Reading	307
Kennet Island Phase I - H, M, T, UI, U2	Reading	303
Land at Dorian Road	Bristol, City of	300
Land at Fire Service College, London Road	Cotswold	299
Land at Badsey Road	Wychavon	298
Land at Brookwood Farm	Woking	297
Long Marston Storage Depot Phase I	Stratford-on-Avon	284
M & G Sports Ground, Golden Yolk and Middle Farm	Tewkesbury	273
Land at Canons Marsh	Bristol, City of	272
Land off Henthorn Road	Ribble Valley	270
Land Between A419 And A417	Cotswold	270
Hortham Hospital	South Gloucestershire	270
GCHQ Oakley - Phase I	Cheltenham	262
Hewlett Packard (Land Adjacent To Romney House)	Bristol, City of	242
128-134 Bridge Road And Nos 1 - 4 Oldfield Road	Windsor and Maidenhead	242
Hoval Ltd North Gate	Newark and Sherwood	196
Notcutts Nursery, 150 - 152 London Road	Cherwell	182
Sellars Farm	Stroud	176
Land South of Inervet Campus Off Brickhill Street, Walton, Milton Keynes	Milton Keynes	176
Queen Mary School	Fylde	169
London Road/ Adj. St Francis Close	East Hertfordshire	149
Land off Gallamore Lane	West Lindsey	149
Doxey Road	Stafford	145
Former York Trailers (two schemes - one Barratt, one DWH)	Hambleton	145
Bracken Park, Land At Corringham Road	West Lindsey	141
Land at Farnham Hospital	Waverley	134
North of Douglas Road	South Gloucestershire	131
Land to the east of Efflinch Lane	East Staffordshire	130
Land to the rear of Mount Pleasant	Cheshire West and Chester	127
Primrose Mill Site	Ribble Valley	126
Kennet Island Phase 1B - E, F, O & Q	Reading	125
Land between Godsey Lane and Towngate East	South Kesteven	120
Bibby Scientific Ltd	Stafford	120
Land west of Birchwood Road	Bristol, City of	119
Former Bewbush Leisure Centre Site	Crawley	112
Land south of Station Road	East Hertfordshire	111
Poppy Meadow	Stratford-on-Avon	106
Weeton Road/Fleetwood Road	Fylde	106
Former York Trailers (two schemes - one Barratt, one DWH)	Hambleton	96
North East Sandylands	South Lakeland	94
Auction Mart	South Lakeland	94
Parcel 4 Gloucester Business Park	Tewkesbury	94
York Road	Hambleton	93
Land At Green Road - Reading College	Reading	93
Caistor Road	West Lindsey	89
The Kylins	Northumberland	88
North East Area Professional Centre, Furnace Drive	Crawley	76
Land at Willoughbys Bank	Northumberland	76
Watermead, Land At Kennel Lane	Tewkesbury	72
Land to the North of Walk Mill Drive	Wychavon	71
Hawthorn Croft (Off Hawthorn Avenue Old Slaughterhouse Site)	West Lindsey	69
Land off Crown Lane	Wychavon	68
Former Wensleydale School	Northumberland	68
Land at Lintham Drive	South Gloucestershire	68
Springfield Road	South Kesteven	67
Land off Cirencester Rd	Stroud	66
Land south of Pinchington Lane	West Berkshire	64
Land at Prudhoe Hospital	Northumberland	60
Oxfordshire County Council Highways Depot	Cherwell	60
Clewborough House School	Cherwell	60
Land at the Beacon, Tilford Road	Waverley	59
Land to Rear Of 28 - 34 Bedale Road	Hambleton	59
Hanwell Fields Development	Cherwell	59
Fenton Grange	Northumberland	54
Former Downend Lower School	South Gloucestershire	52
Holme Farm, Carleton Road	Wakefield	50
Land off Elizabeth Close	West Lindsey	50

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Appendix DV9

Land West of Uckfield: Illustrative Phasing Plan

Bell Farm Road

High Street

New Town

Victoria Pleasure Grounds

A22

Lewes Road

A22

Refer to detailed SANGS layout proposals

Notes:
Do not scale from this drawing.
All contractors must visit the site and be responsible for taking and checking Dimensions.
All construction information should be taken from figured dimensions only.
Any discrepancies between drawings, specifications and site conditions must be brought to the attention of the supervising officer.
This drawing & and the works depicted are the copyright of John Thompson & Partners.

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Key

- Application boundary
- Phase 1
- Phase 2
- Phase 3
- Phase 4
- Phase 5

NB: To be read in conjunction with the Development Specification and the suite of Parameter Plans.

Rev	Date	Description	Drawn	Chkd
P1	26.01.15	Issued for planning	SM	JJT

Drawing Status
PLANNING

Client
Welbeck Strategic Land LLP

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Project
Ridgewood Farm

Drawing Title
Illustrative Phasing Plan

Scale @ A2 1:5000 Job Ref. 00444
Drawing No. 00444 _SP03 Revision P1
Scale Bar 0 50 100 150m

Appendix DV10

Land West of Uckfield: Land Registry Record

Official copy of register of title

Title number ESX337363 | Edition date 23.08.2019

- This official copy shows the entries on the register of title on 30 NOV 2021 at 12:29:10.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 11 Sep 2023.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Coventry Office.

A: Property Register

This register describes the land and estate comprised in the title.

EAST SUSSEX : WEALDEN

1 The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Ridgewood Farm, Lewes Road, Ridgewood, Uckfield (TN22 5SL).

2 A Conveyance of the land tinted blue on the title plan and other land dated 2 December 1938 made between (1) Albert Turner (Vendor) and (2) Frederick John Bellingham (Purchaser) contains the following provision:-

"PROVIDED ALWAYS and it is hereby agreed and declared that save as expressly hereinafter mentioned neither the Purchaser nor his successors in title shall have the benefit of or right to enforce or have enforced or to prevent the release variation or modification of any covenant or restrictive stipulation relating to any land of the Vendor known as The Rocks Estate which has been already or may hereafter be entered into by any other purchaser or purchasers from the Vendor or from any former owner of the said estate or from the Executors or Administrators of any former owner."

3 (29.06.2011) The Conveyance dated 27 September 1943 referred to in the Charges Register contains the following provision:-

"IT IS HEREBY DECLARED that the purchaser and the persons deriving title under it shall not become entitled hereunder to any right of light or air which would prejudicially affect the user by the Vendor or the persons deriving title under it of any adjoining or neighbouring land of the Vendor for building purposes."

4 The land is subject to the following rights subject to which it was conveyed by the Conveyance dated 16 November 1955 referred to below:-

"As to such parts of the premises as were subject to manorial incidents or quit rents to the rights (if any) of the Lord of the Manor in respect of mines or minerals or other privileges and interest of the Lord of the Manor."

5 A Conveyance of the land tinted yellow on the title plan and other land dated 16 November 1955 made between (1) Gordon Geoffrey Henry Webb (Vendor) (2) The Agricultural Mortgage Corporation Limited and (3) Samuel Rutherford Lewis (Purchaser) contains the following provision:-

A: Property Register continued

"It is hereby agreed and declared between and by the Vendor and the Purchaser that the Purchaser shall not by virtue of this Conveyance acquire any right of light air or other easement over or in respect of the Vendor's adjoining premises which would in any way restrict or interfere with the free and uninterrupted use and enjoyment thereof by the Vendor for building or for any other purpose."

6 The land has the benefit of the rights reserved by a Transfer of land adjoining to the North West of the land in this title dated 22 December 1988 made between (1) James Henry Pitts and (2) Southern Water Authority.

NOTE 1: Original filed under ESX154142

NOTE 2: The blue line referred to is shown by yellow broken line on the title plan.

7 The land tinted mauve on the title plan has the benefit of the following rights reserved by a Transfer of the land to the north of the land tinted mauve on the title plan dated 17 June 1991 made between (1) Bryant Homes Southern Limited (Transferors) and (2) Uckfield Town Council (Transferee):-

"EXCEPTING AND RESERVING unto the transferor for the purpose of the transferor's current development of its retained lands ("the retained land") as defined by the agreement the rights and easements set out in the Second Schedule hereto

THE SECOND SCHEDULE

(Exceptions and Reservations)

1 The right to the free and uninterrupted passage and running of water soil gas electricity and telephone signals and like services from and to the retained land through the service systems which are now or may within the period of eighty years from the date hereof be in or under or over the property and to make connections to and use all such service systems in and under the property with all easements rights and privileges proper for repairing and maintaining and reinstating the same the person or persons exercising such rights making good all damage thereby occasioned

2 A right of way three metres in width through the woodland forming part of the property and a right of way three metres in width through the playing field forming part of the property shown on the plan annexed hereto by dashed lines between the points "W" - "X" and between the points "Y" - "Z" respecitvely for no purpose whatsoever other than for passing and repassing with or without tractors or other agricultural vehicles and machinery only at all reasonable times for hay cutting and maintenance of the fields shown edged purple and edged orange respectively on the plan subject to the transferor and its successors in title constributing one third of the costs of maintenance of the said rights of way."

NOTE:- Copy transfer filed under ESX181031.

8 (08.11.2017) The land edged and numbered in green on the title plan has been removed from this title and registered under the title number or numbers shown in green on the said plan.

9 (22.08.2019) The land has the benefit of any legal easements granted by the Deed dated 21 August 2019 referred to in the Charges Register.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

1 (29.06.2011) PROPRIETOR: WELBECK STRATEGIC LAND LLP (LLP Regn. No.

B: Proprietorship Register continued

OC359671) of Woodstock Studios, 13 Woodstock Street, London W1C 2AG.

2 (29.06.2011) RESTRICTION: No transfer or grant of a lease of the registered estate by the proprietor of the registered estate , or by the proprietor of any registered charge not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by Margaret June Pitts David James Pitts and Robin Stuart Pitts or their Conveyancer that the provisions of paragraph 5 Part A of an agreement dated 31 May 2011 made between Margaret June Pitts David James Pitts and Robin Stuart Pitts (1) Welbeck Strategic Land LLP (2) and JH Pitts and Sons Limited (3) have been complied with or that they do not apply to this disposition.

3 (29.06.2011) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.

4 (01.04.2015) RESTRICTION: No disposition of the part of the registered estate shown tinted mauve on the title plan by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a certificate signed by Bryant Homes Southern Limited of Gate House, Turnpike Road, High Wycombe, Buckinghamshire HP12 3NR or their conveyancer that the provisions of a transfer dated 26 April 2005 made between (1) Bryant Homes Southern Limited and (2) Margaret June Pitts and others have been complied with.

5 (23.08.2019) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of paragraph 10 of Schedule 2 of the Deed of Grant dated 21 August 2019 referred to in the Charges Register have been complied with or that they do not apply to the disposition.

C: Charges Register

This register contains any charges and other matters that affect the land.

1 The land is subject to the rights reserved by a Conveyance of the land tinted pink on the title plan and other land dated 28 September 1940 made between (1) James Ray and (2) William Alven Weber Upfill-Brown.

NOTE: Copy filed under SX10786.

2 The land is subject to the following rights reserved by a Conveyance of the land tinted yellow on the title plan and other land dated 28 April 1942 made between (1) Edward Stanley Greaves Clifford-Turner, Raymond Clifford Clifford-Turner and Edward Newton (Vendors) and (2) Gabatarum Limited:-

Except and reserving unto the Vendors or their predecessors or successors in Title all such rights and easements and quasi rights and quasi easements as may have been used and enjoyed by the Vendors over the property thereby assured in connection with their adjoining premises if any such rights of easements existed and if still enforceable and capable of taking effect.

3 The land is subject to the following rights reserved by a Conveyance of the land tinted yellow on the title plan and other land dated 27 September 1943 made between (1) Gabatarum Limited (Vendor) and (2) J Palmer Limited (Purchaser):-

"EXCEPT AND RESERVING out of this conveyance unto the Vendor or its predecessors in title and their successors in title all such rights and easements and quasi rights and quasi easements as may now be used and enjoyed over the premises hereby conveyed in common with any adjoining premises if any such exist."

4 The land is subject to the following rights reserved by a Conveyance of the land tinted yellow on the title plan and other land dated 22 June 1951 made between (1) J Palmer Limited (Vendor) and (2) Gordon Geoffrey Henry Webb:-

EXCEPT AND RESERVING out of that conveyance unto Vendor's predecessors

C: Charges Register continued

in title and their successors in title all such rights and easements and quasi rights and quasi easements as might then be used and enjoyed over the premises thereby conveyed in common with any adjoining premises if any such existed.

5 The land is subject to the rights granted by a Deed dated 4 May 1955 made between (1) Gordon Geoffrey Henry Webb (2) The Agricultural Mortgage Corporation Limited and (3) South Eastern Gas Board.

The said Deed also contains restrictive covenants by the grantor.

NOTE: Copy filed under SX84587.

6 The land is subject to the right to lay down and leave beneath the surface thereof a surface water drain in the position shown by a blue broken line on the title plan and to discharge therein and therefrom surface water from the road on to the land at the western end thereof with ancillary rights of entry, such rights being granted by a Transfer dated 6 October 1955 of adjoining the south eastern boundary of the land in this title made between (1) Gordon Geoffrey Henry Webb (Vendor) and (2) The County Council of The Administrative County of East Sussex (Council).

The said Transfer also contains the following covenant:-

"THE Vendor to the intent that this covenant shall be binding so far as may be on the owner or owners for the time being of the said land through which the drain mentioned in the Schedule hereto will be laid but upon the Vendor only so long as he shall be the owner thereof hereby covenants with the Council for the benefit and protection of the said land that he and the persons deriving title under him will not in any way disturb or interfere with the said drain and the outfall therefrom or other incidental works except with the approval in writing and to the satisfaction of the Council and that any damage caused to the adjoining road by any such disturbance of or interference with the said drain outfall or other incidental works shall be made good by the Vendor or the owner for the time being of such adjoining land but nothing in this covenant is to prevent the said land being used for ordinary agricultural purposes."

7 The land is subject to the rights to construct a septic tank and to lay pipes for the conveyance of sewage water and soil and ancillary rights of entry granted by a Deed dated 27 February 1957 made between (1) Gordon Geoffrey Henry Webb (2) The Agricultural Mortgage Corporation Limited and (3) Albert Charles Richard Funnell.

The said Deed also contains restrictive covenants.

NOTE: Copy filed under SX10786.

8 The part of the land affected thereby is subject to the rights relating to the laying construction and maintenance of a gas main or pipe in the approximate position shown by blue hatching on the title plan by a Deed dated 13 December 1983 made between (1) James Henry Pitts and (2) British Gas Corporation.

The said Deed also contains restrictive covenants.

NOTE: Copy filed under SX10786.

9 The land is subject to the rights granted by a Deed of Grant dated 16 October 1992 made between (1) James Henry Pitts and others and (2) British Gas Plc.

The said Deed also contains restrictive covenants by the grantor.

NOTE: Copy filed under ESX185208.

10 The land is subject to the rights granted by a Deed dated 14 January 2008 made between (1) Margaret June Pitts and others and (2) O2 (UK) Limited, for a period from 14 January 2008 to 13 January 2023.

NOTE 1:-The lease referred to in the above Deed is registered under title number ESX313646.

C: Charges Register continued

NOTE 2:-Copy filed under ESX185208.

11 The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto.
The leases grant and reserve easements as therein mentioned.

12 (22.08.2019) The land is subject to the rights granted by a Deed dated 21 August 2019 made between (1) Taylor Wimpy UK Limited and (2) Welbeck Strategic Land LLP.

The said Deed also contains restrictive covenants by the grantor.

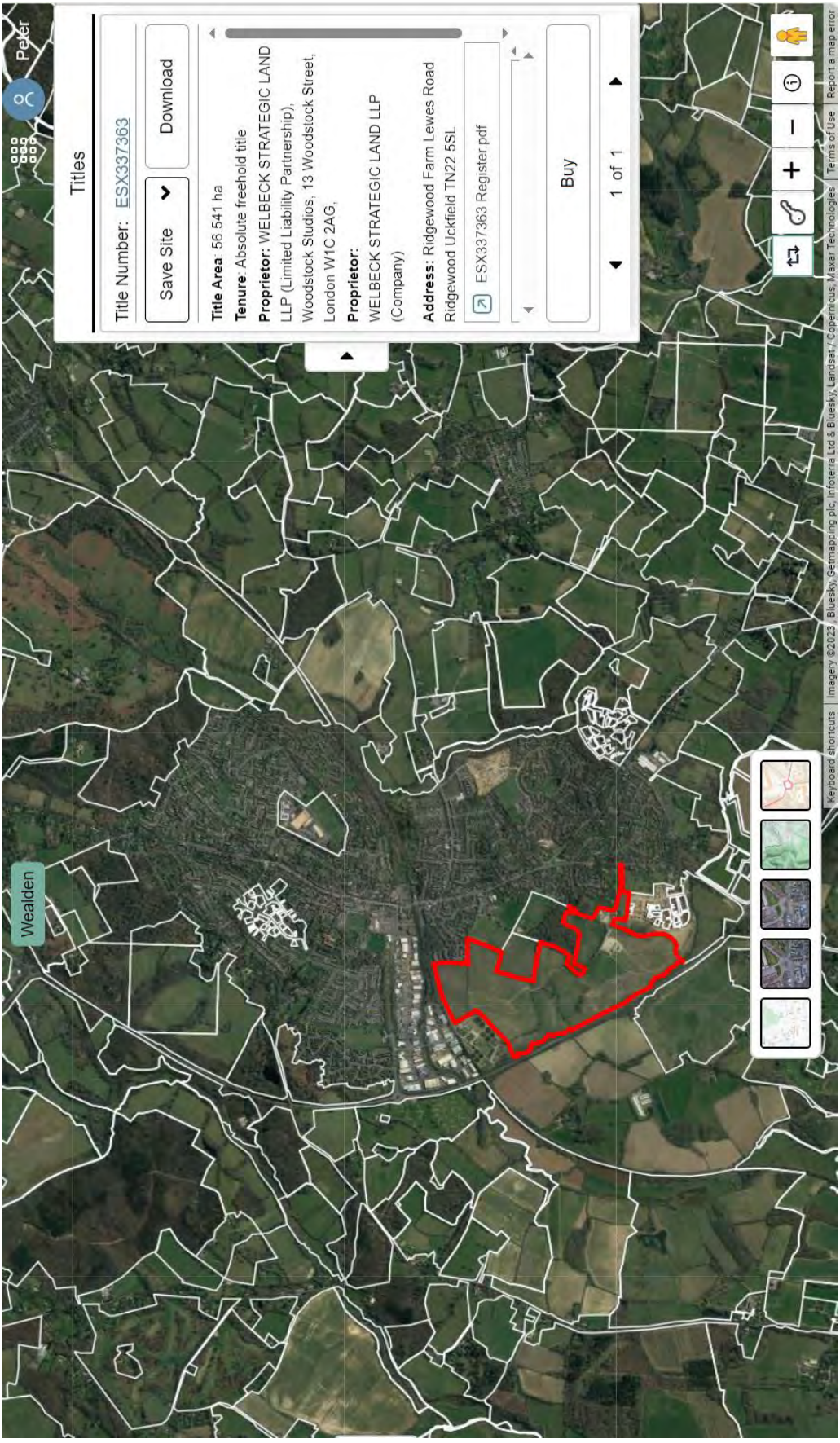
NOTE: Copy filed.

Schedule of notices of leases

	Registration date and plan ref.	Property description	Date of lease and term	Lessee's title
1	17.03.2008 Edged blue	Communications Cell	14.01.2008 From 14.1.2008 to 13.1.2023	ESX313646

NOTE: See entry in the Charges Register relating to the rights granted by this lease.

End of register



Source: Extract from Landstack (Landstack.co.uk)

Appendix DV11

Brook View, Land North of Walshes Road, Crowborough: Condition Discharge Notice

OUR REF: CT/WD/2022/1412/CD
ASK FOR: Mrs C Turner Tel: 01892 602541
DATE: 20 July 2022
YOUR REF: WD/2020/0596/MAO

Wealden District Council

Dandara South East Ltd
Courier House
80-84 Calverley Road
Royal Borough of Tunbridge Wells
Kent
TN1 2UN

Head of Planning and Environmental Services

Dear Mr Shaw

Re: Application: WD/2022/1412/CD
APPLICATION FOR DISCHARGE OF CONDITIONS 3 AND 4 ATTACHED TO WD/2020/0596/MAO
BROOK VIEW, LAND NORTH OF WALSHES ROAD, CROWBOROUGH

I refer to the above application for approval of details reserved by condition and have the following comments in relation to the information submitted:

Condition 3 Archaeology - Written Scheme of Investigation
Information submitted: Written Scheme of Investigation for Geophysical Survey v.01 date stamped 26 May 2022 and Written Scheme of Investigation for Archaeological Trial Trenching date stamped 19 July 2022

Officer assessment:
ESCC Archaeologist has confirmed that the information submitted is satisfactory and provides an adequate mitigation strategy to record heritage remains that will be impacted by this development

Decision: The details are **APPROVED** and the condition is DISCHARGED

Condition 4 Archaeology - Major Development
Information submitted: Geophysical Survey Report and Trial Trench Evaluation date stamped 26 May 2022

Officer assessment:

ESCC Archaeologist has advised that unfortunately, based on the information submitted, he is unable to recommend discharge of this planning condition, as the reports on the results of the archaeological work submitted demonstrate that the site has archaeological interest warranting the implementation of a further phase of archaeological investigation (mitigation). This requires the production of an updated/addendum WSI, undertaking further fieldwork ahead of development commencing and the

disability confident EMPLOYER

production of a post-excavation assessment report in due course, the latter ultimately securing the discharge of this condition.

Decision: The details are **REFUSED**. Condition 4 is NOT DISCHARGED.

Where details are approved the condition(s) cannot be fully discharged until the development has been completed in accordance with the approved details.

Yours faithfully



Head of Planning & Environmental Services

Appendix DV12

Friday Street Farm, Oak Tree Lane, Stone Cross: Decision Notice

Town and Country Planning Act 1990

Notice of Decision
Application No. **WD/2020/1391/MAO**

Wealden District Council

Judith Ashton Associates
The Mill House
Cackle Street
Brede
East Sussex
TN31 6EA

Council Offices
Vicarage Lane
Hailsham
East Sussex
BN27 2AX

DESCRIPTION AND LOCATION OF DEVELOPMENT
OUTLINE APPLICATION FOR THE DEVELOPMENT OF UP TO 250 DWELLINGS (35% AFFORDABLE), WITH ASSOCIATED CAR PARKING, TOGETHER WITH THE INTRODUCTION OF NEW ACCESS POINT FROM PENNINE WAY AND CREATION OF A NETWORK OF ROADS, FOOTWAYS AND CYCLEWAYS THROUGHOUT THE SITE; AND THE PROVISION OF 1.6HA OF PUBLIC OPEN SPACE, FURTHER CHILDREN'S PLAY AREAS, ALLOTMENTS, SUSTAINABLE URBAN DRAINAGE SYSTEMS AND LANDSCAPE BUFFERS ON THE SITE (MATTERS FOR APPROVAL: ACCESS).
FRIDAY STREET FARM, OAK TREE LANE, EASTBOURNE, BN23 8BB

With reference to the proposals set out in the application numbered as above and shown on the plans submitted therewith, Wealden District Council, in pursuance of powers under the Town and Country Planning Act 1990 (as amended), hereby **GRANTS PLANNING PERMISSION** for the said proposals, subject to the conditions stated below imposed for the reasons stated thereunder:-

1. Permission is granted subject to the subsequent approval by the Local Planning Authority of the detailed particulars of the layout, scale and appearance of the buildings to which this permission relates, and the landscaping of the site before any development is commenced, such matters being reserved from the permission. STD1A

   REASON: To meet the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved. STD2

   REASON: To meet the requirements of Section 92 of the Town and Country Planning Act 1990.

3. (a) Application for approval of the matters reserved for subsequent approval must be made to the Local Planning Authority no later than the expiration of three years beginning with the date of the grant of this outline permission; and

   (b) the development to which this permission relates must be begun no later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. STD3

   REASON: To meet the requirements of Section 92 of the Town and Country Planning Act 1990.

4. No works below ground level shall take place until the implementation of a programme of archaeological works has been secured in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted to and approved by the Local Planning Authority. The works shall be undertaken in accordance with the approved details. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority. AR01

   REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, coupled with the requirements of paragraphs 193-204 of the National Planning Policy Framework 2021.

5. The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 4 and that provision for analysis, publication and dissemination of results and archive deposition has been secured.

   REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of paragraphs 193-204 of the National Planning Policy Framework 2021.

6. No work below ground level shall be carried out on site for the development hereby approved, until full written details for a Code of Construction Practice has been submitted and approved in writing by the Local Planning Authority. The Code of Construction Practice should detail good practice measures for site working to mitigate potential impacts from construction including protection of retained features and surface water bodies on or adjacent to the site, control of run-off, application of design controls for construction equipment and construction vehicles, vehicle routing, sheeting of lorries during transportation of construction materials, provision of water sprays during delivery and dumping of sand and gravel, mixing and batching on wet rather than dry aggregate materials, minimum drop heights to be used for continuous and batch drop activities and waste disposal.

   The Code shall also detail the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders), together with details of public engagement both prior to and during construction works.

   The approved Code of Construction Practice shall be implemented throughout the period of work on site.

   REASON: In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties and minimise potential for environmental impact having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN27 and TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 110 and 111 of the National Planning Policy Framework 2021.

7. During the construction phase, no works shall take place other than within the hours Monday to Friday 08:00 to 1800 hours, Saturday 0800 to 1300 and not at all on Sundays Public or Bank Holidays.

   Deliveries shall take place between 08:00 to 18:00 Monday to Friday only avoiding peak school hours and not at all on Saturdays, Sundays, Public or Bank Holidays

REASON: To protect residential amenity, having regard to Saved Policy EN27 of the adopted Wealden Local Plan, coupled with the requirements of paragraph 129 of the National Planning Policy Framework 2021.

8. Prior to works below ground level taking place, a Phase 2 investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced. The written report is subject to the approval in writing of the Local Planning Authority.

   This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

   REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and the requirements of paragraph 182 of the National Planning Policy Framework 2021.

9. Prior to works below ground level taking place, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. CL02

   REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and the requirements of paragraph 182 of the National Planning Policy Framework 2021.

10. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of groundworks other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks' written notification of commencement of the remediation scheme works.

    Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority. CL03

    REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan

2013 and the requirements of paragraph 182 of the National Planning Policy Framework 2021.

11. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 8 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 9, which is subject to the approval in writing of the Local Planning Authority.

    Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Condition 10. CL04

    REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and the requirements of paragraph 182 of the National Planning Policy Framework 2021.

12. No work below ground level shall be carried out on site for the development hereby approved until a scheme for the control of noise and dust shall be submitted to and approved in writing by the Local Planning Authority. Throughout the construction period, work shall be carried out in accordance with the approved scheme.

    NOTE: All works shall ensure compliance with guidance found in British Standard ' BS5228-1: 2009 +A1:2014 - Code of practice for noise and vibration control on construction and open sites.

    REASON: To protect residential amenity and the environment, having regard to Saved Policy EN27 of the adopted Wealden Local Plan, coupled with the requirements of paragraph 129 of the National Planning Policy Framework 2021.

13. An air quality emissions mitigation assessment report shall be submitted as part of any subsequent reserved matters application. The assessment shall follow the Air Quality and Emissions Mitigation Guidance for Sussex, 2013 to determine the appropriate level of mitigation required to help reduce the potential effect on health and the local environment and shall use the most up to date emission factors. The assessment shall include details of the proposed mitigation measures.

    The approved mitigation measures shall be implemented prior to occupation of the associated dwellings and a verification a report confirming that the air quality mitigation measures have been installed as approved, shall be submitted to the Local Planning Authority.

    REASON: To protect residential amenity, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy EN27 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 182, 184 and 186 of the National Planning Policy Framework 2021.

14. No works below ground level shall take place until a scheme for the provision and implementation of foul drainage works has been approved in writing by the Local Planning Authority. Such works shall be implemented to the reasonable satisfaction of the Local Planning Authority before the associated buildings to which they relate are occupied. Any works required to upgrade the infrastructure sufficiently to provide

capacity for the new development shall be undertaken prior to acceptance of the development's foul sewerage. DF02(M)

REASON: To protect water quality and to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 166 of the National Planning Policy Framework 2021.

15. No development shall take place until full details of the surface water drainage scheme, have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme should be confirmed as deliverable by an assessment of the site's potential for disposing of surface water by means of a sustainable drainage system. The submitted details shall include the following:

    i. Supply detailed plans, layouts and sections of the proposed drainage system and pollution/silt control devices and construction details of any non-standard features.

    ii. Provide a full management and maintenance plan for the development which shall include the setting up of any necessary company/association to secure the operation of the scheme throughout its lifetime.

    iii. Provide evidence that the receiving watercourses have capacity and are in sufficiently good condition to accept the off-site flows and that permission to cross any third party land has been given in writing.

    iv. Surface water runoff from the proposed development shall be limited to the greenfield runoff rates for rainfall events with an annual probability of occurring greater than 1 in 2.33 and mean annual discharge (Qbar) for rainfall events with an annual probability of occurrence less than 1 in 2.33, including those with a 1 in 100 (plus climate change) annual probability of occurrence. Evidence of this (in the form hydraulic calculations) shall be submitted with the detailed drainage drawings. The hydraulic calculations should take into account the connectivity of the different surface water drainage features.

    v. The details of the outfall of the proposed attenuation ponds and how it connects into the watercourse shall be submitted as part of a detailed design including cross sections and invert levels.

    vi. Additional groundwater monitoring covering an entire year or a minimum of autumn to spring should inform design of the drainage systems. Details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system shall be provided.

    vii. Details of the measures proposed to manage exceedance flows shall be submitted to the Local Planning Authority. This should also include details of how the existing overland surface water flows have been intercepted and managed. This should show that interception swales are in located in communally managed land and will not be the responsibility of single householder.

    NOTE: Attention should be given to non-statutory technical standards for sustainable drainage systems, the ESCC "Guide to Sustainable Drainage Systems in East Sussex" and the total costs of implementing the drainage scheme, that is design, construction and maintenance costs.

    REASON: To reduce the risk of flooding, both on and off site, to improve and protect the water quality and improve habitat and amenity having regard to the guidance set out in the National Planning Practice Guidance and at paragraph 167 of the NPPF and any

local plan policies where appropriate according to the local planning authority, for example WCS14 of CSLP, saved Policy CS2 of the Wealden Local Plan 1998.

16. There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways. Prior to being discharged into any watercourse, surface water sewer or soakaways system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies and silt traps to BS 5911:1982 with an overall capacity compatible with the site being drained and shall be retained thereafter.

    REASON: To prevent pollution of the water environment, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 166 of the National Planning Policy Framework 2021.

17. A maintenance and management plan for the entire drainage system shall be submitted to the planning authority before any construction commences above ground level on site to ensure the designed system takes into account design standards of those responsible for maintenance. The management plan shall cover the following:

    a. This plan should clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains.

    b. Evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development.

    These details shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter remain in place for the lifetime of the development.

    REASON: To ensure the satisfactory maintenance of unadopted drainage systems in accordance with SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 166 of the National Planning Policy Framework 2021.

18. Prior to occupation of any part of the development, evidence (including photographs) shall be submitted showing that the drainage system has been constructed as per the final agreed detailed drainage designs.

    REASON: To ensure the suitability of unadopted drainage systems in accordance with SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 166 of the National Planning Policy Framework 2021.

19. Before preparation of ground levels for the development hereby approved, details setting out the methodology and timetable for the on-going surveying and monitoring of the condition of Pennine Way and the immediate highway network to demonstrate the condition of the roads prior to the commencement of works, during construction works and following completion of the development has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

    Should the Local Planning Authority consider, in consultation with the Local Highway Authority, that remedial measures are necessary as a result of considering the final monitoring report, they shall give written notice to the developers. Within one month of receiving such written notice from the Local Planning Authority, the developers shall submit a scheme of construction works for the necessary improvements to meet the Local Highways Authority's reasonable requirements and a programme for the implementation of the improvements shall be submitted and approved in writing by the Local Planning Authority. The approved works shall be carried out in accordance with

the approved details and programme of works to the satisfaction of the Local Highway Authority.

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 110 and 111 of the National Planning Policy Framework 2021.

20. The new access(es) and associated works to Pennine Way shown on Drawing C85278-SK-003 G, C85278-SK-004 F, C85278-SK-005 H and C85278-SK-006 Revision G shall be in the position shown on the approved plans and laid out and constructed in accordance with details agreed by the Local Planning Authority.

In addition, vehicular use of Oak Tree Lane, shall be restricted to serving the retained farmhouse, farm business and existing business units until such time as an adopted highway is available via the main access onto Pennine Way Thereafter, vehicular use of Oak Tree Lane, shall be restricted to serving the retained farmhouse and farm business only.

A detailed scheme explaining how access along Oak Tree Lane is to be restricted shall be submitted as part of the Reserved Matters. The agreed measures shall be implemented prior to occupation of any part of the development. .

REASON: In order to provide visibility for vehicles entering and leaving the site In the interests of and for the safety of persons and vehicles using the development and the adjoining road having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 110 and 111 of the National Planning Policy Framework 2021.

21. No works below ground level shall take place until detailed plans, including levels, sections and constructional details of the proposed road, surface water drainage, foul sewers, outfall disposal and street lighting have been submitted to and approved in writing by the Local Planning Authority, and such work as approved shall be carried out at the time of the development and thereafter so retained. HW02

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 110 and 111 of the National Planning Policy Framework 2021.

22. The new estate roads shall be constructed to a standard approved by the Local Planning Authority with a view to subsequent adoption as a maintainable highway and the works phased with the progress of building construction to the approval of the Local Planning Authority. HW05

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 110 and 111 of the National Planning Policy Framework 2021.

23. The new access(es) and associated works to Pennine Way shown on Drawing C85278-SK-003 G, C85278-SK-004 F C85278-SK-005 H and C85278-SK-006 Revision G shall be in the position shown on the approved plans and laid out and constructed in

accordance with details agreed by the Local Planning Authority in consultation with the Local Highway Authority.

No part of development shall be occupied until these works have been completed.

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 110 and 111 of the National Planning Policy Framework 2021.

24. Before construction above ground level of any part of the development, a scheme to upgrade the bus stops on Pennine Way shall be submitted to and agreed by the Local Planning Authority. The details shall include :

- Bus shelters.
- Real time information provision at bus stops.
- All associated works to the highway in order to deliver the upgrade stops, including a timetable for implementation of the agreed package of works.

The agreed package of works shall be carried out in accordance with the approved scheme

REASON: The development is in a location that requires accessibility upgrades by public transport, near a range of amenities, including shops and leisure facilities, as part of the Travel Plan measures it is necessary to upgrade the closest bus stops to the site in order to encourage bus use, having regard to the requirements of SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, coupled with the requirements of paragraphs 105, 107 and 111 of the National Planning Policy Framework 2021.

25. Details of vehicle and cycle parking facilities and turning space(s) where appropriate, to be provided within the site shall be submitted and approved in writing by the Local Planning Authority; such details to show means of access, size, siting (indicating location of disabled parking), surface treatment, method of delineation of parking on site, construction details, levels and surface water drainage The parking and turning areas shall be laid out in accordance with the approved details prior to the occupation of the associated dwellings and thereafter retained to the satisfaction of the Local Planning Authority. PC05(M)

REASON: To ensure an adequate and satisfactory standard of parking provision, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN27 and TR16 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 105 and 111 of the National Planning Policy Framework 2021.

26. Before preparation of ground levels for the development approved, a wildlife management plan shall be submitted and approved, to include as appropriate detailed proposals for the protection of bats, birds, reptiles and badgers, and measures for the mitigation of any harm to them likely to be caused by the development. The works and other measures forming part of that plan shall be carried out in accordance with it.

REASON: To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having regard to SPO1, SPO2, WCS12 and WCS14 to the Wealden Core Strategy Local Plan 2013, coupled with the requirements of paragraphs 173 and 179 of the National Planning Policy Framework 2021.

27. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned, domestic gardens or areas to be adopted by the Local Highway Authority, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings hereby permitted and the landscape management shall be carried out in accordance with the approved plan over the period specified.

REASON: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN14 and EN27 of the Wealden Local Plan 1998, coupled with the requirements of paragraphs 129 and 173 of the National Planning Policy Framework 2021.

28. The Reserved Matters submission on landscaping shall include the following:

a) Sufficient spatial separation provided in the design to avoid any conflict that could lead to an unsustainable relationship to the two linear TPO areas to the east of the site (NO. 19, 1997 & 2008/0038).

b) Unless otherwise agreed, retention of the dense native hedgerow, including hedgerow trees, which runs through the lower part of the site from north to south. Retention of this hedge is highly desirable for biodiversity, landscape character and green infrastructure reasons. Accepting this hedge will have to be breached in two places to deliver the 'circular' site access, the layout should not incorporate this hedge into plot boundary treatments.

REASON: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN14 and EN27 of the Wealden Local Plan 1998, coupled with the requirements of paragraphs 129 and 173 of the National Planning Policy Framework 2021.

29. The Reserved Matters scheme shall include details of delivery of the sports pitch and allotments (including laying out, enclosure and associated works - car parking, water supply etc.) with programme of delivery as part of the development. The sports pitch and allotments shall be carried out in accordance with the approved details and programme of delivery.

REASON: To secure further information on the open space and allotments as part of the development, having regard to the requirements of SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, coupled with the requirements of paragraphs 105, 107 and 111 of the National Planning Policy Framework 2021.

30. No trees and/or hedgerows on the site, unless dead or dangerous, shall be felled, reduced, pruned or destroyed without the consent in writing of the Local Planning Authority. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the Local Planning Authority:-

(i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.

(ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.

(iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.

(iv) No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.

(v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.

(vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2012 'Trees in Relation to Construction'. TP02

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN12 and EN14 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 129, 173 and 179 of the National Planning Policy Framework 2021 and the Wealden Design Guide, Chapter 3, Section 6.

31. This planning decision relates solely to the information contained within the application form, the following plan(s) and (where appropriate) documents:

Ref.	Date Stamped.
Site Plan	15 July 2020
C85278-SK-003 Revision G	15 July 2020
C85278-SK-004 Revision F	15 July 2020
C85278-SK-005 Revision H	15 July 2020
C85278-SK-006 Revision G (Sheet 2 of 2 of Traffic Calming Measures)	15 July 2020
Statement of Community Involvement	15 July 2020
Ground Investigation Report	15 July 2020
Noise and Vibration Report	15 July 2020
Draft Travel Plan	15 July 2020
Transport Assessment	15 July 2020
Flood Risk Assessment	15 July 2020
Water Modelling Addendum	15 July 2020
Drainage Report	15 July 2020
Utillities Assessment	15 July 2020
Built Heritage Assessment	15 July 2020
Design and Access Statement	15 July 2020
Archaeology Desk Based Assessment	15 July 2020
Arboricultural Impact Assessment	15 July 2020
Planning Statement	15 July 2020
Ecology Assessment	15 July 2020
Landscape Visual Impact Assessment	15 July 2020
Illustrative Landscape MasterPlan	15 July 2020

REASON: For the avoidance of doubt.

The Local Planning Authority's reasons for its decision to grant planning permission are set out in the officer's report which can be viewed on the Council's website at www.planning.wealden.gov.uk

NOTE: Should alterations or amendments be required to the approved plans, it will be necessary to apply either under Section 96A of the Town and Country Planning Act 1990 for non-material alterations or Section 73 of the Act for minor material alterations. An application must be made using the standard application forms and you should consult with us, to establish the correct type of application to be made.

NOTE 1: The applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless survey has shown it is absolutely certain that nesting birds are not present. NCN1

NOTE 2: A formal application for connection to the public sewerage system is required in order to serve this development. For further advice, please contact:

Southern Water
Sparrowgrove House
Sparrowgrove
Otterbourne
Hampshire
SO21 2SW
Tel 0330 303 0119
www.southernwater.co.uk

NOTE 3: ESCC Highway Authority's requirements associated with this development proposal will need to be secured through a Section /278 Legal Agreement between the applicant and East Sussex County Council. The applicant is requested to contact the Transport Development Control Team (01273 482254) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

Section 38 Agreement of the Highways Act, 1980 – Provision of Adoptable Highway. The applicant is advised to enter into a Section 38 legal agreement with East Sussex County Council, as Highway Authority, for the proposed adoptable on-site highway works. The applicant is requested to contact the Transport Development Control Team (01273 482254) to commence this process. The applicant is advised that any works commenced prior to the Sec 38 agreement being in place are undertaken at their own risk.

The applicant is also advised that it is an offence under section 161 of the Highway Act 1980 to deposit anything on a highway the consequence of which a user of the highway is injured or endangered. It is strongly recommended that during any form of earthworks and/or excavations that are carried out as part of the development, suitable vehicle wheel washing equipment should be provided and used within the site, to prevent contamination and damage to the adjacent roads. STN13

NOTE 4: The developer is required to contact the Council as Street Naming & Numbering Authority, in writing, enclosing a site layout plan and the commencement of work on site, to agree a scheme of house/street naming and numbering, and for the allocation of postcodes. Please contact the NLPG Officer, IT Department, at the above address. STN8

NOTE 5: This permission is subject to an agreement under Section 106 of the Town and Country Planning Act 1990. STN1

NOTE 6: The application site drains surface water runoff to the Pevensey and Cuckmere Water Level Management Board drainage district, which is partly within the application site. The applicant should, therefore, apply for consent to discharge surface water runoff into the Water Level Management Board's area as required by the Board's Byelaw 3, which is the process by which the Board agrees the proposed discharge rates. Should consent be given it will be subject to the payment of a Surface Water Development Contribution

fee, calculated in line with the Board's charging policy. This policy is available using the following link:

https://www.wlma.org.uk/uploads/WMA_Table_of_Charges_and_Fees_2019-20.pdf

Although the consenting process as set out under the Board's Byelaws is separate from the planning system, the ability to implement a planning permission may be dependent on the granting of these consents. As such we strongly recommend that the application to discharge surface water runoff into the Board's watercourses is made to the Board prior to determination of a planning application which fixes the layout. If you or the applicant/agent wishes to discuss any of the points raised in this letter, please contact the case officer on SUDS@eastsussex.gov.uk.

NOTE: Your attention is drawn to the requirements of the Building Act 1984 for the deposit of Plans under the Building Regulations and associated legislation. ACCESS FOR FIRE BRIGADE: Your attention is hereby drawn to the provisions of Section 35 of the East Sussex Act 1981.

DISCHARGE OF CONDITIONS: It is advised that under The Town and Country Planning Act 1990, the Council has up to 8 weeks from the date of an application to discharge any condition(s) and advise the applicant of the Council's decision. This information should be submitted using the 'Approval of Details Reserved by Condition' Form which can be downloaded from the Council's website. Please note there is also a fee payable for this type of application.

IMPORTANT: See Notes overleaf
DATE OF ISSUE: 14 July 2022



Stacey Robins
Head of Planning & Environmental Services

Application No. WD/2020/1391/MAO

NOTES

Appeals to the Secretary of State

- If the Applicant is aggrieved by the decision of the Local Planning Authority (LPA) to refuse permission for the proposed development or to grant it subject to conditions, then an appeal may be lodged with The Planning Inspectorate (PINS) under Section 78 of the Town and Country Planning Act 1990.
- Appeals must be made on a form which is obtainable from:
  The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN
  Tel. No. 0303 444 5000
  www.gov.uk/appeal-planning-inspectorate

Appeal Timescales

- Householder planning application or minor commercial application:

  12 weeks from the date on the decision notice

  However, if an enforcement notice has been served for the same or very similar development the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 12 weeks).

  NB – if the LPA have failed to determine the householder planning application, or for an appeal against the grant of permission subject to conditions, please follow the time limits under "Planning application" below.

- Planning application:

  6 months from the date on the decision notice, or
  6 months from the expiry of the period which the LPA had to determine the application.

  However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

  NB – the LPA determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). If a longer period has been agreed with the LPA, the time limit runs from that date.

Further information

- The Planning Inspectorate has discretionary power to allow a longer period for the giving of a notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice to appeal.
- The Planning Inspectorate is not required to entertain an appeal if it appears that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- The Planning Inspectorate does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction issued by the Secretary of State.

Purchase Notices

- If either the LPA or Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the land has become incapable of reasonably beneficial use in its existing state nor rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix DV13

Land adjoining 154 Station Road, Hailsham: Decision Notice

Town and Country Planning Act 1990

Notice of Decision
Application No. **WD/2020/1596/MAO**

Wealden District Council

Bloomfields Ltd
77 Commercial Road
Paddock Wood
Tonbridge
Kent
TN12 6DS

Council Offices
Vicarage Lane
Hailsham
East Sussex
BN27 2AX

DESCRIPTION AND LOCATION OF DEVELOPMENT
ERECTION OF UP TO 12 NO. DWELLINGS, INCLUDING ACCESS WITH ALL OTHER MATTERS RESERVED, TO INCLUDE A CHANGE OF USE OF LAND TO RESIDENTIAL. LAND ADJOINING 154 STATION ROAD, HAILSHAM, BN27 2ED

With reference to the proposals set out in the application numbered as above and shown on the plans submitted therewith, Wealden District Council, in pursuance of powers under the Town and Country Planning Act 1990 (as amended), hereby **GRANTS OUTLINE PLANNING PERMISSION** for the said proposals, subject to the conditions stated below imposed for the reasons stated thereunder:-

1. Permission is granted subject to the subsequent approval by the Local Planning Authority of the detailed particulars of the layout, scale and appearance of the buildings to which this permission relates, and the landscaping of the site before any development is commenced, such matters being reserved from the permission. STD1A

   REASON: To meet the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. (a) Application for approval of the matters reserved for subsequent approval must be made to the Local Planning Authority no later than the expiration of two years beginning with the date of the grant of this outline permission; and

   (b) the development to which this permission relates must be begun no later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. STD3

   REASON: To meet the requirements of Section 92 of the Town and Country Planning Act 1990 and to incentivise delivery to deal with under supply in accordance with the Wealden Housing Action Plan 2021 and paras 76 and 77 of the NPPF 2021.

3. No development shall take place until full details relating to the construction of an extension of the footpath on the eastern side of Station Road and crossing point on the western side, as indicated on drawing numbered P2022 001 (also titled 'Proposed Vehicle and Pedestrian Access Arrangements') date stamped 29 March 2021 to provide a link between the site and other footpaths along Station Road have been submitted to and approved in writing by the Local Planning Authority in consultation with the local highway authority. Those details shall include a licence for such works obtained from the local highway authority. The footpath extension and the crossing point shall be constructed in accordance with the approved details prior to the first occupation of the development hereby permitted and shall be maintained and made available for the intended purposes thereafter.

REASON: To ensure that suitable access to and from the site for pedestrians is provided in the interests of highway safety, having regard to Saved Policy TR3 of the Adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 8, 11 and 110-112 of National Planning Policy Framework 2021.

4. No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. AR01

REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013.

5. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post-investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post - investigation assessment will be undertaken in accordance with the programme set out in the written scheme of investigation approved under Condition 4. AR03(M)

REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, coupled with the requirements of the National Planning Policy Framework 2021.

6. No development shall take place until full details of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme should be confirmed as deliverable by an assessment of the site's potential for disposing of surface water by means of a sustainable drainage system and shall secure two stage treatment Sustainable Urban Drainage System (SUDS) to protect the Pevensey Levels Special Area of Conservation. The submitted details shall include the following:

   a. Detailed drawings and hydraulic calculations. The hydraulic calculations shall take into account the connectivity of the different surface water drainage features. The calculations shall demonstrate that surface water flows can be limited to 2 l/s (or a rate agreed to by East Sussex Highways) for all rainfall events, including those with a 1 in 100 (plus climate change) annual probability of occurrence.

   b. The details of the outfall of the proposed drainage system and how it connects into the watercourse shall be submitted as part of a detailed design including cross sections and invert levels.

   c. The detailed design shall include information on how surface water flows exceeding the capacity of the surface water drainage features will be managed safely.

   d. The detailed design of the surface water drainage features (underground tank) shall be informed by findings of groundwater monitoring between autumn and spring at the location of the proposed tank. The design should leave at least 1m unsaturated zone between the base of the drainage structures and the highest recorded groundwater level. If this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system should be provided

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of the National Planning Policy Framework 2021.

7. Details for the long-term maintenance and management plan for the entire drainage system shall be submitted to and approved by the Local Planning Authority before any construction commences on site to ensure the designed system takes into account design standards of those responsible for maintenance. The management plan shall cover the following:

   a. This plan should clearly state who will be responsible for managing all aspects of the surface water drainage system for the lifetime of the development, including piped drains, and timetable for implementation of the sustainable urban drainage system;

   b. Evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development

   The management and maintenance arrangements shall be carried out in accordance with the approved details over the period specified for the lifetime of the development. DS05(M)

   REASON: To ensure the satisfactory maintenance of unadopted drainage systems in accordance with SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of the National Planning Policy Framework 2021.

8. Prior to occupation of the development evidence (including photographs) shall be submitted showing that the drainage system has been constructed as per the final agreed detailed drainage designs.

   REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of the National Planning Policy Framework 2021.

9. Before preparation of ground levels of the development approved by this permission full details of the proposed means of foul drainage disposal shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage works shall be completed prior to the completion or occupation of any dwelling on site, whichever is the sooner. DF01

   REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy CS2 of the adopted Wealden Local Plan 1998.

10. Before development commences a full Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority which shall include numbering and detailing trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details. TP05(M)

REASON:To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN12 and EN14 of the adopted Wealden Local Plan 1998, coupled with the requirements of the National Planning Policy Framework 2021.

11. Prior to works below ground level an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) A survey of the extent, scale and nature of contamination;

(ii) An assessment of the potential risks to:

- Human health
- Property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes
- Adjoining land
- Groundwaters and surface waters
- Ecological systems
- Archaeological sites and ancient monuments;

(iii) An appraisal of remedial options and proposal of the preferred option(s).

This must be conducted in accordance with the Environment Agency's "Land Contamination Risk Management (LCRM)" web pages:

https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm (or any subsequent equivalent guidance). CL01

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and the requirements of the National Planning Policy Framework 2021.

12. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 11 and where remediation is necessary a remediation scheme must be prepared, which is subject to the prior approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. CL04

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having

regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and the requirements of the National Planning Policy Framework 2021.

13. No development shall take place, including any ground works or works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate but not be restricted to the following matters:

- The anticipated number, frequency and types of vehicles used during construction,
- The method of access and egress and routeing of vehicles during construction,
- The parking of vehicles by site operatives and visitors,
- The loading and unloading of plant, materials and waste,
- The storage of plant and materials used in construction of the development,
- The erection and maintenance of security hoarding,
- The provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders).

REASON: In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties and minimise potential for environmental impact having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN27 and TR3 of the adopted Wealden Local Plan 1998 , coupled with the requirements of the National Planning Policy Framework 2021.

14. No work below ground level shall be carried out on site for the development hereby approved, until full written details for a Code of Construction Practice has been submitted and approved in writing by the Local Planning Authority. The Code of Construction Practice should detail good practice measures for site working to mitigate potential impacts from construction including protection of retained features and surface water bodies on or adjacent to the site, the control of surface water run-off, application of design controls for construction equipment and construction vehicles, vehicle routing, wheel washing facilities, sheeting of lorries during transportation of construction materials, provision of water sprays during delivery and dumping of sand and gravel, mixing and batching on wet rather than dry aggregate materials, minimum drop heights to be used for continuous and batch drop activities and waste disposal. The approved Code of Construction Practice shall be implemented throughout the period of work on site. C04(M)

REASON: In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties and minimise potential for environmental impact having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN27 and TR3 of the adopted Wealden Local Plan 1998.

15. Prior to preparation of ground levels for the construction of the development hereby approved, a detailed scheme for the enhancement of the site for biodiversity purposes and protection of wildlife during construction to include timescales for implementation and future management, shall be submitted to and approved in writing by the Local Planning

Authority. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter so retained.

REASON: To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having regard to SPO1, WCS12 and WCS14 to the Wealden Core Strategy Local Plan 2013.

16. Prior to the commencement of development on site, detailed drawings of levels, sections and constructional details of the proposed roads surface water drainage, outfall disposal and street lighting to be provided, shall be submitted to the Planning Authority and be subject to its approval, in consultation with the Highway Authority. The approved details shall be constructed before the first occupation of the development and thereafter retained.

REASON: In the interests of highway safety and for the benefit and convenience of the public at large, having regard to SPO12 and SPO13 to the adopted Wealden Core Strategy Local Plan 2013, Saved Policies EN27 and TR3 of the adopted Wealden Local Plan 1998, and the requirements of the National Planning Policy Framework 2021.

17. No development shall be occupied until the vehicular access serving the development has been constructed in the position shown on submitted drawing numbered P2022/001 and constructed in accordance with the requirements of the Local Highway Authority. HW09(M)

REASON: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway, in the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, and the requirements of the National Planning Policy Framework 2021.

18. The access shall not be used until visibility splays of 2.4m by 75m are provided in both directions and maintained thereafter.

REASON: In order to provide visibility for vehicles entering and leaving the site In the interests of and for the safety of persons and vehicles using the development and the adjoining road having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998.

19. The development shall not be occupied until the Local Planning Authority has approved, in writing, a scheme for the provision of electric vehicle charging points at the site. The approved charging points shall be completed in accordance with the approved details prior to first occupation or substantial completion of the dwellings whichever is the sooner and retained as such thereafter.

REASON: In the interests of air quality and climate change having regard to WCS14 of the Wealden Core Strategy 2013 and Policy AQ1 of the Hailsham Neighbourhood Plan.

20. This planning decision relates solely to the information contained within the (amended) application form, and the following plans and documents:

Ref.	Date Stamped. STN4
01A	18 September 2020
04A	7 December 2021
P2022 / 001 (access only)	29 March 2021
Preliminary Ecological Appraisal	10 August 2020
Drainage & SUDs Strategy	9 December 2020

Transport Report 10 August 2020
Transport Technical Note 6 January 2021

REASON: For the avoidance of doubt.

The Local Planning Authority's reasons for its decision to grant planning permission are set out in the officer's report which can be viewed on the Council's website at www.planning.wealden.gov.uk

NOTE: Should alterations or amendments be required to the approved plans, it will be necessary to apply either under Section 96A of the Town and Country Planning Act 1990 for non-material alterations or Section 73 of the Act for minor material alterations. An application must be made using the standard application forms and you should consult with us, to establish the correct type of application to be made.

NOTE 1: East Sussex County Council local highway authority requirements associated with this development proposal will need to be secured through a Section (106/184/171/278) Legal Agreement between the applicant and East Sussex County Council The applicant is requested to contact the Transport Development Control Team (01273 482254) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

NOTE 2: The applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless survey has shown it is absolutely certain that nesting birds are not present. NCN1

NOTE 3: The applicant is reminded that it is an offence to damage or destroy species protected under separate legislation. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation. You are advised that it may be necessary, shortly before development commences, for the applicant to commission an ecological survey from suitably qualified and experienced professionals to determine the presence or otherwise of such protected species. If protected species are found to be present, Natural England should be consulted. NCN2

NOTE: Your attention is drawn to the requirements of the Building Act 1984 for the deposit of Plans under the Building Regulations and associated legislation. ACCESS FOR FIRE BRIGADE: Your attention is hereby drawn to the provisions of Section 35 of the East Sussex Act 1981.

DISCHARGE OF CONDITIONS: It is advised that under The Town and Country Planning Act 1990, the Council has up to 8 weeks from the date of an application to discharge any condition(s) and advise the applicant of the Council's decision. This information should be submitted using the 'Approval of Details Reserved by Condition' Form which can be downloaded from the Council's website. Please note there is also a fee payable for this type of application.

IMPORTANT: See Notes overleaf
DATE OF ISSUE: 6 December 2022



Stacey Robins
Head of Planning & Environmental Services

Application No. WD/2020/1596/MAO

NOTES

Appeals to the Secretary of State

- If the Applicant is aggrieved by the decision of the Local Planning Authority (LPA) to refuse permission for the proposed development or to grant it subject to conditions, then an appeal may be lodged with The Planning Inspectorate (PINS) under Section 78 of the Town and Country Planning Act 1990.
- Appeals must be made on a form which is obtainable from:
  The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN
  Tel. No. 0303 444 5000
  www.gov.uk/appeal-planning-inspectorate

Appeal Timescales

- Householder planning application or minor commercial application:

  12 weeks from the date on the decision notice

  However, if an enforcement notice has been served for the same or very similar development the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 12 weeks).

  NB – if the LPA have failed to determine the householder planning application, or for an appeal against the grant of permission subject to conditions, please follow the time limits under "Planning application" below.

- Planning application:

  6 months from the date on the decision notice, or
  6 months from the expiry of the period which the LPA had to determine the application.

  However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

  NB – the LPA determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). If a longer period has been agreed with the LPA, the time limit runs from that date.

Further information

- The Planning Inspectorate has discretionary power to allow a longer period for the giving of a notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice to appeal.
- The Planning Inspectorate is not required to entertain an appeal if it appears that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- The Planning Inspectorate does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction issued by the Secretary of State.

Purchase Notices

- If either the LPA or Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the land has become incapable of reasonably beneficial use in its existing state nor rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

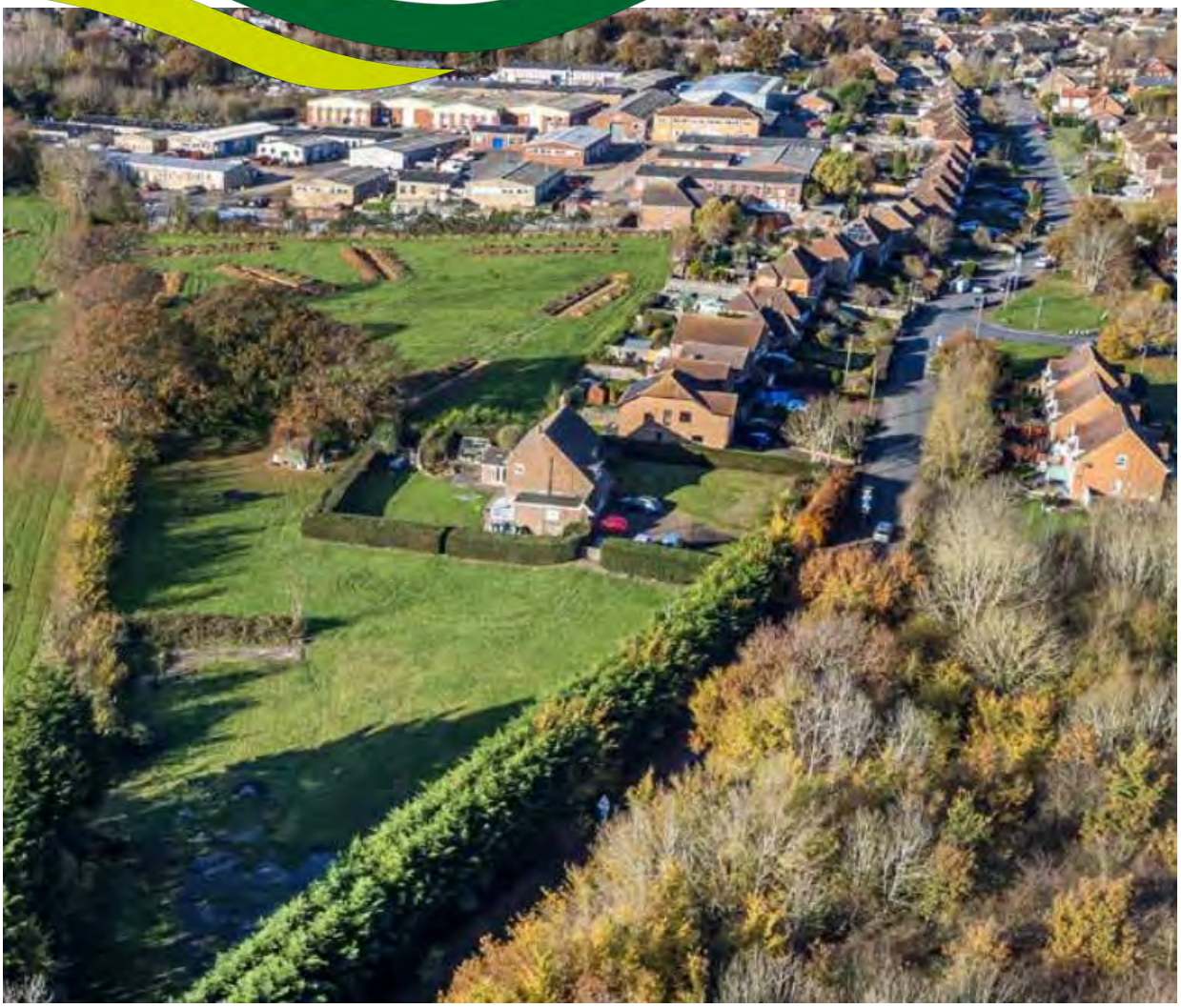
Appendix DV14

Land adjoining 154 Station Road, Hailsham: Planning Statement

RTPI Chartered Town Planners RICS

bloomfields
CHARTERED TOWN PLANNERS

IN ASSOCIATION WITH Lambert & Foster



SUPPORTING PLANNING STATEMENT

Land adj. to 154 Station Road, Hailsham

March 2023

SUPPORTING PLANNING STATEMENT

In support of an outline planning application for the

Erection of up to 9 no dwelling houses, including access with all other matters reserved, to include a change of use of land to residential.

at

Land at adj. to 154 Station Road,

Hailsham, East Sussex, BN27 2SB

On behalf of

Mr I Martin

ISSUE DATE / REVISION	COPY REVIEWED BY	DATE COPY HAS BEEN REVIEWED
Supporting Statement	DDP	17/02/2023

Bloomfields is the trading name of Lambert & Foster (Bloomfields) Ltd (company no. 08278915) an owned subsidiary of Lambert & Foster Ltd a Limited Company registered in England and Wales, No 10574225. Registered office 77 Commercial Road, Paddock Wood, Kent TN12 6DS.

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1. Introduction

1.1. This Planning Statement has been prepared by Bloomfields on behalf of our client Mr I Martin in support of an outline planning application for the erection of up to 9 no dwelling houses, including access, at land adjacent to 154 Station Road, Hailsham. All other matters will be reserved.

1.2. This statement considers the proposed development in relation to the context of the site, relevant local and national planning policies and all other material planning considerations. The proposals for the site have been informed by the National Planning Policy Framework (2021), the Wealden Core Strategy (2013), saved policies within the Wealden Local Plan (1998), and the Hailsham Neighbourhood Plan (2021).

1.3. The application is accompanied by plans indicating the site and showing the proposed development.

- Drawings comprise the following -
    - 2950.010.A – Site Location plan
    - 2950.020.A – Existing Block Plan
    - 2950.030.A – Proposed Block Plan (illustrative) showing potential tracking for fire tender/refuse collections
    - 2950.080.A – Visibility Splays
- Preliminary Ecological Appraisal – prepared by KB Ecology Consultants, February 2023
- Transport Report prepared by Crosby Transport, January 2023
- SUDs and Drainage Strategy prepared by RSPD February 2023
- Archaeology Assessment prepared by Archaeology Services Lewes, January 2023 Rev D

1.4. The developer's contact address is c/o Danielle Dunn MRTPI, Bloomfields Chartered Town Planners, Hillhurst Farm, Stone Street, Westenhanger, CT21 4HU.

1.5. This Statement has been drafted to demonstrate that the proposed development would constitute a sustainable form of development and is consistent with the objectives of the Local Development Plan, and there are no adverse impacts which would significantly and demonstrably outweigh the benefits in accordance with the National Planning Policy Framework (NPPF, 2021), National Planning Practice Guidance (NPPG) and local development plan policies.

Application Site

1.6. The application site is a triangular plot of land formerly comprising a commercial unit and related buildings which included an office, warehouse and related buildings for the storage, assembly and distribution of fishing tackle supplies. Aside from some evidence of hard standing, and the foundations of a demolished building, no structures remain on the site.

1.7. The Ordnance Survey Plan (below) indicates the location of the site in relation to existing built development.

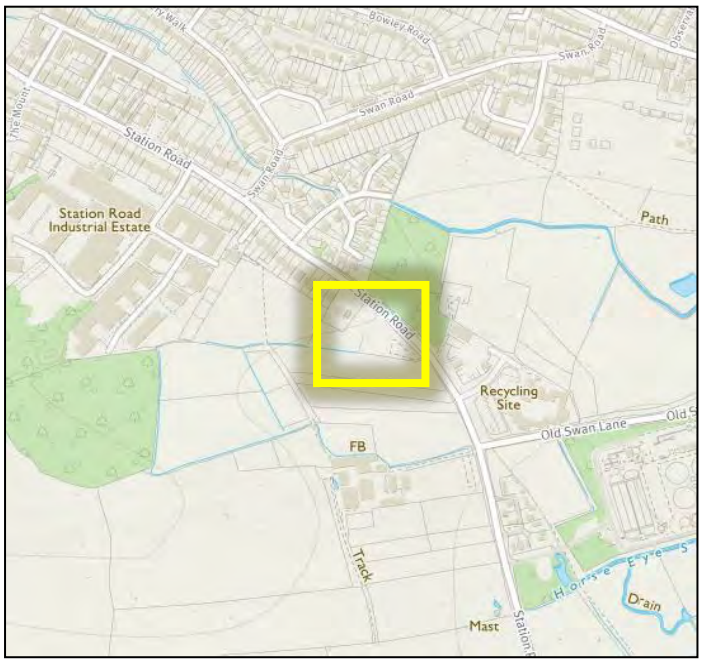


Figure 1 – OS Map of site

1.8. The site is located on the south-western side of Station Road, adjacent to the existing built development of Hailsham. It is bounded by agricultural fields to the south and west and the highway of Station Road to the east. The site benefits from its own access, which is located at its eastern corner, and being enclosed and screened on the road boundary by a tall

Leylandii hedge.



Figure 2 - GE imagery of the site

2. Proposal

2.1. Outline planning permission is sought for the redevelopment of the site to provide up to 9 no dwellings. With the exception of site access, other matters including appearance, landscaping, layout and scale, are reserved.

2.2. This outline application proposal has been designed to take full account of local and national policy, physical constraints, the planning history of the site and other similar decisions within the remit of Wealden District Council.

2.3. Included within the submission is a proposed general layout, this is for illustrative purposes only, and demonstrates how a residential development could come forward using the established design principles of the Local Plan and the Neighbourhood Plan for the area.

2.4. This layout shows an arrangement of semi-detached and detached houses, 4 x 3-bedroom houses and 5 x 4-bedroom houses, of different types and styles. The layout also shows the associated access and potential parking, along with the ability to show where service vehicles (fire engines, refuse collection etc.) could turn within the site.

2.5. The specific open market housing mix is not fixed at this stage due to the Outline nature of the application. But, it is expected that the final dwelling mix will respond to design and market considerations at any subsequent Reserved Matters stage. It should be noted that the site is a minor application, so it falls below the 10 unit threshold for affordable housing provision as set out in the PPG guidance, the detailed policy context of which is set out in paragraph 5.15.

2.6. Figure 3 below demonstrates how the resultant buildings would remain positioned within the site and the dwellings and associated amenity area could be satisfactorily accommodated.



Figure 3 – Proposed indicative block plans

2.7. The site layout has been designed to ensure protection of existing trees and boundary planting and also highlights the possible options for further landscaping along the boundaries.

2.8. The layout confirms that sufficient space exists on site to ensure that any dwellings would provide for a good standard of living space and accommodation, and also, includes sufficient space for refuse and recycling storage, all of which could be provided within the respective curtilages. An area could provide for communal cycle parking, although the residential curtilages provide enough space that these could also be provided individually.

2.9. Although scale and appearance remain a reserved matter the proposed dwellings will be commensurate in scale to the surrounding buildings and the prevailing character of the

neighboring built form, including taking into consideration the new units which benefit from extant planning permission to the south and west of the site (discussed further in paragraphs 3.7-3.16).

2.10. It is intended that the proposal will use similar materials to reflect the existing style of the properties to the north, and have a design quality in accordance with the guidance and policies within the Neighbourhood Plan.

3. Planning History

3.1. The following represents the relevant planning history.

3.2. Planning Permission was recently granted (06.12.2022) under **WD/2020/1596/MAO** for outline planning permission for the erection of up to 12 no. dwellings, including access with all other matters reserved, which included a change of use of land to residential. This indicative design of this scheme included a higher density of development with terraced properties also being identified on the indicative site layout.

3.3. Unfortunately, the prevailing market conditions have meant that the site with the extant scheme is unviable. The site has been marketed for nearly 12 months, including whilst the application was under consideration, but has failed to attract much interest or achieve a sale from potential buyers or developers[1]. To date there have been two successive below valuation price offers accepted, but both withdrawn by the purchasers before exchange of contracts. There has been some interest from potential buyers keen to deliver only 9 units.

3.4. Further to this, the current private owners do not have the resources to make a reserved matters application and finance the development themselves, therefore the site will be undeliverable if another party cannot be attracted to buy it.

3.5. On the basis of the above, the site is being reimagined for an improved scheme for up to 9 units, which is more deliverable and desirable in the current market conditions.

3.6. The **WD/2020/1596/MAP** application is subject to a planning obligation by deed of agreement pursuant to Section 106 of the Town and Country Planning Act 1990 as amended. This deed of agreement required 35% of the total number of dwellings in the

[1] Sales Particulars (published in May 2022) are attached separately as a supporting document in Appendix 5.

development to be for the use of affordable housing, even if the overall number of units approved by Reserved Matters were less than 12.

3.7. An application was previously submitted under **WD/2009/0109/MAO** for the demolition of the adjoining dwelling and the then existing disused factory buildings and redevelopment with mixed affordable housing units and associated parking. The application was considered and refused on the relevant policy emphasis at that time.

3.8. The reasons for refusal referred to the lack of justification for the loss of the commercial facilities at the site combined with design and impact concerns. The policy emphasis applied in the earlier refusal has since been substituted by successive national and local policy and so the earlier reasons for refusal at this site have significantly reduced weight despite the application of saved policies contained within the 1998 Local Plan.

Other relevant planning applications

3.9. The site is located adjoining an area which was been identified in the previously emerging Local Plan as forming part of the South Wealden Growth Area (SWGA), known as Hailsham South. This was for a mixed use urban extension comprising housing (up to 400 dwellings) education facilities and associated infrastructure under Policy SWGA 25. This strategic site allocation now benefits from outline planning permission, with some of the reserved matters approved. On this basis, the site subject to this planning application, will become entirely surrounded by development in the coming years.

3.10. The most relevant of these applications are:

3.11. The approved scheme **WD/2018/0475/MAO** is located to the south and west of the application site and sought to confirm the principle of development in this area. The application was for outline planning permission for the development of up to 400 dwellings on land off Ersham Road and Station Road, with all matters reserved except for access. Land to the west of Cuckoo Trail is referred to in the submission as ‘Ersham Park’ and is proposed for development of up to 135 dwellings, with land to the east of Cuckoo Trail and south of the application site referred to as ‘Cuckoo Fields’ accommodating 265 dwellings (a total of 400 dwellings).

3.12. Since its determination, the outline planning permission has progressed through Reserved Matters (RM) applications across some parcels, and in addition, several condition discharge applications have been submitted. The following list identifies the status of the RM applications which have been submitted on the site.

3.13. WD/2021/2265/MRM - Cuckoo Fields and Ersham Park

Reserved matters (phase 2) pursuant to outline permission WD/2018/0475/MAO (the erection of up to 400 residential dwellings including affordable housing

Decision: Awaiting Decision

3.14. WD/2021/1485/MRM - Cuckoo Fields and Ersham park

Reserved matters submission for 128 dwellings pursuant to outline planning permission WD/2018/0475/MAO.

Decision: Approved 01/04/2022

3.15. WD/2021/1286/F - Cuckoo Fields and Ersham Park:

The construction of a new access onto Ersham Road to serve residential development approved under planning permission WD/2018/0475/MAO (the erection of up to 400 residential dwellings including affordable housing. Provision of new vehicular access from Ersham Road and upgrading of existing vehicular access from station road. Provision of new pedestrian and cycle access and the provision of open spaces, sustainable urban drainage systems, associated landscaping, infrastructure and earthworks).

Decision: Approved 28/09/2021

3.16. WD/2021/1287/F - Cuckoo Fields and Ersham Park:

The upgrading of the existing access onto Station Road to serve residential development approved under planning permission WD/2018/0475/MAO (the erection of up to 400 residential dwellings including affordable housing. Provision of new vehicular access from Ersham Road and upgrading of existing vehicular access from Station Road. Provision of new pedestrian and cycle access and the provision of open spaces, sustainable urban drainage systems, associated landscaping, infrastructure and earthworks).

Decision: Approved 28/09/2021

3.17. WD/2019/1864/MAO - Land adjacent to Cuckoo Trail, Cuckoo Fields

The erection of up to 100 residential dwellings including affordable housing with the provision of vehicular, pedestrian and cycle access from Station Road, incorporating open spaces, sustainable urban drainage systems, associated landscaping, infrastructure and earthworks.

Decision: Approved 23/10/2020

3.18. As illustrated above, the development of the adjoining strategic allocated site is now at an

advanced stage. On this basis, the site subject to this application, will be surrounded by development imminently and will subsequently be within the built-up and sustainable developed area of Hailsham. This will be discussed further below.

4. Design and Access Statement

Surrounding context and development

4.1. As a settlement Hailsham has a predominantly historic character as a market town with a range of property types and designs forming an archetypal 'Sussex' vernacular which has evolved over a number of centuries.

4.2. The dwellings which make up the town comprise a number of forms ranging in age and style. A wide range of materials can also be identified, so it could be identified that there is no overriding architectural style that is favoured. This is a view and observation also acknowledged in the Neighbourhood Plan section 4.1.

4.3. The immediate area is fairly-typical of the more modern wider settlement character. The adjoining dwellings range from bungalows to the more common two-storey buildings. Most of the buildings are detached, although there is an element of terraced and semi-detached properties.

4.4. As outlined in section 2 of this statement, the following matters are reserved, layout, scale, appearance and landscaping. Reserved Matters may be described as:

- Appearance: Aspects of a building or place which affect the way it looks, including the exterior of the development;
- Scale: Includes information on the size of the development, including the height, width and length of each proposed building
- Landscape: The improvement or protection of the amenities of the Site and the surrounding area, this could include planting trees or hedges as a screen; and
- Layout: Includes buildings, routes, parking and open spaces within the development and the way they are laid out in relation to buildings and the spaces outside the development.

4.5. Following the above points and guidance, this statement is structured below and takes account of the reserved matters.

Use

4.6. The proposal is for the construction of market family dwellings on land which has historically been used as commercial land. The proposed use would be in keeping with the existing and proposed residential uses adjacent to the site.

4.7. The site sits comfortably within a surrounding built up area and in view of the anomalous size of the existing curtilage is an obvious location for development.

Amount

4.8. The application is in outline form and the layout plan demonstrates how a residential development could provide up to 9 no dwellings at this site in a manner which reflects the character and density of dwellings within the vicinity. The layout outlined, and the proposed mix, is considered to constitute an appropriately-scaled residential growth within the area, which complements the new development of 400 units on the adjoining site and the existing built-form of Hailsham.

Layout

4.9. The indicative layout has evolved following the findings and feedback received on the current extant planning permission for the site.

4.10. The indicative plan details a viable potential layout for the site. The layout plan demonstrates that up to 9 dwellings can be accommodated without any unacceptable impacts on neighbouring properties, tree boundaries and landscaping, or the wider area. It also identifies that, vehicles, including service vehicles, would be able to maneuver through the site adequately and safely, and facilitates the sympathetic placement of underground drainage infrastructure to ensure long term maintainability with minimal disruption to residents.

Scale

4.11. Although a reserved matter, the indicative plans show that two rows of properties could be accommodated on the site, with two-storey dwellings being the chosen massing and scale. These could be accommodated due to the separation distance between dwellings surrounding the site and the prevailing character of the wider area.

4.12. The height, bulk and mass, together with the use of similar materials, all ensure the proposals would not appear visually harmful to the street scene or character of the area.

Landscaping

4.13. Detailed considerations for landscaping remain to be determined as part of a subsequent reserved matters planning application. However, the following features are suggested by the indicative layout:

- Retention and enhancement of vegetation along the boundaries of the site;
- Retention of existing mature trees along the boundaries;
- Areas of open and garden space; and
- Permeable areas for incorporation into Sustainable Urban Drainage Systems (SUDs).

4.14. New planting and landscaping would provide an opportunity to enhance the sylvan character of the area.

Appearance

4.15. Although, also a reserved matter, the principle to be adopted in regard to appearance aims to ensure the development will form an identifiable neighbourhood with the arrangement and design of the buildings being sympathetic to the predominant styles and character of the area.

Access

4.16. It is proposed to use the existing access from Station Road to serve the proposed dwellings. It is anticipated that the highway department will accept the proposal based upon the conclusions reached within the accompany transport statement and those approved on the current extant planning permission afforded to the site.

4.17. The illustrative layout has been prepared to demonstrate a proposal can come forward for the site within the parameters proposed. The illustrative layout demonstrates parking provision in line with existing East Sussex County Council Guidance for Parking at New Residential Development (October 2017) including:

- Driveway parking spaces provided at 2.5m x 5m
- Garages to be provided at 7m x 3m (to include cycle storage), and only to count for 1/3rd of a space; and
- Tandem (three-in-a-row) parking spaces to be avoided.

4.18. The proposed development will fully comply with current adopted policy in respect of both car and cycle parking provision. This includes the expectations of policy Hail D5 of the Hailsham Neighbourhood Plan.

5. Planning Policy

5.1. Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications for planning permission are required to be determined in accordance with the provisions of the development plan in force unless material considerations indicate otherwise.

Presumption in Favour of Local Plan

5.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) states *'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.* This therefore provides a presumption in favour of the development plan.

5.3. Section 70(2) of the Town and Country Planning Act states *'In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations'*

5.4. Development should therefore be determined in accordance with the Local Plan unless material considerations indicate otherwise.

5.5. Currently for the purposes of Section 38(6) of the PCPA 2004, the current development plan for the area in which the application site is located comprises the Policies of the Wealden Core Strategy (Incorporating Part of the South Downs National Park) Local Plan 1998 which were saved in 2007 and the Core Strategy Local Plan which was formally adopted on 19 February 2013. In addition, the Hailsham Neighbourhood Plan, after a successful referendum in 2021, now forms part of the local development plan.

WDC Core Strategy Local Plan 2013

5.6. The adoption of the CSLP by the District Council took full legal effect on 19th February 2013 with the District Council having previously resolved to adopt the Local Plan on 28th November 2012. The following policies are relevant to this application:

- Spatial Objective SPO1
- Spatial Objective SPO2
- Spatial Objective SPO7
- Spatial Objective SPO8
- Spatial Objective SPO10
- Spatial Objective SPO13
- Policy WCS1 – Provision of Homes and Jobs
- Policy WSC2 – Distribution of Housing Growth
- Policy WCS4 – Development Areas
- Policy WCS12 - Biodiversity
- Policy WCS14 - Presumption in Favour of Sustainable Development.

5.7. Policy WCS1 is particularly relevant as it states that land will be identified in subsequent Development Plan Documents (DPDs) for the provision of some 4,525 new additional dwellings to provide a total of 9,440 dwellings over the Plan period (2006 – 2027) i.e. 450 dwellings per annum (dpa). In addition, Policy WCS2 conforms that land will be allocated to meet the provision for housing.

5.8. Policy WCS4 then refers to Strategic Development Areas (SDAs) and allocations are shown as insets on the Key Diagram. At Hailsham, this includes provision of around 600 dwellings at 'Land at East Hailsham' (SD2) and around 700 dwellings at 'Land at North Hailsham' (SD3). The SDAs, as indicated above, were intended to be progressed through detailed allocations and policies for specific sites provided in a subsequent Strategic Sites DPD, as referred to at WSC4.

5.9. Policy WCS14 of the Core Strategy reiterates the presumption in favour of sustainable development that runs as a golden thread through the NPPF. The Core Strategy advises that:

> *"When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework."*

5.10. It restates policy contained within the NPPF which confirms that planning permission will be granted unless material considerations indicate otherwise – taking into account whether any adverse impacts of granting permission would significantly and demonstrably

outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or specific policies in that Framework indicate that development should be restricted.

5.11. In essence, it brings the presumption in favour of sustainable development found within the NPPF into the Development Plan.

Saved Policies of the Wealden Local Plan 1998

5.12. The Local Plan (1998) was adopted prior to the publication of the NPPF and is therefore increasingly out-of-date. Consideration should therefore be given to the relevant policies' degree of consistency with the NPPF. However, the following saved policies remain relevant -

- Policy GD2 – Development Boundaries
- Policy EN1 – Sustainable Development
- Policy EN8 – Low Weald
- Policy EN7 – Ashdown Forest
- Policy EN12 – Trees Woodland and Landscaping
- Policy EN15 – Nature Conservation
- Policy EN27 – Design
- Policy EN29 – Light Pollution
- Policy DC17 – New Dwellings in the Countryside
- Policy HG5 – Housing Mix
- Policy TR3 – Traffic Impact of New Development
- Policy TR16 – Car Parking Standards
- Policy CS2 – Drainage
- Policy HA1 – Development in Hailsham

Hailsham Neighbourhood Plan 2021

5.13. The Hailsham Neighbourhood Plan (NP) successfully passed a referendum held on 6 May 2021 and now forms part of the Wealden District Council's Development Plan.

5.14. In accordance with the NP the following policies would relevant to the scheme subject to this planning application.

- Hail D1: High Quality Design
- Hail D2: Small scale residential development and householder
- Hail D5: Residential Car Parking Design

5.15. Other relevant policies, that will need to be considered, include Policy AFH1 of the adopted

Affordable Housing delivery Local Plan (2016). However, it should be noted, this isn't the most up-to-date position regarding the provision of affordable housing nationally. On 19 May 2016 (and further updated on the 01 September 2019) the National Planning Practice Guidance was updated regarding affordable housing thresholds[2]. Until the new Wealden Local Plan is produced, it will be necessary to take into account the Planning Practice Guidance as a material consideration. The current PPG guidance sets out that:

> *"Planning obligations for affordable housing should only be sought for residential developments that are major developments. Once set, the Community Infrastructure Levy can be collected from any size of development across the area. Therefore, the levy is the most appropriate mechanism for capturing developer contributions from small developments.*
>
> *For residential development, major development is defined in the National Planning Policy Framework as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000 square metres or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015."*
>
> *Revision date: 01 09 2019 Paragraph: 023 Reference ID: 23b-023-20190901*

5.16. The Wealden Design Guide 2008 (adopted Supplementary Planning Document) Chapters 2, 3, 5 and 11, and the emerging Wealden Local Plan 2019 will also need to be considered, although the latter was formally withdrawn in 2020 on the recommendation of the Planning Inspector following the first stage of its examination.

6. National Planning Policy Framework 2021

6.1. In all respects, the NPPF seeks to maximise opportunities for the supply of housing in appropriate locations, that can contribute towards housing supply, along with maintaining and enhancing the vitality of existing communities. The key objective of sustainable development is expressed within paragraph 7 to be "*meeting the needs of the present without compromising the ability of future generations to meet their own needs".*

6.2. Paragraph 8 refers to the three overarching objectives to sustainable development;

[2] A Court of Appeal judgement was made on an earlier Ministerial Statement (dated 28 November 2014).

namely economic, social and environment, which give rise to the need for the planning system to perform a number of roles:

- An economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure

- A social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being;

- An environmental objective - to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

6.3. Paragraph 10 details that "*at the heart of the Framework is a presumption in favour of sustainable development"*, with Paragraph 11 setting out how this can be delivered through both plan-making and decision-taking.

6.4. Specifically, Paragraph 11 (d) sets out that permission should be granted: *"where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date[8], unless:*

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed[7]; or

ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".*

6.5. Footnote 8 clarifies that, *"for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less*

than 75% of) the housing requirement over the previous three years".

6.6. Firstly, it should be noted that the policies in place for the Wealden District are out of date, as the strategic plan for the area is over 5 years old. On this basis, adopted polices DC8, DC17 and WCS6 would, for the purposes of the NPPF, be considered out of date for decision making purposes. This significantly limits the weight that can be afforded to them.

6.7. The five-year housing land supply of Wealden, as at the 1st April 2022, published in December 2022[3]. This confirms that Wealden does not have a five year supply, identifying just 3.92 years. Paragraph 2.40 of the statement, concludes *"that there is currently an insufficient supply of 'deliverable' housing sites to meet the Council's five-year housing land supply requirement in accordance with paragraph 74 of the NPPF (July, 2021)".*

6.8. Furthermore, the Council fails to meet the Housing Delivery Test. The HDT measurement in 2021 for Wealden District Council was published on 14 January 2022, resulting in a measurement of 82% delivery against its housing requirement. This has resulted in a 20% buffer being applied to Wealden District Council's five-year housing land supply requirement. Given the HDT result was below 95%, a Housing Action Plan was also required to be published. This document is intended to identify the reasons for under-delivery, explore ways to reduce the risk of future under delivery and sets out measures the local authority intends to take to improve levels of housing delivery. The latest Housing Action Plan for Wealden was published in June 2022.

6.9. As the Council cannot demonstrate a five-year supply and the housing delivery test, this application should be considered in the context of the presumption in favour of sustainable development. The case officer in his report for approved application **WD/2020/1596/MAO**, *"the shortfall in the supply of housing land is a material consideration that weighs heavily in favour of allowing proposed development".*

6.10. Paragraph 20 of the NPPF requires strategic policies to set out an overall strategy for the pattern, scale and quality of development and make sufficient provision of housing (amongst others). Footnote 12 clarifies this to be "*in line with the presumption in favour of sustainable development".*

6.11. In this regard Paragraph 119 refers specifically to making effective use of land in meeting the need for homes and other uses, with Paragraph 120(d) stating that planning policies

[3] https://www.wealden.gov.uk/UploadedFiles/Five-Year-Housing-Land-Supply-Statement-2022-V5.pdf

and decisions should "*promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained…"*

6.12. Paragraph 79 of the NPPF requires Local Planning Authorities to promote sustainable development in rural areas, with housing located where it will enhance or maintain the vitality of rural communities. It notes that *"planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services".*

6.13. The National Planning Policy Framework confirms at paragraph 80 that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a. *"there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*

b. *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*

c. *the development would re-use redundant or disused buildings and enhance its immediate setting;*

d. *the development would involve the subdivision of an existing residential building; or*

e. *the design is of exceptional quality, in that it: - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area".*

6.14. As discussed previously the sites location is no longer considered isolated or in the context of current policy defined as in the countryside in the truest sense of the word.

6.15. Paragraph 122 requires decisions to reflect changes in the demand for land. They should be "*informed by regular reviews of both the land allocated for development in plans, and of land availability*". The proposal site forms part of an allocation for 400 units which has already been granted approval. The provision of an additional 9 units would serve to further maximize development potential for the Council.

6.16. Paragraph 124 states that *"planning policies and decisions should support development that makes efficient use of land, taking into account:*

a) "the identified need for different types of housing and other forms of development,

and the availability of land suitable for accommodating it;

b) *local market conditions and viability;*

c) *the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*

d) *the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*

e) *the importance of securing well-designed, attractive and healthy places".*

6.17. In respect of design, the NPPF identifies that good design is a key aspect to sustainable development (paragraph 126). As this scheme is for outline planning permission only the final design of the scheme is subject to change. However, the indicative layout, provided as part of this application, demonstrates that a positive scheme and design can be achieved that meets the aspiration of local design codes and principles as expected by Paragraph 130 of the NPPF, in this case in the Hailsham Neighbourhood Plan.

6.18. Paragraph 55 of the NPPF advises that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

7. Analysis

7.1. This Planning Statement sets out a comprehensively considered justification for the development of the Site, taking account of all relevant planning and material considerations. As the site has extant planning permission for 12 units, the principle of development has already been agreed and confirmed.

7.2. The benefit of redesigning the scheme for a reduced number of up to 9 units, is that it available and deliverable immediately. As set out in paragraph 3.3 and 3.4 of this report, the extant scheme has been considered unviable by most investors and developers due to the S106 obligation relating to affordable housing. Despite ongoing marketing for 12 months the site has failed to attract a buyer. Reducing the number of dwellings on site, would improve the marketable of the site, and in turn, would enhance its deliverability in

accordance with the intensions of sustainable development and the aspirations of the Housing Land Supply.

7.3. The issues to be determined in this application are whether the principle of reducing the numbers on the site is acceptable and whether the proposed access arrangement, which is the only matter for full determination sought by the Outline application, is adequate and would not prejudice highway safety. The site layout plan and elevations that have been submitted are for illustrative purposes only.

7.4. The relevant planning considerations may be summarised as follows:

- Principle of Housing Development;
- Housing Mix
- Landscape and Visual Impact;
- Residential Impact
- Living conditions for future occupiers
- Transport and Highways;
- Heritage Impacts
- Flood Risk and Drainage
- Ecology and Biodiversity
- Odour
- Impact on Trees
- Bin storage
- Contamination

Principle of Development

7.5. Housing is a priority use for all Local Planning Authorities. The adopted Core Strategy Local Plan 2013 accepts that the development boundaries contained within the 1998 Local Plan will have to be breached to deliver the level of housing required.

7.6. Core Strategy Policy Objective SP03 supports making effective use of land within or close to the main built-up confines of towns and villages, especially previously developed land, consistent with maintaining their character. Policy Objective SPO8 seeks to ensure that the Council will maintain and where appropriate enhance through the encouragement of growth, the effective network of villages that will continue to support the day to day needs of our rural communities, and which will accommodate some additional growth where this

would be sustainable.

7.7. National policy generally encourages the provision of redevelopment in previously developed areas provided that it is designed to complement the character of surrounding developments, the design and layout make suitable residential accommodation, and it provides for garden and amenity space. The NPPF is clear that in paragraph 60 that it is the Government's objective to *'significantly boosting the supply of homes'* considering that it is important that a *'sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with planning permission is developed without delay'*.

7.8. In respect of the current adopted Local Plan the proposal site is considered to have a countryside location. However, this countryside location is now questionable due to the new development surrounding the site and because the Council acknowledges that it does not have a five-year supply of deliverable housing sites at the present time. This means that policy restrictions on development in the countryside must be viewed as being 'out-of-date' (footnote 7 of Paragraph 11 of the NPPF) and that, as a consequence, planning applications fall to be considered in the context of Paragraph 11 of the NPPF.

7.9. In such cases housing applications are expected by Paragraph 11 of the NPPF to be considered in the context of the presumption in favour of sustainable development unless the harms would outweigh the benefits or a more restrictive approach to development is in force, as is the case in the Ashdown Forest SAC or the AONB; the protection of which is afforded great weight.

7.10. As the Council are unable to demonstrate a five-year housing supply, the balance should tilt in favour of the policies supporting sustainable development within the NPPF. Following the removal of the more restrictive approach forwarded in the previously emerging Plan the location of the site means it remains accessible to local amenities, public transport and services and is a sustainable location for new housing. This has been accepted in recent approvals close to the site as discussed earlier in this report.

7.11. The proposal would provide for a residential development through the reuse of former commercial land where the principle is considered to be acceptable. Accordingly, the principle of the proposed development is considered to align with the Districts overarching spatial strategy.

7.12. The site is located on Station Road which is a classified road running due south and east

from the centre of Hailsham. Hailsham Town Centre is located 1km north of the site, providing access to a range of shopping and leisure facilities including public houses, restaurants, library, community facilities and retail shops.

7.13. The 0.38ha site is relatively flat and is well screened from external views into the site by trees and shrubs along the northern and western boundaries, particularly the frontage onto Station Road, with shrubs and sporadic tree planting making up the southern boundary.



Figure 4 – Site frontage (looking north)



Figure 5 – Site frontage (looking south)

7.14. The site is currently outside of but adjacent to the development boundary for Hailsham as defined in the Wealden Local Plan 1998.

7.15. There are no Scheduled Monuments or listed buildings within the site.

7.16. The Pevensey Levels Ramsar site, Site of Special Scientific Interest and Special Area of Conservation is located to the east of the site. The wetland is internationally recognised as an important habitat for wildlife.

Locational Sustainability

7.17. Hailsham Town Centre is located 1km north of the Site and is easily accessible on foot or by other means of transport. Within the adopted 2013 Core Strategy Hailsham is categorised as a District Centre which are described within the document as *'An accessible settlement by road or public transport containing a range of shops, employment opportunities and facilities including secondary school. Not reliant upon other centres within the District to meet day to day needs, but requires support from other secondary or primary centres to meet needs of the residents*.'

7.18. The Town is predominantly residential in character and there are a number of large retail outlets, services and employment opportunities provided in the town centre serving the local community. This includes a community hall, leisure facilities, churches, numerous shops and services. A number of educational facilities are available in the vicinity consisting of Burfield Academy, Meadow Nursery School, Phoenix Academy, White House Academy and Hailsham Community College.

7.19. Despite not having its own Train station Hailsham is only 3km from Polegate train station to the south and is served by a regular bus service providing access to Eastbourne, Tunbridge Wells, Heathfield and Crowborough.

Housing Mix

7.20. The application is made in outline and hence the housing mix will be fixed through the Reserved Matters stage. However, the objective is to create a balanced and mixed addition to the community and to ensure adequate ranges of types and tenures. It will provide for a suitable mix with the aim of creating a mixed and balance community, in line with the requirements of the NPPF.

7.21. Additionally all dwellings will comply with the minimum national space standards and will

have the required amount of amenity space.

7.22. In these terms, the proposal is acceptable in terms of housing mix, size and affordable provision as required by paragraph 62 of the NPPF and overall supports the social objective of achieving sustainable development.

Design

7.23. The application is in Outline and as such not all of the detailed design elements are for determination at this time. However, the proposed development takes into account the NPPF which places great importance on the design of the built environment, conserving and enhancing the natural environment and conserving and enhancing the historic environment.

7.24. Section 12 of the NPPF identifies that the Government attaches great importance to the design of the built environment and that new development should contribute positively to making places better for people. Paragraph 126 of the NPPF confirms that good design is a key aspect of sustainable development.

7.25. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

7.26. At the local level saved policies EN1 and EN27 are concerned with design and protecting the landscape characteristics. Furthermore, Policy Hail D1 from the Hailsham Neighbourhood Plan promotes high-quality design. Although at reserved matters stage it is intended that any proposal follow a two-storey design which would bring about an increased level of built form but these would remain entirely consistent with other built form both existing and proposed and will have no significantly greater impact on the surrounding visual amenity and character of the area than that of the existing buildings currently in situ.

7.27. With regards to visual impact, Policy EN27 of the Wealden Local Plan 1998 says proposals for development will be permitted when a number of layout and design criteria are satisfied. Whilst design is a reserved matter the proposal indicated would result in a layout of development which would replicate the existing spatial qualities and character and appearance of the nearby street scene and the wider landscape setting.

7.28. The proposed dwellings would comprise traditional designs which would appear in keeping with the urban character of the area, in turn promoting local distinctiveness. Therefore there would be no visual impact from long views within the surrounding countryside thereby conserving the landscape character in this regard.

7.29. It is clear from the assessment above that the proposed development would result in an acceptable low density form of development. The proposal would cause no harm to the character of the landscape in compliance with Policy WCS14 of the Core Strategy and EN1 and EN27 of the saved Local Plan 1998. In addition, it would meet the aspirations of the Hailsham Neighbourhood Plan, specifically policies Hail D1, Hail D2, and Hail D5.

Impact on residential amenity

7.30. This application deals with the principle of development on the site with design and appearance reserved. Nonetheless, it is inevitable that with any form of development on this site that there will be a change in perception and character. The layout has been carefully designed to ensure that buildings are located and orientated to avoid direct overlooking and achieve good levels of privacy between dwellings and adjoining neighbours.

7.31. Saved Policy EN27 (2) of the Local Plan considers the impacts of development on adjoining residences. The proposed dwellings would be sited within the boundaries of the existing curtilage and due to the design and orientation of the dwellings within the site and separation distance there is ample space to the nearest neighbouring dwelling and the proposal would not cause any loss of privacy or overlooking issues here.

The quality of living for future occupiers

7.32. The National Planning Policy Guidance states that *'good design should enhance the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on well-being'*. Further to this the core principles of the NPPF as set out within paragraph 130 requires the planning system to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. In terms of future occupants, the proposed dwellings would incorporate the provision of spacious living areas with sufficient external amenity spaces. There is ample available space to fulfil the amenity requirements of a mix of housing needs into the future.

7.33. In terms of future occupants, the proposed dwellings would incorporate the provision of a spacious living areas with sufficient amenity space available within the site. There is ample available space to fulfil the amenity requirements of the applicants long into the future. The curtilage proposed would remain comparable with other residential curtilages within the vicinity and those being proposed as part of the adjoining development.

7.34. In light of the above, it is clear that there is not any amenity matter that would constitute an adverse impact that would indicate that the proposal should not be considered in accordance with the development plan.

Highways and Parking

7.35. The accompanying Transport Assessment (prepared by Crosby Transport Planning, January 2023) details the proposals in terms of the proposed layout and access, accessibility, as well as existing and proposed traffic conditions. (See **Appendix 1**)

7.36. Site vehicular access is proposed to be from Station Road by the existing access arrangement. The Transport Assessment includes a thorough assessment of existing non-car transport connections in the local area.

7.37. The site will be well served by existing and proposed bus services, providing regular services to Hailsham and Polegate (providing rail connections). Bus service improvements are proposed as part of the Cuckoo Fields and Ersham Park applications, including additional stops along Station Road. The Transport assessment considers the siting of the bus stop located opposite the site entrance.

7.38. The provision of additional dwellings at the site would generate acceptable traffic numbers and would not significantly affect the local highway network. The development does include a parking area within the layout that would ensure that vehicles can enter and exit the site in a forward gear.

7.39. In terms of parking, as can be seen on the proposed layout plans, there is ample space at the plot to provide adequate space for the parking of vehicles. It meets the aspirations of the residential car parking design standards advocated by the Neighbourhood Plan through policy Hail D5.

7.40. The proposal would not result in any unacceptable changes to traffic volumes entering and exiting the site to and from the highway. To ensure that the proposal minimises disruption to the existing highway and neighbouring properties a code of construction

practice condition can be imposed if considered reasonable.

7.41. The Transport Report concludes that *"the proposed development would not have a material impact upon the safety and operation of the adjoining highway network. Consequently it is concluded that the development would not give rise to any adverse transport impacts and is considered an entirely appropriate form of development in transport and highways terms".*

Ecology and Biodiversity

7.42. Section 15 of the NPPF seeks to encourage Conserving and enhancing the natural environment the incorporation of biodiversity in and around developments. Paragraph 179b of the Framework identifies that, where possible, developments should '*promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.'* Due to the topography of the locality and the presence of boundary planting which is to be retained, the proposal is not considered to have any significant impact upon the overall character of the area and it would not result in the loss of any biodiversity features.

7.43. The scheme is supported by a Preliminary Ecological Appraisal, (**Appendix 2**).

7.44. The study confirms that no additional surveys are currently required at the site with suggestions confirming a number of opportunities and enhancements for biodiversity and preservation of protected species for any future development. These include, but are not limited to, the potential to provide hedgehog, bat and bird boxes and improvements to fencing to improve transitory routes for species. As this application is only in outline form, it is expected that the final details relating to biodiversity improvements and enhancements will be confirmed at RM stage. Nonetheless, it is the applicant's intention to ensure the provision of substantial additional planting and the creation of wildflower meadows to help integrate the development within the landscape and improve biodiversity at the site**.**

7.45. We are also aware of the requirements of the Environment Bill which refers to Biodiversity Net Gain. In this instance it is considered that the quantum of green landscaping proposed which would replace existing yard areas and hardstanding would ensure compliance with the 10% requirement. The applicant is also content to provide some indigenous hedging around the property and buildings should this be required and would accept the imposition of a condition to confirm this.

7.46. Policy WCS12 of the Core Strategy seeks that biodiversity will be conserved and opportunities sought for enhancement to ensure no net loss of biodiversity. Landscaping associated with the site would utilise native species and seek to increase the potential for additional biodiversity and habitats.

Odour

7.47. In order to protect and promote the residential amenity of future occupiers, it is important to consider the impacts of any potential smells and odour that could influence the site.

7.48. In this regard, there are no immediate 'bad-neighbour' developments which would cause subsequent harm to future residents. However, comments made by Southern Water on the extant scheme for up to 12 units on the site should be considered at this early stage. Southern Water stated:

> *"Due to the potential odour nuisance from a Wastewater Treatment Works, no sensitive development should be located within the 1.5 OdU odour contour of the WWTW. An Odour Assessment will need to be carried out by a specialist consultant employed by the developer to a specification that will need to be agreed in advance with Southern Water to identify and agree the 1.5 OdU contour."*

7.49. Southern Water subsequently accepted the findings of the Odour Assessment undertaken for the Cuckoo Fields development which demonstrated that the site, subject to this application, was comfortably outside the relevant odour contour, and in their final response of 21 July 2021 they removed the previous requirement above and said:

> *"Southern Water does not place a specific objection to the development on the grounds of odour from Southern Water operated assets."*

7.50. The application site is located further from the waste water treatment works than the Cuckoo Fields strategic development site, and thus the same conclusion should be reached that the site is located outside the odour contour.

Flood Risk and Drainage

7.51. Paragraph 159 of the NPPF advises that inappropriate development in areas at risk from flooding should be avoided by directing development away from areas at high risk. The site is located in flood zone 1 and is at low risk from surface water flooding. The proposed development will have no detrimental effect on offsite flood risk.

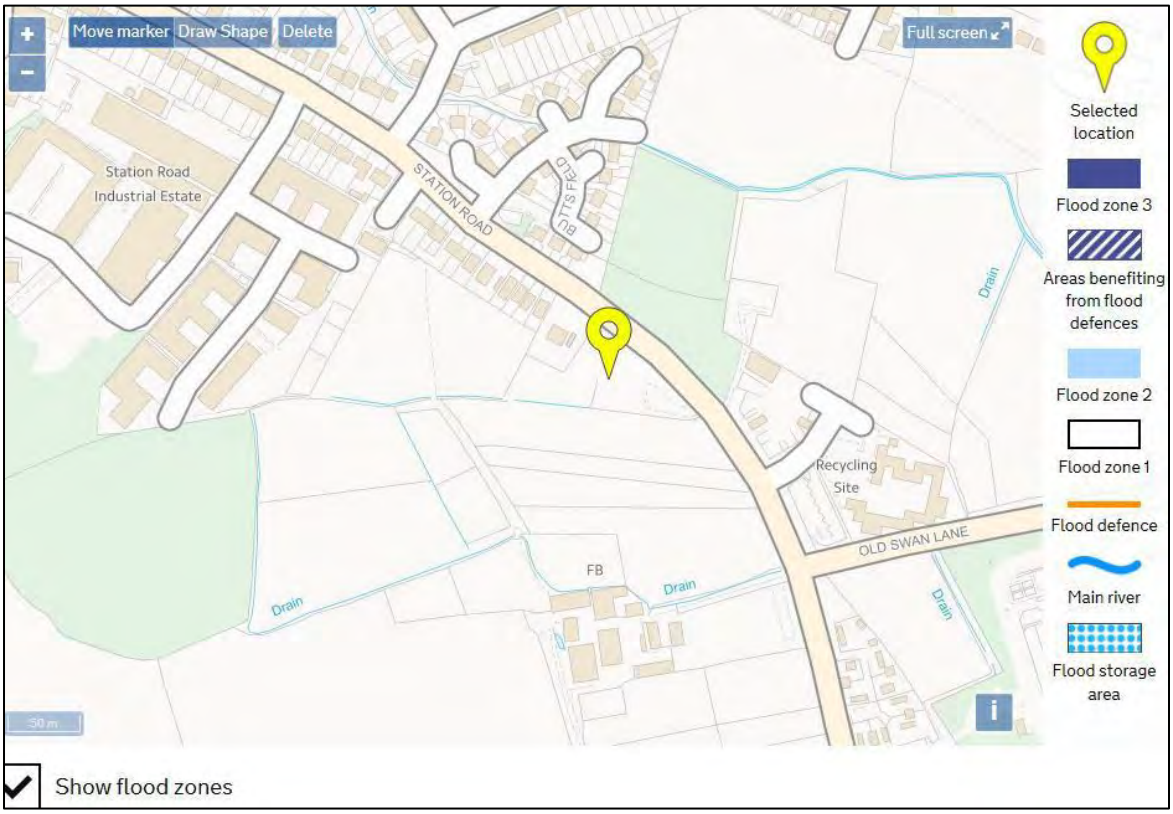


Figure 8 – EA Flood maps

7.52. As the site is a residential development its use is defined as 'more vulnerable' and as it lies within Flood Zone 1, this is identified as being compatible development therefore; there is no need for a Sequential Test, or an Exception Test.

7.53. As the site is in Flood Zone 1 there is no need for any fluvial/tidal based flood mitigation measures. Ground water, sewer and infrastructure courses of flooding are also considered to be low risk.

7.54. A drainage strategy has been commissioned and prepared by RSPD and dated February 2023 (See **Appendix 3**). This sets out the following position in relation to the site:

7.55. *"the local geology may be not suitable for infiltration to ground, and the LLFA had discouraged the use of permeable paving at this scheme in prior consultation responses in a previous application.*

7.56. *Therefore, the strategy will focus on utilising geocellular storage to retain surface water in the climate change adjusted critical storm before being allowed to discharge via a Orifice Plate to the ordinary watercourse at the South.*

7.57. *"The Drainage Strategy drawing shows the indicative surface water network for the development, directing the development water through a series of trapped gullies, Linear drainage, geocellular storage tanks and Orifice Plates, before discharging the water to the ordinary watercourse. This drainage system has been designed on the basis of 100% of the water being attenuated and discharged at the controlled rate of 2.02 litres per second and will fully accommodate the storage required for the 1 in 100 year 40% climate change adjusted critical storm scenario".*

7.58. It should be noted that this is a significant re-design of the surface water drainage system previously approved under application **WD/2020/1596/MAO**. The original design was based on three large storage sumps under the main carriageway area, which over time could be at risk of damage from repeated visits by heavy vehicles such as refuse trucks and had the potential to cause significant disruption of access during maintenance or more substantial repairs. The new design takes advantage of the reduction of housing density to re-imagine a distributed system of 10 smaller storage sumps under the re-positioned parking spaces, which can now be maintained without disruption of the main carriageway in the development. This is therefore a more sustainable and cost-effective approach that will have long term benefits for the residents.

Arboricultural Considerations

7.59. The Site does not lie within a Conservation Area and there are no trees subject to a Preservation order within the Site. Nonetheless, the building operations associated with this proposal would have the potential to be reasonably substantial and could impact on existing boundary vegetation.

7.60. Nevertheless it will be important to ensure that the features on the boundaries of the site remain protected from the development as it continues and therefore, any tree work should be carried out by a competent tree surgeon to comply with BS3998:2010 "Tree Work - Recommendations".

7.61. The areas to be protected by fencing or ground protection shall be referred to as the construction exclusion zones. The following actions shall be prohibited within the construction exclusion zones:

- Vehicular access.
- Regular pedestrian access unless on suitable ground protection.
- Storage of construction materials.

- Storage or handling of harmful chemicals.
- Any change in ground level unless otherwise stated in this report or under supervision of an arboriculturalist.
- Construction activities including hard surfacing.

7.62. The positioning of the dwelling will not negatively affect any of the protected trees found on or in the vicinity of the site. Overall, subject to appropriate conditions, development can be implemented without undue impact on trees and hedgerows.

Heritage considerations

7.63. There are no heritage assets within the site or the associated vicinity which would be affected by the proposal.

7.64. It is predicted that the proposed development will not have a negative impact and the proposal would provide for an element of needed housing within a sustainable location.

7.65. An archaeology appraisal (**Appendix 4**) has been produced for the site.

Refuse and bin Storage

7.66. Although details for refuse can be conditioned it can be established from the indicative site plan that space can adequately be provided within this scheme to offer suitable provision for the storage of rubbish and recycling.

7.67. The access can provide for the Council's large refuse / recycling vehicles as it has been tracked accordingly. House designs include storage for waste to be recycled.

Ashdown Forest Impacts - Screening of Application under Habitat Regulations 2010

7.68. Under the Habitat Regulations 2010, the Council is the competent authority, with duty under regulation 61 to ensure that the development would have no likely significant effect upon the designated areas.

7.69. The SAC is sensitive to the effects of pollution associated with vehicle movements, in particular atmospheric pollution leading to a deterioration of the heathland) and the SPA is affected by recreational pressures. If required, a section 106 agreement can be prepared to secure mitigation to ensure no adverse impact on the integrity of the Ashdown Forest SAC/SPA.

Contamination

7.70. The Government's website clarifies that 'contaminated land' is used in general terms to describe land polluted by heavy metals, oils and tars, chemical substances, gases, asbestos or radioactive substances. It also clarifies that the legal definition of contaminated land includes substances that could cause significant harm to people or protected species, and/or significant pollution of surface waters or groundwater. Paragraph 002 of the 'land affected by contamination' section of the National Planning Policy Guidance identifies that Part 2A of the Environmental Protection Act 1990 provides a risk based approach to the identification and remediation of land where contamination poses an unacceptable risk to human health or the environment.

7.71. The site was not used for any heavy industrial processes, and the only chemicals that would have come into contact with the ground were not restricted at the time, e.g. domestic cleaning agents consistent with day to day hygiene measures and contamination is unlikely to be an issue. Furthermore, all construction materials from the previous buildings were removed several years ago by a licensed contractor.

7.72. It is submitted that there would not be any unacceptable risks from pollution and the development would be appropriate to its location, in accordance with Paragraph 180 of the National Planning Policy Framework. This issue should not therefore constitute a valid reason for refusal.

7.73. In the event that the Council considered that there was likely to be land contamination issues, then conditions could be imposed to ensure that adequate soil tests were carried out prior to the first use of the site for residential purposes. The proposals therefore accord with the NPPF and Development Plan requirements in regard to contamination and creation of a safe living environment for future occupiers.

8. Conclusion

8.1. The application seeks Outline consent for the redevelopment of the site for up to 9 no dwellings and will deliver a wide range of important planning benefits relative to the three (economic, social and environmental) objectives of sustainable development, as set out in paragraph 8 of the NPPF (2021).

<u>Economic Benefits</u>

8.2. The proposed development would provide economic benefits by supporting local businesses in terms of the needs of the occupiers. There would be an investment in local trades and suppliers. Even a purely residential, small-scale project, is able to make a contribution to the economic aspect of sustainability.

8.3. The project would provide employment opportunities for trades-people and a need for building materials, with a number of economic benefits from the construction process likely to be felt at the local level. The increased population will help ensure that the future viability of community facilities, post office and schools, is supported in the long term.

8.4. Therefore, with regards to the economic dimension of the sustainability agenda, the proposal would provide benefits by supporting local businesses in the short term, and would act to enhance the economic vitality and viability of the area in the mid to long terms. As such there are no known economic disadvantages which would be comparable to the positive impacts of the proposed development.

Social benefits

8.5. With regard to the social dimension, the proposal would provide benefits in the form of up to 9 no new dwellings, which would make a valuable contribution to local housing supply, without detriment to neighbouring residential amenities.

8.6. As to whether the site represents a sustainable location for housing, paragraph 78 of the National Planning Policy Framework says, “to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities”.

8.7. The site is located within the town of Hailsham and abuts residential development on the north and in due course the west and south. Due to its location amongst existing built development, the site benefits from local bus routes and local facilities.

8.8. The site’s position adjacent to the existing residential area makes it a legitimate and logical infill plot, which could readily accommodate up to 9 no new dwellings without compromising the quality or character of the area.

Environmental benefits

8.9. This proposal is for the redevelopment of an existing former commercial site, which adjoins

existing residential dwellings to the north.

8.10. The indicative layouts of the site and the dwellings have been carefully considered. The submitted drawings illustrate how this quantum residential redevelopment could provide a layout and design consistent with the character of the surrounding area which contains a low-density mix of house types and styles. It is therefore submitted that the proposed development could be carried out in a manner which integrates successfully into this location, retaining the character of the area.

8.11. Enhancements to the site will also be carried out through landscaping improvements, including the retention of existing trees and the planting of new shrubs and hedging. The proposals do not result in the loss of important habitat but rather offer an opportunity to improve the existing situation. Thus the measures put in place make a significant contribution to protecting and enhancing the natural environment.

8.12. Given the sustainability of the location and as the proposal can be designed in a way which ensures there would not be any significant visual impact, there is not known to be any environmental disadvantages which would significantly and demonstrably outweigh the overall benefits.

Summary

8.13. Wealden District Council currently cannot demonstrate a 5-year housing land supply, identifying only a 3.92 year supply against the adopted Housing Requirement. There is therefore, in principle, a clear and compelling need for housing delivery across the District, including a need for affordable housing.

8.14. Despite being located outside of the development boundary given the relevant policy considerations and the inherent sustainability of the location the proposal should be considered favorably. Although a reserved matter the proposal offers the potential to be designed in a way which ensures there would not be any significant visual impact, there is not known to be any environmental disadvantages which would significantly and demonstrably outweigh the overall benefits.

8.15. It is considered that the proposed development would represent sustainable development for which there is a presumption in favour, as set out in the National Planning Policy Framework. The principle of development is accepted by Paragraph 79 of the NPPF 2021 and the proposal is an opportunity to provide an enhancement to the site.

8.16. The submission demonstrates that the site could accommodate up to 9 no dwelling houses and that it would not have a greater impact on the amenities of neighbouring residents or be detrimental to the character of the area.

8.17. It is suggested that any reasonable concerns can be overcome via the imposition of appropriate conditions having regard to the NPPF and the PPG.

8.18. As such, we trust that this outline application for the creation of up to 9 additional dwellings can be considered favourably.

9. Appendices

Appendix 1 - Traffic Report prepared by Crosby Transport dated January 2023

Appendix 2 - Preliminary Ecological Appraisal – prepared by KB Ecology Consultants and dated February 2023.

Appendix 3 - SUDs and Drainage Strategy prepared by RSPD dated February 2023

Appendix 4 - Archaeology Appraisal prepared by ASL dated January 2023 Rev D

Appendix 5 – Sales Particulars May 2022

Appendix DV15

Land at Straight Half Mile, Maresfield: Decision Notice

Town and Country Planning Act 1990

Notice of Decision
Application No. **WD/2017/0694/MAO**

Wealden District Council

Rapleys
51 Great Marlborough Street
London
W1F 7JT

Council Offices
Vicarage Lane
Hailsham
East Sussex
BN27 2AX

DESCRIPTION AND LOCATION OF DEVELOPMENT
OUTLINE APPLICATION FOR THE DEVELOPMENT OF THE SITE TO PROVIDE UP TO 25 DWELLINGS AND A COMMUNITY FACILITY, WITH APPEARANCE, LANDSCAPING, SCALE AND LAYOUT RESERVED.
LAND AT STRAIGHT HALF MILE, MARESFIELD.

With reference to the proposals set out in the application numbered as above and shown on the plans submitted therewith, Wealden District Council, in pursuance of powers under the Town and Country Planning Act 1990 (as amended), hereby **GRANTS PLANNING PERMISSION** for the said proposals, subject to the conditions stated below imposed for the reasons stated thereunder:-

1. Permission is granted subject to the subsequent approval by the Local Planning Authority of the detailed particulars of the layout, scale and appearance of the buildings to which this permission relates, and the landscaping of the site before any development is commenced, such matters being reserved from the permission. STD1A

   REASON: To meet the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. (a) Application for approval of the matters reserved for subsequent approval must be made to the Local Planning Authority no later than the expiration of three years beginning with the date of the grant of this outline permission; and

   (b) the development to which this permission relates must be begun no later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. STD3

   REASON: To meet the requirements of Section 92 of the Town and Country Planning Act 1990.

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification, the Community Hall building hereby permitted shall only be used for purposes referred to in Class F2(b), and for no other purpose including any use within Class F1 or Class F2, except with the prior written approval of the Local Planning Authority.

   REASON: In the interest of maintaining the residential and rural amenities of the locality, avoiding detrimental impact on the local highway and to regulate and control the use of the community hall building and restrict use of the building as a nursery school having regard to saved Policies EN27 and TR3 of the adopted Wealden Local Plan 1998.

4. The use of the Community Hall shall be limited to the hours of 07:00 to 23:00 daily, except Sundays and Bank Holidays when the use of the building shall be permitted only between the hours of 08:00 to 22:00 hours.

   REASON: To protect the residential amenities of the locality, having regard to Saved Policy EN27 of the adopted Wealden Local Plan 1998.

5. No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. AR01

   REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013.

6. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 5 to the written satisfaction of the Local Planning Authority. AR03(M)

   REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013.

7. No work below ground level shall be carried out on site for the development hereby approved, until full written details for a Code of Construction Practice has been submitted to and approved in writing by the Local Planning Authority. The Code of Construction Practice shall detail good practice measures for site working to mitigate potential impacts from construction including protection of retained features and surface water bodies on or adjacent to the site, control of run-off, application of design controls for construction equipment and construction vehicles, the anticipated number, frequency and types of vehicles used during construction, the method of access and egress and routeing of vehicles during construction, the parking of vehicles by site operatives and visitors, the loading and unloading of plant, materials and waste, the storage of plant and materials used in construction of the development, wheel washing facilities, sheeting of lorries during transportation of construction materials, provision of water sprays during delivery and dumping of sand and gravel, mixing and batching on wet rather than dry aggregate materials, minimum drop heights to be used for continuous and batch drop activities, waste disposal and details of public engagement both prior to and during construction works. The approved Code of Construction Practice shall be implemented throughout the period of work on site. C04(M)

   REASON: In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties and minimise potential for environmental impact having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policies EN27 and TR3 of the adopted Wealden Local Plan 1998.

8. During the construction phase, no works shall take place other than within the hours Monday to Friday 08:00 to 18:00 hours, Saturday 08:00 to 13:00 and not at all on Sundays, Public or Bank Holidays.

   Deliveries shall take place between 08:00 to 18:00 Monday to Friday only avoiding peak school hours and not at all on Saturdays, Sundays, Public or Bank Holidays.

REASON: To protect residential amenity, having regard to Saved Policy EN27 of the adopted Wealden Local Plan 1998.

9. No work below ground level shall be carried out on site for the development hereby approved until a scheme for the control of noise and dust has been submitted to and approved in writing by the Local Planning Authority. Throughout the construction period, work shall be carried out in accordance with the approved scheme.

NOTE: All works shall ensure compliance with guidance found in British Standard 'BS5228-1: 2009 +A1:2014 - Code of practice for noise and vibration control on construction and open sites.

REASON: To protect residential amenity and the environment, having regard to Saved Policy EN27 of the adopted Wealden Local Plan 1998.

10. No works below ground level shall take place until a scheme for the provision and implementation of foul drainage works has been approved in writing by the Local Planning Authority. Such works shall be implemented to the reasonable satisfaction of the Local Planning Authority before the associated buildings to which they relate are occupied. Any works required to upgrade the infrastructure sufficiently to provide capacity for the new development shall be undertaken prior to acceptance of the development's foul sewerage. DF02(M)

REASON: To protect water quality and to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy CS2 of the adopted Wealden Local Plan 1998.

11. No works below ground level shall take place until details of surface water drainage, which shall follow the principles of sustainable drainage as far as practicable, have been submitted to and approved in writing by the Local Planning Authority. The drainage shall be provided in accordance with the approved details before first occupation of the development.

The details to be submitted shall include:

1. A surface water drainage strategy designed in accordance with the principles of Abstruct Consulting Flood Risk Assessment, including a programme for its implementation. Hydraulic calculations including an allowance for climate change (40%) and an allowance for urban creep, shall be submitted along with the detailed drainage drawings. The hydraulic calculations shall take into account the connectivity of the different surface water drainage features.

2. A suitable ground investigation which incorporates test pits and ground water monitoring, preferably in winter, to establish the infiltration rate and depth of groundwater at the site. Any soakage testing shall be undertaken in accordance with BRE 365 methodology. Where it is proposed to construct any storage features; site specific test pits should demonstrate that any such drainage device achieves a 1.0m vertical separation between the groundwater levels and the base of the feature.

3. Evidence that permission is in place to construct the off-site discharge via the existing piped watercourse and that the receiving pipe is in working order.

4. Detailed plans, layouts and sections of the proposed drainage system and pollution/silt control devices and construction details of any non-standard features.

5. A full management and maintenance plan for the entire drainage system clearly stating who will be responsible for managing all aspects of the surface water

drainage system, including piped drains, and evidence that these responsibility arrangements will remain in place throughout the lifetime of the development. The approved management arrangements shall be in place prior to first occupation of the development.

6. Detail measures to manage flood risk, both on and off the site during the construction phase.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy CS2 of the adopted Wealden Local Plan 1998.

12. Evidence including photographs shall be submitted to the Local Planning Authority showing that the drainage system has been constructed as per the final agreed detailed drainage designs prior to any occupation of the development.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy CS2 of the adopted Wealden Local Plan 1998.

13. There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways. Prior to being discharged into any watercourse, surface water sewer or soakaways system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies and silt traps to BS 5911:1982 with an overall capacity compatible with the site being drained and shall be retained thereafter.

REASON: To prevent pollution of the water environment, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy CS2 of the adopted Wealden Local Plan 1998.

14. No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained thereafter. EL02

REASON: To preserve the rural and residential amenities of the locality having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy EN29 of the adopted Wealden Local Plan 1998.

15. The new access shall be in the position shown on the approved plan and laid out and constructed in accordance with the requirements of the Local Highway Authority.HW09(M)

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy TR3 of the adopted Wealden Local Plan 1998.

16. The access shall have maximum gradients of 2.5% (1 in 40) from the channel line, or for the whole width of the footway/verge whichever is the greater and 11% (1 in 9) thereafter.

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy TR3 of the adopted Wealden Local Plan 1998.

17. Before preparation of any groundworks and foundations of the development hereby approved details of the proposed surface water drainage to prevent the discharge of surface water from the proposed site onto the public highway and, similarly to prevent the discharge of surface water from the highway onto the site including a programme for its implementation shall be submitted to the Local Planning Authority for approval in consultation with the Highway Authority. The scheme shall be implemented in accordance with the approved details and programme and retained thereafter.

REASON: To avoid the risk of flooding and in the interests of and for the safety of persons and vehicles using the site and Nursery Lane, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy TR3 of the adopted Wealden Local Plan 1998.

18. The new estate roads shall be constructed to a standard approved by the Local Planning Authority with a view to subsequent adoption as a maintainable highway and the works phased with the progress of building construction to the approval of the Local Planning Authority. HW05

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy TR3 of the adopted Wealden Local Plan 1998.

19. Sight lines/a visibility splay of not less than 2.4m x 160m to the north and 2.4m x 120m to the south shall be provided. There shall be no obstruction to visibility above a height of 600m above each carriageway level within these visibility splays. No gates, fences or walls shall be constructed within the sight lines/visibility splay. HW16

REASON: In order to provide visibility for vehicles entering and leaving the site In the interests of and for the safety of persons and vehicles using the development and the adjoining road having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policy TR3 of the adopted Wealden Local Plan 1998.

20. Before preparation of any groundworks and foundations on site for the development hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out in accordance with the approved details. These details shall include proposed boundary treatments, proposed finished levels and contours relative to the existing site levels, hard surface finishes, including samples, details of any retaining walls, steps, railings, walls, gates or other supporting structures, car parking layouts, other vehicle and pedestrian access and circulation areas, minor artefacts and structures (e.g. street furniture, play equipment, refuse and other storage units). The information shall also include indications of all existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in full with BS5837:2012 Trees in relation to design, demolition & construction - Recommendations, in the course of the development, together with a scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted as part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density. LA05(M)

REASON: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policies EN14 and EN27 of the Wealden Local Plan 1998.

21. A survey for badgers shall be undertaken and the findings of the survey and any additional mitigation measures proposed shall be submitted as part of the reserved matters application(s). NC06

REASON: To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having regard to SPO1, SPO2, WCS12 and WCS14 of the Wealden Core Strategy Local Plan 2013.

22. A full reptile survey shall be undertaken and the findings of the survey and any additional mitigation measures proposed shall be submitted as part of the reserved matters application(s). NC04

REASON: To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having regard to SPO1, SPO2, WCS12 and WCS14 of the Wealden Core Strategy Local Plan 2013.

23. A bat emergence survey shall be undertaken by an agreed expert to determine presence or absence of bats and the findings of the survey and any additional mitigation measures proposed shall be submitted as part of the reserved matters application(s). NC01

REASON: To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having regard to SPO1, SPO2, WCS12 and WCS14 of the Wealden Core Strategy Local Plan 2013.

24. Before preparation of ground levels for the development approved, a wildlife management plan shall be submitted and approved, to include as appropriate detailed proposals as necessary for the protection of bats, birds, reptiles, great crested newts, dormice and badgers, and measures for the mitigation of any harm to them likely to be caused by the development. The works and other measures forming part of that plan shall be carried out in accordance with it. NC08

REASON: To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having regard to SPO1, SPO2, WCS12 and WCS14 of the Wealden Core Strategy Local Plan 2013.

25. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned, domestic gardens or areas to be adopted by the Local Highway Authority, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings hereby permitted and the landscape management shall be carried out in accordance with the approved plan over the period specified. LA09(M)

REASON: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policies EN14 and EN27 of the Wealden Local Plan 1998.

26. A full Arboricultural Method Statement shall be submitted as part of the Reserved Matters application which shall include numbering and detailing trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details. TP05(M)

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policies EN12 and EN14 of the adopted Wealden Local Plan 1998 and the Wealden Design Guide, Chapter 3, Section 6.

27. No trees and/or hedgerows on the site, unless dead or dangerous, shall be felled, reduced, pruned or destroyed without the consent in writing of the Local Planning Authority. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the Local Planning Authority:-

(i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.

(ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.

(iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.

(iv) No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.

(v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.

(vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction'. TP02

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013 and Saved Policies EN12 and EN14 of the adopted Wealden Local Plan 1998.

28. This planning decision relates solely to the information contained within the application form, the following plan(s) and (where appropriate) documents:

Ref.	Date Stamped. STN4
Existing Site Plan Dwg 001 Rev P2	14 June 2017
Existing Site Plan Dwg 002 Rev P2	14 June 2017
Existing Site Section Dwg 003 Rev P2	14 June 2017
Affordable Housing Statement	14 June 2017
Landscape and Visual Impact Assessment	14 June 2017
Transport Statement	14 June 2017
Archaeological Desk Based Assessment	2 October 2017
Supplementary Transport Statement	2 April 2020
Detailed Gradiometer Survey Report	2 April 2020
Stage 1 Road Safety Audit	24 September 2020
Proposed Highway Improvements 1906007-06	21 September 2020
Visibility Splays Dwg 1906007-07	21 September 2020
Ecological Habitat Appraisal Survey Report	14 May 2020

REASON: For the avoidance of doubt.

The Local Planning Authority's reasons for its decision to grant planning permission are set out in the officer's report which can be viewed on the Council's website at www.planning.wealden.gov.uk

NOTE: Should alterations or amendments be required to the approved plans, it will be necessary to apply either under Section 96A of the Town and Country Planning Act 1990 for non-material alterations or Section 73 of the Act for minor material alterations. An application must be made using the standard application forms and you should consult with us, to establish the correct type of application to be made.

NOTE 1: This permission is subject to an agreement under Section 106 of the Town and Country Planning Act 1990. STN1

NOTE 2: The developer is required to contact the Council as Street Naming & Numbering Authority, in writing, enclosing a site layout plan and the commencement of work on site, to agree a scheme of house/street naming and numbering, and for the allocation of postcodes. Please contact the NLPG Officer, IT Department, at the above address. STN8

NOTE 3: The applicant is advised that it is an offence under section 161 of the Highway Act 1980 to deposit anything on a highway the consequence of which a user of the highway is injured or endangered. It is strongly recommended that during any form of earthworks and/or excavations that are carried out as part of the development, suitable vehicle wheel washing equipment should be provided and used within the site, to prevent contamination and damage to the adjacent roads. STN13

NOTE 4: A formal application for connection to the public sewerage system is required in order to serve this development. For further advice, please contact:

Southern Water
Sparrowgrove House
Sparrowgrove
Otterbourne
Hampshire
SO21 2SW
Tel 0330 303 0119
www.southernwater.co.uk

NOTE 5: The applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless survey has shown it is absolutely certain that nesting birds are not present. NCN1

NOTE 6: The applicant is advised of the need to consult East Sussex Fire Service regarding the provision and location of fire hydrants within the development.

NOTE 7: Section 38 Agreement of the Highways Act, 1980 - Provision of Adoptable Highway. The applicant is advised to enter into a Section 38 Legal Agreement with East Sussex County Council, as Highway Authority, for the proposed adoptable on-site highway works. The applicant is requested to contact the Transport Development Control Team (01273 482254) to commence this process. The applicant is advised that any works commenced prior to the Sec 38 agreement being in place are undertaken at their own risk.

NOTE 8 The off-site highways works associated with this development proposal will need to be secured through a Section 278 Legal Agreement between the applicant and East Sussex County Council The applicant is requested to contact the Transport Development Control Team (01273 482254) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

NOTE 9: The applicant is advised of the requirement to enter into discussions with and obtain the necessary licenses from the Highway Authority to cover any temporary construction related works that will obstruct or affect the normal operation of the public highway prior to any works commencing. These temporary works may include, the placing of skips or other materials within the highway, the temporary closure of on-street parking bays, the imposition of temporary parking restrictions requiring a Temporary Traffic Regulation Order, the erection of hoarding or scaffolding within the limits of the highway, the provision of cranes over-sailing the highway. The applicant should contact East Sussex Highways (0345 6080193).

NOTE 10: The applicant is advised that the erection of temporary directional signage should be agreed with East Sussex Highways (01345 6080193) prior to any signage being installed.

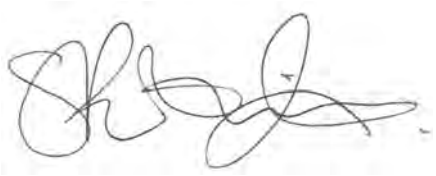
NOTE 11: The applicant is advised to contact the Transport Development Control Team (01273 482254) to commence the process associated with the proposed Traffic Regulation Order. The applicant would be responsible for meeting all costs associated with this process which is a minimum of £5000. The applicant should note that the outcome of this process cannot be guaranteed as it is open to public objection.

NOTE 12: In granting this planning permission Members of Planning Committee North emphasised the importance of a SUDS strategy based on swales and attenuation ponds to provide an appropriate surface water drainage system in addition to meeting the need for biodiversity enhancements.

NOTE: Your attention is drawn to the requirements of the Building Act 1984 for the deposit of Plans under the Building Regulations and associated legislation. ACCESS FOR FIRE BRIGADE: Your attention is hereby drawn to the provisions of Section 35 of the East Sussex Act 1981.

DISCHARGE OF CONDITIONS: It is advised that under The Town and Country Planning Act 1990, the Council has up to 8 weeks from the date of an application to discharge any condition(s) and advise the applicant of the Council's decision. This information should be submitted using the 'Approval of Details Reserved by Condition' Form which can be downloaded from the Council's website. Please note there is also a fee payable for this type of application.

IMPORTANT: See Notes overleaf
DATE OF ISSUE: 23 June 2022



Stacey Robins
Head of Planning & Environmental Services

NOTES

Appeals to the Secretary of State

- If the Applicant is aggrieved by the decision of the Local Planning Authority (LPA) to refuse permission for the proposed development or to grant it subject to conditions, then an appeal may be lodged with The Planning Inspectorate (PINS) under Section 78 of the Town and Country Planning Act 1990.
- Appeals must be made on a form which is obtainable from:
  The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN
  Tel. No. 0303 444 5000
  www.gov.uk/appeal-planning-inspectorate

Appeal Timescales

- Householder planning application or minor commercial application:

  12 weeks from the date on the decision notice

  However, if an enforcement notice has been served for the same or very similar development the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 12 weeks).

  NB – if the LPA have failed to determine the householder planning application, or for an appeal against the grant of permission subject to conditions, please follow the time limits under "Planning application" below.

- Planning application:

  6 months from the date on the decision notice, or
  6 months from the expiry of the period which the LPA had to determine the application.

  However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

  NB – the LPA determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). If a longer period has been agreed with the LPA, the time limit runs from that date.

Further information

- The Planning Inspectorate has discretionary power to allow a longer period for the giving of a notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice to appeal.
- The Planning Inspectorate is not required to entertain an appeal if it appears that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- The Planning Inspectorate does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction issued by the Secretary of State.

Purchase Notices

- If either the LPA or Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the land has become incapable of reasonably beneficial use in its existing state nor rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix DV16

Land East of North Street, Lower Horsebridge: Decision Notice

Town and Country Planning Act 1990

Notice of Decision
Application No. **WD/2019/1575/MAO**

Future Planning and Development Limited
2 Wardrobe Place
London
EC4V 5AH

Council Offices
Vicarage Lane
Hailsham
East Sussex
BN27 2AX

DESCRIPTION AND LOCATION OF DEVELOPMENT
OUTLINE APPLICATION FOR UP TO 130 RESIDENTIAL UNITS INCLUDING ACCESS (ALL OTHER MATTERS RESERVED)
LAND EAST OF NORTH STREET, LOWER HORSEBRIDGE, HAILSHAM, BN27 4DR

With reference to the proposals set out in the application numbered as above and shown on the plans submitted therewith, Wealden District Council, in pursuance of powers under the Town and Country Planning Act 1990 (as amended), hereby **GRANTS PLANNING PERMISSION** for the said proposals, subject to the conditions stated below imposed for the reasons stated thereunder:-

1. Permission is granted subject to the subsequent approval by the Local Planning Authority of the detailed particulars of the layout, scale and appearance of the buildings to which this permission relates, and the landscaping of the site before any development is commenced, such matters being reserved from the permission. STD1A

   REASON: To meet the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. (a) Application for approval of the matters reserved for subsequent approval must be made to the Local Planning Authority no later than the expiration of three years beginning with the date of the grant of this outline permission; and

   (b) the development to which this permission relates must be begun no later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. STD3

   REASON: To meet the requirements of Section 92 of the Town and Country Planning Act 1990.

3. No development shall take place until the developer has secured the implementation of a programme of archaeological work, in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority. AR01

   REASON: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the requirements of SPO2, SPO13 and WCS14 of the Wealden Core Strategy Local Plan 2013 and paragraph 194 of the National Planning Policy Framework 2021.

4. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that

phase has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 3 to the written satisfaction of the Local Planning Authority. AR03(M)

REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, coupled with the requirements of paragraphs 194-205 of the National Planning Policy Framework 2021.

5. Before preparation of any groundworks and foundations of the development hereby approved, full written details for a Code of Construction Practice shall be submitted to and approved in writing by the Local Planning Authority. The Code of Construction Practice shall detail good practice measures for site working to mitigate potential impacts from construction including protection of retained features and surface water bodies on or adjacent to the site, contractors compound, storage areas for plant, machinery and materials, control of run-off, application of design controls for construction equipment and construction vehicles, vehicle routing and associated signage, off-site contractor parking, wheel washing facilities, sheeting of lorries during transportation of construction materials, provision of water sprays during delivery and dumping of sand and gravel, mixing and batching on wet rather than dry aggregate materials, minimum drop heights to be used for continuous and batch drop activities and waste disposal. The approved Code of Construction Practice shall be implemented throughout the period of work on site. C04 (M)

   REASON: In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties and minimise potential for environmental impact having regard to Saved Policies EN27 and TR3 of the adopted Wealden Local Plan.

6. An air quality assessment shall be carried out by a suitably qualified person for the proposed development and submitted as part of any subsequent Reserved Matters application

   The assessment shall consider the impact of the proposed development on the air quality objectives described in the National Air Quality Strategy with respect to nitrogen dioxide, PM10 and PM2.5 particulates.

   For the construction phase, an assessment shall be undertaken of the potential for dust nuisance, using the Institute of Air Quality Management (IAQM) ‘Guidance on the Assessment of Dust from Demolition and Construction or, where superseded, the most up-to-date guidance.

   For a quantitative assessment of the operational phase, detailed modelling using ADMS-Roads to determine the impact of the development on existing air quality is required. This shall include assessment of the cumulative impacts from the development itself and other committed developments in the vicinity, on existing air quality.

   Where possible, verification of the model output shall be made through a comparison of the results of any publically available monitoring data in the study area.

   To inform the background concentrations used within the model, the results of local monitoring and the available DEFRA maps shall be used. Reductions in background concentrations and emissions in future years should not be used, to reflect the findings of recent research.

   The significance of impact should be described with reference to the EPUK/IAQM (May 2015) Land-Use Planning & Development Control: Planning for Air Quality document,

and the ‘Air Quality and Emissions Mitigation Guidance for Sussex Authorities (2013) or, where superseded, the most up-to-date guidance.

All mitigation measures deemed necessary shall be submitted to and approved in writing by the Local Planning Authority. Upon development, work should be carried out in accordance with the approved scheme"

REASON: To protect residential amenity and the environment, having regard to Saved Policy EN27 of the adopted Wealden Local Plan, coupled with the requirements of paragraph 185 of the National Planning Policy Framework 2021.

7. An area of not less than 1,544sqm of allotments with associated parking and a central area of public open amenity space of not less than 4110sqm shall be provided within the developable area of the residential development. The central area of public open space shall incorporate an equipped children's play space which shall accord with the space requirements set out in the Council's draft SPG Outdoor Play Space dated February 2003 with the total area of equipped play space to be provided to be not less than 2.5sqm for every bedroom within the development Full details of the play areas including grass seeding/turfing, planting, fencing, safety surfacing, play equipment, seats, litter bins and lighting) and the allotments shall be submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be fully implemented following substantial completion of the development or before occupation of the 75th dwelling, whichever is the sooner and the approved play areas and allotments shall be so retained thereafter LA13(M)

REASON: In the interests of ensuring that sufficient amenity space is provided on the development site for the future occupiers of the dwellings having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies LR3 and LR5 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 98 of the National Planning Policy Framework 2021.

8. Before preparation of any groundworks and foundations of the development hereby approved, a detailed scheme of hard and soft landscaping and a programme for its implementation including the provision for the reinforcement of existing vegetated boundaries of not less than 5m with native tree and shrub planting of local provenance to provide screening between the development and the site boundaries, equipped children’s play space, and amenity space shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and shall be retained thereafter for those purposes only.

These details shall include full plans and specifications of proposed boundary treatments, proposed finished levels and contours, hard surface finishes, details of any retaining walls, steps, railings, walls, gates or other supporting structures, car parking layouts, other vehicle and pedestrian access and circulation areas, minor artefacts and structures (e.g. street furniture, refuse and other storage units). The information shall also include indications of all existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in full with British Standard 5837:2012, "Trees in Relation to Construction" (or, where superseded, the most up-to-date guidance) in the course of the development, together with a scheme for the subsequent maintenance of all planting and hard landscape elements which form part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density.

All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the associated building(s) or the completion of the development, whichever is the sooner, and any trees, shrubs, hedges or plants which within a period of five years from the

completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping comprised in the approved details of landscaping shall be carried out before the first occupation of the associated building(s), or the completion of the development whichever is the sooner. LA05(M)

REASON: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN14 and EN27 of the Wealden Local Plan 1998, coupled with the requirements of paragraphs 130, 131 and 174 of the National Planning Policy Framework 2021.

9. Before preparation of ground levels of the development approved by this permission a scheme for the provision and implementation of foul drainage works shall be submitted to and approved in writing by the Local Planning Authority. Such works shall be implemented to the reasonable satisfaction of the Local Planning Authority before the associated buildings to which they relate are occupied. Any works required to upgrade the infrastructure sufficiently to provide capacity for the new development shall be undertaken prior to acceptance of the development's foul sewerage. DF02(M)

REASON: To protect water quality and to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 166 of the National Planning Policy Framework 2021.

10. There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways. Prior to being discharged into any watercourse, surface water sewer or soakaways system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies and silt traps to BS 5911:1982 with an overall capacity compatible with the site being drained and shall be retained thereafter.

REASON: To prevent pollution of the water environment in accordance with Saved Policy CS2 of the adopted Wealden Local Plan, coupled with the requirements of paragraphs 159, 166 and 168 of the National Planning Policy Framework 2021, and the Wealden Design Guide, Chapter 4, Sections 8 and 9.

11. No development shall take place until full details of surface water drainage, which shall follow the principles of sustainable drainage as far as practicable, have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage shall be provided in accordance with the approved details before first occupation of the development. DS02

The detailed surface water drainage drawings and calculations shall include the following:
(a) Surface water runoff from the proposed development shall be limited to 5 l/s for all rainfall events including those with a 1 in 100 (plus climate change) annual probability of occurrence. Evidence of this (in the form hydraulic calculations) shall be submitted with the detailed drainage drawings. The hydraulic calculations shall take into account the connectivity of the different surface water drainage features.
(b) The details of the outfall of the proposed attenuation pond and how it connects into the watercourse/sewer/drain shall be submitted as part of a detailed design including cross sections and invert levels.
(c) Details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system shall be provided.

(d) Details of the measures proposed to manage exceedance flows, including details of how the existing overland surface water flows have been intercepted and managed along the site boundaries and adjoining land (including between the site and North Street). All interception swales shall be located in communally managed land and will not be the responsibility of single householder. A plan showing the easements which will be provided shall be included with the detailed design.
(e) Details of measures to manage flood risk, both on and off the site, during the construction phase.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 159, 166 and 168 of the National Planning Policy Framework 2021.

12. Prior to the construction of the outfall, a survey of the condition of the ditch/ordinary watercourses and culverts which will take surface water runoff from the development shall be undertaken. Results of the survey and any required improvements to the condition of the watercourse shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be implemented prior to first occupation of the development.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 159, 166 and 168 of the National Planning Policy Framework 2021.

13. A Maintenance and Management Plan for the entire drainage system shall be submitted to the planning authority before any construction commences on site to ensure the designed system takes into account design standards of those responsible for maintenance. The management plan shall cover who will be responsible for managing all aspects of the surface water drainage system, including piped drains, and evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development. The Maintenance and Management Plan shall be implemented in accordance with the approved details.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 159, 166 and 168 of the National Planning Policy Framework 2021

14. Prior to occupation of the development, evidence (including photographs) shall be submitted showing that the drainage system has been constructed as per the final agreed detailed drainage designs.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraphs 159, 166 and 168 of the National Planning Policy Framework 2021

15. A wildlife management plan for the protection of bats, badgers, reptiles and birds including full details of the mitigation and enhancement proposals to protect them from any harm likely to be caused by the development both during construction and operation shall be submitted as part of any Reserved Matters application. All works shall proceed in accordance with the approved mitigation and enhancement proposals with any amendments agreed in writing by the Local Planning Authority.

REASON: To ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having

regard to SPO1, SPO2, WCS12 and WCS14 to the Wealden Core Strategy Local Plan 2013 and paragraphs 120, 130, 174 and 180 of the National Planning Policy Framework 2021.

16. During the construction phase, no works arising from the use of machinery, vehicles or power tools shall take place other than within the hours Monday to Friday 0800 to 1800 hours, Saturday 0800 to 1300 and not at all on Sundays, Public Holidays or Bank Holidays.

    REASON: To protect residential amenity, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy EN27 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 185 of the National Planning Policy Framework 2021.

17. The new vehicular access shall be in the position shown on the approved plan and laid out and constructed in accordance with the requirements of the Local Highway Authority.HW09(M)

    REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 111 of the National Planning Policy Framework 2021

18. No part of the development shall be occupied until a visibility splay of 2.4m by 120m has been provided at the proposed site vehicular access onto North Street in accordance with the approved plans. Once provided the splays are to be cleared of all obstructions exceeding 600 mm in height and kept clear thereafter. HW16

    REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 111 of the National Planning Policy Framework 2021.

19. The new estate roads shall be designed and constructed to a standard approved by the Local Planning Authority in accordance with Highway Authority's standards with a view to subsequent adoption as a maintainable highway and the works phased with the progress of building construction to the approval of the Local Planning Authority. HW05

    REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 111 of the National Planning Policy Framework 2021.

20. No development hereby approved shall commence until details setting out the methodology and timetable for the on-going surveying and monitoring of the condition of North Street and the immediate highway network to demonstrate the condition of the roads prior to the commencement of works, during construction works and following completion of the development has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

    Should the Local Planning Authority consider, in consultation with the Local Highway Authority, that remedial measures are necessary as a result of considering the final monitoring report, they shall give written notice to the developers. Within one month of receiving such written notice from the Local Planning Authority, the developers shall submit a scheme of construction works for the necessary improvements to meet the

Local Highways Authority's reasonable requirements and a programme for the implementation of the improvements shall be submitted and approved in writing by the Local Planning Authority. The approved works shall be carried out in accordance with the approved details and programme of works to the satisfaction of the Local Highway Authority.

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998, coupled with the requirements of paragraph 111 of the National Planning Policy Framework 2021.

21. No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level and directional and has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall show predicted light levels at neighbouring residential properties. The artificial lighting shall conform to requirements for Environmental Zone E2 contained within Table 2 of the Institution of Lighting Professional's Guidance for The Reduction of Obtrusive Light Guidance Note 01/21and comply with the guidance contained in the Bat Conservation Trust's and Institution of Lighting Professionals Guidance Note 08/18 "Bats and Artificial Lighting in the UK" or, where superseded, the most up-to-date guidance.

The scheme shall be implemented in accordance with the approved details and retained thereafter. EL02

REASON: To preserve the rural and residential amenities of the locality having regard to Saved Policies EN27 and EN29 of the adopted Wealden Local Plan, coupled with the requirements of paragraphs 120 and 174 of the National Planning Policy Framework 2021 and the Wealden Design Guide, Chapter 3, Section 18; Chapter 8, Section 7.

22. No trees and/or hedgerows on the site, unless dead or dangerous, shall be felled, topped, lopped or destroyed without the consent in writing of the Local Planning Authority. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the Local Planning Authority:-

(i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.

(ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.

(iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.

(iv). No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations or, where superseded, the most up-to-date guidance.

(v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.

(vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2009 'Trees in Relation to Construction' or, where superseded, the most up-to-date guidance. TP02

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN12 and EN14 of the adopted Wealden Local Plan 1998, coupled with paragraphs 130 and 174 of the National Planning Policy Framework 2019 and the Wealden Design Guide, Chapter 3, Section 6.

23. This planning decision relates solely to the information contained within the application form, the following plan(s) and (where appropriate) documents:

Ref.	Date Stamped. STN4
Dwg 3055-D1000- rev01 Site Location Plan	19 July 2019
Dwg 3055-D6100-Rev 03 Masterplan (for the avoidance of doubt this drawing is only approved in relation to the position of the site access. It is not approved with regard to the layout).	4 March 2020
Road Safety Audit Stage 1 Proposed Access	19 July 2019
Road Safety Audit Designers Response	19 July 2019
Addendum Transport Statement	19 July 2019
Preliminary Ecological Appraisal	19 July 2019
Flood Risk Assessment and Surface Water Drainage Strategy for Planning (For the avoidance of doubt the proposed Masterplan/Layout Drawings are not approved)	19 July 2019
Bat Activity, Great Crested Newt eDNA and Reptile Presence/Absence Survey Report	1 October 2019
Transport Statement	21 January 2020
WSI for Archaeological Evaluation	18 March 2020

REASON: For the avoidance of doubt.

The local planning authority's reasons for its decision to grant planning permission are set out in the officer's report which can be viewed on the Council's website at www.planning.wealden.gov.uk

NOTE: Should alterations or amendments be required to the approved plans, it will be necessary to apply either under Section 96A of the Town and Country Planning Act 1990 for non-material alterations or Section 73 of the Act for minor material alterations. An application must be made using the standard application forms and you should consult with us, to establish the correct type of application to be made.

NOTE 1: The developer is required to contact the Council as Street Naming & Numbering Authority, in writing, enclosing a site layout plan and the commencement of work on site, to agree a scheme of house/street naming and numbering, and for the allocation of postcodes. Please contact the NLPG Officer, IT Department, at the above address. STN8

NOTE 2: The applicant is advised that it is an offence under section 161 of the Highway Act 1980 to deposit anything on a highway the consequence of which a user of the highway is injured or endangered. It is strongly recommended that during any form of earthworks and/or excavations that are carried out as part of the development, suitable vehicle wheel washing equipment should be provided and used within the site, to prevent contamination and damage to the adjacent roads. STN13

NOTE 3: The applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Trees and scrub are present on the application site

and should be assumed to contain nesting birds between the above dates unless survey has shown it is absolutely certain that nesting birds are not present. NCN1

NOTE 4: A formal application for connection to the public sewerage system is required in order to serve this development. For further advice, please contact:

Southern Water
Sparrowgrove House
Sparrowgrove
Otterbourne
Hampshire
SO21 2SW
Tel 03303030119
www.southernwater.co.uk

NOTE 5: The applicant is advised of the need to consult East Sussex Fire Service regarding the provision and location of fire hydrants within the development.

NOTE: Your attention is drawn to the requirements of the Building Act 1984 for the deposit of Plans under the Building Regulations and associated legislation. ACCESS FOR FIRE BRIGADE: Your attention is hereby drawn to the provisions of Section 35 of the East Sussex Act 1981.

DISCHARGE OF CONDITIONS: It is advised that under The Town and Country Planning Act 1990, the Council has up to 8 weeks from the date of an application to discharge any condition(s) and advise the applicant of the Council's decision. This information should be submitted using the 'Approval of Details Reserved by Condition' Form which can be downloaded from the Council's website. Please note there is also a fee payable for this type of application.

IMPORTANT: See Notes overleaf
DATE OF ISSUE: 27 August 2021



Stacey Robins
Head of Planning & Environmental Services

Application No. WD/2019/1575/MAO

NOTES

Appeals to the Secretary of State

- If the Applicant is aggrieved by the decision of the Local Planning Authority (LPA) to refuse permission for the proposed development or to grant it subject to conditions, then an appeal may be lodged with The Planning Inspectorate (PINS) under Section 78 of the Town and Country Planning Act 1990.
- Appeals must be made on a form which is obtainable from:
  The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN
  Tel. No. 0303 444 5000
  www.gov.uk/appeal-planning-inspectorate

Appeal Timescales

- Householder planning application or minor commercial application:

  12 weeks from the date on the decision notice

  However, if an enforcement notice has been served for the same or very similar development the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 12 weeks).

  NB – if the LPA have failed to determine the householder planning application, or for an appeal against the grant of permission subject to conditions, please follow the time limits under "Planning application" below.

- Planning application:

  6 months from the date on the decision notice, or
  6 months from the expiry of the period which the LPA had to determine the application.

  However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

  NB – the LPA determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). If a longer period has been agreed with the LPA, the time limit runs from that date.

Further information

- The Planning Inspectorate has discretionary power to allow a longer period for the giving of a notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice to appeal.
- The Planning Inspectorate is not required to entertain an appeal if it appears that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- The Planning Inspectorate does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction issued by the Secretary of State.

Purchase Notices

- If either the LPA or Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the land has become incapable of reasonably beneficial use in its existing state nor rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix DV17

Land Off Bexhill Road, Ninfield (WD/2017/0143/MAJ): Decision Notice

Town and Country Planning Act 1990

Notice of Decision
Application No. **WD/2021/2454/MAO**

Wealden District Council

Gladman Developments Ltd and The Worrall & F
Gladman House
Alexandria Way
Congleton Business Park
Congleton
Cheshire
CW12 1LB

Council Offices
Vicarage Lane
Hailsham
East Sussex
BN27 2AX

DESCRIPTION AND LOCATION OF DEVELOPMENT
OUTLINE PLANNING APPLICATION FOR UP TO 65 RESIDENTIAL DWELLINGS (INCLUDING AFFORDABLE HOUSING), INTRODUCTION OF STRUCTURAL PLANTING AND LANDSCAPING, INFORMAL PUBLIC OPEN SPACE AND CHILDREN'S PLAY AREA, SURFACE WATER FLOOD MITIGATION AND VEHICULAR ACCESS. ALL MATTERS TO BE RESERVED WITH THE EXCEPTION OF THE MAIN SITE ACCESS.
LAND OFF BEXHILL ROAD, NINFIELD

With reference to the proposals set out in the application numbered as above and shown on the plans submitted therewith, Wealden District Council, in pursuance of powers under the Town and Country Planning Act 1990 (as amended), hereby **GRANTS PLANNING PERMISSION** for the said proposals, subject to the conditions stated below imposed for the reasons stated thereunder:-

1. Permission is granted subject to the subsequent approval by the Local Planning Authority of the detailed particulars of the layout, scale and appearance of the buildings to which this permission relates, and the landscaping of the site before any development is commenced, such matters being reserved from the permission. STD1A

   REASON: To meet the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. (a) Application for approval of the matters reserved for subsequent approval must be made to the Local Planning Authority no later than the expiration of 18 (eighteen) months beginning with the date of the grant of this outline permission; and

   (b) the development to which this permission relates must be begun no later than the expiration of 1 (one) year from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

   REASON: The requirements of Section 92(6) of the Town and Country Planning Act 1990 (as amended) allow the Local Planning Authority to adjust the default time period for development to begin, including the submission of Reserved Matters, having regard to the provisions of the development plan and to any other material considerations. In this case, the circumstances justify a reduced time limit for the development consent having regard to the five year housing land deficit in the District and boosting the supply and choice of homes, including affordable, market, custom and self-build homes all in the five year period.

3. No works below ground level shall take place until the implementation of a programme of archaeological works has been secured in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted to and

approved by the Local Planning Authority. The works shall be undertaken in accordance with the approved details. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority. AR01

REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013.

4. The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 3 and that provision for analysis, publication and dissemination of results and archive deposition has been secured.

REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013.

5. No work below ground level shall be carried out on site for the development hereby approved, until full written details for a Code of Construction Practice has been submitted and approved in writing by the Local Planning Authority. The Code of Construction Practice should detail good practice measures for site working to mitigate potential impacts from construction including protection of retained features and surface water bodies on or adjacent to the site, control of run-off, application of design controls for construction equipment and construction vehicles, vehicle routing including directional signage, the anticipated number, frequency and types of vehicles used during construction; the method of access and egress of vehicles during construction; the parking of vehicles by site operatives and visitors;
the loading and unloading of plant, materials and waste;, wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders); sheeting of lorries during transportation of construction materials, provision of water sprays during delivery and dumping of sand and gravel, mixing and batching on wet rather than dry aggregate materials, minimum drop heights to be used for continuous and batch drop activities and waste disposal. The approved Code of Construction Practice shall be implemented throughout the period of work on site. C04(M)

REASON: In the interests of and for the safety of persons and vehicles on the site and/or adjoining road and to minimise loss of amenity to adjoining properties and minimise potential for environmental impact having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN27 and TR3 of the adopted Wealden Local Plan 1998.

6. During the construction phase, no works shall take place other than within the hours Monday to Friday 08:00 to 1800 hours, Saturday 0800 to1300 and not at all on Sundays Public or Bank Holidays.

Construction deliveries shall take place between 08:00 to 18:00 Monday to Friday only but not at any time during the peak school hours of between 08:00 to 09:00 and 14:30 to 15:30 and not at all on Saturdays, Sundays, Public or Bank Holidays.

REASON: To protect residential amenity, having regard to Saved Policy EN27 of the adopted Wealden Local Plan.

7. Prior to works below ground level an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance

with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

* human health
* property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes
* adjoining land
* groundwaters and surface waters
* ecological systems
* archaeological sites and ancient monuments;

(iii) an appraisal of remedial options and proposal of the preferred option(s).

This must be conducted in accordance with online 'Land Contamination Risk Management' guidance, or, where superseded, the most up-to-date guidance. CL01

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013.

8. Prior to works below ground level taking place, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. CL02

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013.

9. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of groundworks other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks' written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority. CL03

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013.

10. No work below ground level shall be carried out on site for the development hereby approved until a scheme for the control of noise and dust shall be submitted to and approved in writing by the Local Planning Authority. Throughout the construction period, work shall be carried out in accordance with the approved scheme.

Note: All works shall ensure compliance with guidance found in British Standard 'BS5228-1: 2009 +A1:2014- Code of practice for noise and vibration control on construction and open sites.

REASON: To protect residential amenity and the environment, having regard to Saved Policy EN27 of the adopted Wealden Local Plan.

11. Before preparation of ground levels of the development approved by this permission a scheme for the provision and implementation of foul drainage works shall be submitted and approved in writing by the Local Planning Authority. Such works shall be implemented to the reasonable satisfaction of the Local Planning Authority before the associated buildings to which they relate are occupied. Any works required to upgrade the infrastructure sufficiently to provide capacity for the new development shall be undertaken prior to acceptance of the development's foul sewerage. DF02(M)

REASON: To protect water quality and to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998.

12. No works below ground level shall take place until details of surface water drainage, which shall follow the principles of sustainable drainage as far as practicable, have been submitted to and approved by the Local Planning Authority. The drainage shall be provided in accordance with the approved details before first occupation of the related dwellings.

The detailed surface water drainage drawings and calculations shall include the following:

1. Surface water runoff from the proposed development shall be limited to the greenfield runoff rates for rainfall events with an annual probability of occurring greater than 1 in 2.33 and mean annual discharge (Qbar) for rainfall events with an annual probability of occurrence less than 1 in 2.33, including those with a 1 in 100 (plus climate change and an allowance for urban creep) annual probability of occurrence. Evidence of this (in the form hydraulic calculations) shall be submitted with the detailed drainage drawings. The hydraulic calculations should take into account the connectivity of the different surface water drainage features.

2. The details of the outfall of the proposed attenuation ponds and how they connect into the watercourse/sewer/drain shall be submitted as part of a detailed design including cross sections and invert levels.

3. Details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system shall be provided.

4. Evidence that third party landowners have agreed to the principle of the construction of the surface water outfall through their land. This should include information to show that the necessary easements required for the maintenance of the outfalls will be put in place.

5. Evidence that the receiving watercourse has enough capacity to receive the runoff flows from the application site.

6. Details of the measures proposed to manage exceedance flows which shall include details of how the existing overland surface water flows have been intercepted and managed. All interception swales shall be located in communally managed land and will not be the responsibility of single householder.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998.

13. Prior to occupation of any dwelling in a phase of the development, evidence (including photographs) shall be submitted showing that the associated drainage system for that phase of development has been constructed as per the final agreed detailed drainage designs.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998.

14. Prior to the construction of the outfall, a survey of the condition of the ditch/ordinary watercourses and culverts which will take surface water runoff from the development shall be investigated. Results of the survey shall be submitted to and approved in writing by the Local Planning Authority. Any required improvements to the condition of the watercourse shall also be included and, if approved by the Local Planning Authority, implemented prior to acceptance of surface water discharge off the site.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998.

15. Details of measures to manage flood risk, both on and off the site, during the construction phase shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented throughout the course of the construction.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998.

16. A maintenance and management plan for the entire drainage system shall be submitted to the local planning authority before any construction commences on site to ensure the designed system takes into account design standards of those responsible for maintenance.

The management plan shall cover the following:

a. Who will be responsible for managing all aspects of the surface water drainage system, including piped drains; and
b. Evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development

These details shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter remain in place for the lifetime of the development.

REASON: In order to secure a satisfactory standard of development, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998.

17. There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways. Prior to being discharged into any watercourse, surface water sewer or soakaways system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies and silt traps to BS 5911:1982 with an overall capacity compatible with the site being drained and shall be retained thereafter.

    REASON: To prevent pollution of the water environment, having regard to SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998.

18. No development shall be occupied until the vehicular access serving the development has been constructed in accordance with the approved drawing no 20-T125 04 (at Appendix A2 of the Transport Assessment) as amended as part of the s278 agreement and detailed design.

    REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998.

19. No works below ground level shall take place until detailed plans, including levels, sections and constructional details of the proposed road, surface water drainage, foul sewers, outfall disposal and street lighting have been submitted to and approved in writing by the Local Planning Authority, and such work as approved shall be carried out at the time of the development and thereafter so retained. HW02

    REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998.

20. The new estate road shall be constructed to a standard approved by the Local Planning Authority with a view to subsequent adoption as a maintainable highway and the works phased with the progress of building construction to the approval of the Local Planning Authority. HW05

    REASON: In the interests of and for the safety of persons and vehicles using the premises and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy TR3 of the adopted Wealden Local Plan 1998.

21. Before preparation of any groundworks and foundations of the development hereby approved details of the proposed surface water drainage to prevent the discharge of surface water from the proposed site onto the public highway and, similarly to prevent the discharge of surface water from the highway onto the site including a programme for its implementation shall be submitted to the Local Planning Authority for approval in consultation with the Highway Authority. The scheme shall be implemented in accordance with the approved details and programme and retained thereafter.

    REASON: To avoid the risk of flooding and in the interests of and for the safety of persons and vehicles using the site and New Road having regard to SPO2, SPO12,

SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy CS2 of the adopted Wealden Local Plan 1998.

22. Prior to the commencement of development, an air quality assessment shall be carried out by a suitably qualified person for the proposed development. The assessment shall be submitted to and approved in writing by the Local Planning Authority.

The assessment should consider the impact of the proposed development on the air quality objectives described in the National Air Quality Strategy with respect to nitrogen dioxide, PM10 and PM2.5 particulates.

For the construction phase, an assessment should be undertaken of the potential for dust nuisance, using the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction.

For a quantitative assessment of the operational phase, detailed modelling using ADMS-Roads to determine the impact of the development on existing air quality is required. This should include assessment of the cumulative impacts from the development itself and other committed developments in the vicinity, on existing air quality.

Where possible, verification of the model output should be made through a comparison of the results of any publically available monitoring data in the study area.

To inform the background concentrations used within the model, the results of local monitoring and the available DEFRA maps should be used. Reductions in background concentrations and emissions in future years should not be used, to reflect the findings of recent research.

The significance of impact should be described with reference to the EPUK/IAQM (May 2015) Land-Use Planning & Development Control: Planning for Air Quality document, and the 'Air Quality and Emissions Mitigation Guidance for Sussex Authorities (2013).

All mitigation measures deemed necessary shall be submitted to and approved in writing by the Local Planning Authority. Upon development, work should be carried out in accordance with the approved scheme"

REASON: To protect residential amenity and the environment, having regard to Saved Policy EN27 of the adopted Wealden Local Plan.

23. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape and amenity areas, other than small privately owned, domestic gardens or areas to be adopted by the Local Highway Authority, shall be submitted with and inform the Reserved Matters.

REASON: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SPO2, SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN14 and EN27 of the Wealden Local Plan 1998.

24. An updated survey based upon the CSA Environmental Report CSA/5291/05/B dated September 2021 shall inform the Reserved Matters submission.

The findings of the survey and any additional mitigation measures proposed shall be submitted to and approved in writing by the Local Planning Authority.

The Reserved Matters shall include detailed timetable for delivery of enhancements within he development, including phasing and long term responsibility for measures.

REASON: To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having regard to SPO1, SPO2, WCS12 and WCS14 to the Wealden Core Strategy Local Plan 2013.

25. No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level and directional and has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall show predicted light levels at neighbouring residential properties. The artificial lighting to the development shall conform to requirements for Environmental Zone E2 contained within Table 2 of the Institute of Lighting Professionals Guidance Note 01/21 The Reduction of Obtrusive Light and comply with the Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18 Bats and Artificial Lighting in the UK.

    The scheme shall be implemented in accordance with the approved details and retained thereafter. EL02

    REASON: To preserve the rural and residential amenities of the locality having regard to Saved Policies EN27 and EN29 of the adopted Wealden Local Plan, coupled with the requirements of the Wealden Design Guide, Chapter 3, Section 18; Chapter 8, Section 7.

26. Before preparation of any groundworks or foundations for the development hereby approved, full details for the incorporation of water and energy efficiency measures, the promotion of renewable energy and sustainable construction within the development shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details and thereafter so retained. SS05

    REASON: To promote sustainable building design, having regard to SPO9 and SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policy EN1 of the adopted Wealden Local Plan 1998.

27. Before development commences a full and updated Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority which shall include numbering and detailing trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details. TP05(M)

    REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN12 and EN14 of the adopted Wealden Local Plan 1998, coupled with the Wealden Design Guide, Chapter 3, Section 6.

28. No trees and/or hedgerows on the site, unless dead or dangerous, shall be felled, reduced, pruned or destroyed without the consent in writing of the Local Planning Authority. Furthermore, the following work shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the Local Planning Authority:-

    (i) Levels shall not be raised or lowered in relation to the existing ground level within the approved protection zone of the tree or hedgerow.

    (ii) No roots shall be cut, trenches dug or soil removed within the approved protection zone of the tree or hedgerow.

(iii) No buildings, roads or other engineering operations shall be constructed or carried out within the approved protection zone of the tree or hedgerow.

(iv). No fires shall be lit within the approved protection zone or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of BS5837:2012 Trees in relation to design, demolition & construction - Recommendations.

(v) No vehicles shall be driven over the area within the approved protection zone of the tree or hedgerow.

(vi) No materials or equipment shall be stored within the approved protection zone of the tree or hedgerow as per the requirements of British Standard 5837:2012 'Trees in Relation to Construction'. TP02

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to SPO13 and WCS14 to the Wealden Core Strategy Local Plan 2013, Saved Policies EN12 and EN14 of the adopted Wealden Local Plan 1998, coupled with the requirements of the Wealden Design Guide, Chapter 3, Section 6.

29. This planning decision relates solely to the information contained within the application form, the following plan(s) and (where appropriate) documents:

Ref.	Date Stamped.
CSA/3256/114 Rev E	20 September 2021
CAS/5291/105 Rev F	20 September 2021
Planning Statement	20 September 2021
Design and Access Statement	11 October 2021
Ecology Impact Assessment	11 October 2021
Flood Risk Assessment	20 September 2021
Noise Assessment	20 September 2021
Transport Assessment	20 September 2021
Heritage Assessment	20 September 2021
Air Quality Assessment	20 September 2021
Waste Assessment	20 September 2021
Utilities Assessment	20 September 2021
Information to Inform Habitats Regulation Assessment	20 September 2021
Landscape Visual Impact Assessment	20 September 2021
Risk Assessment Parts 1-4	20 September 2021
Affordable Housing Statement	20 September 2021

REASON: For the avoidance of doubt.

The local planning authority's reasons for its decision to grant planning permission are set out in the officer's report which can be viewed on the Council's website at www.planning.wealden.gov.uk

NOTE: Should alterations or amendments be required to the approved plans, it will be necessary to apply either under Section 96A of the Town and Country Planning Act 1990 for non-material alterations or Section 73 of the Act for minor material alterations. An application must be made using the standard application forms and you should consult with us, to establish the correct type of application to be made.

NOTE 1: The developer is required to contact the Council as Street Naming & Numbering Authority, in writing, enclosing a site layout plan and the commencement of work on site, to agree a scheme of house/street naming and numbering, and for the allocation of

postcodes. Please contact the NLPG Officer, IT Department, at the above address. STN8

NOTE 2: The applicant is advised that it is an offence under section 161 of the Highway Act 1980 to deposit anything on a highway the consequence of which a user of the highway is injured or endangered. It is strongly recommended that during any form of earthworks and/or excavations that are carried out as part of the development, suitable vehicle wheel washing equipment should be provided and used within the site, to prevent contamination and damage to the adjacent roads. STN13

NOTE 3: The applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 July. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless survey has shown it is absolutely certain that nesting birds are not present. NCN1

NOTE 4: A formal application for connection to the public sewerage system is required in order to serve this development. For further advice, please contact:

Southern Water
Sparrowgrove House
Sparrowgrove
Otterbourne
Hampshire
SO21 2SW
Tel: 0330 3030119
www.southernwater.co.uk

NOTE 5: The existing public right(s) of way across the site must remain undisturbed and unobstructed unless or until legally stopped up or diverted prior to the commencement of any of the development hereby permitted. The alignment of any public right of way should be protected throughout the course of development by being clearly demarcated, signed, surfaced or fenced as may be necessary. STN10

NOTE 6: This permission is subject to an agreement under Section 106 of the Town and Country Planning Act 1990.

NOTE: Your attention is drawn to the requirements of the Building Act 1984 for the deposit of Plans under the Building Regulations and associated legislation. ACCESS FOR FIRE BRIGADE: Your attention is hereby drawn to the provisions of Section 35 of the East Sussex Act 1981.

DISCHARGE OF CONDITIONS: It is advised that under The Town and Country Planning Act 1990, the Council has up to 8 weeks from the date of an application to discharge any condition(s) and advise the applicant of the Council's decision. This information should be submitted using the 'Approval of Details Reserved by Condition' Form which can be downloaded from the Council's website. Please note there is also a fee payable for this type of application.

IMPORTANT: See Notes overleaf
DATE OF ISSUE: 26 September 2022



Stacey Robins
Head of Planning & Environmental Services

Application No. WD/2021/2454/MAO

NOTES

Appeals to the Secretary of State

- If the Applicant is aggrieved by the decision of the Local Planning Authority (LPA) to refuse permission for the proposed development or to grant it subject to conditions, then an appeal may be lodged with The Planning Inspectorate (PINS) under Section 78 of the Town and Country Planning Act 1990.
- Appeals must be made on a form which is obtainable from:
  The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN
  Tel. No. 0303 444 5000
  www.gov.uk/appeal-planning-inspectorate

Appeal Timescales

- Householder planning application or minor commercial application:

  12 weeks from the date on the decision notice

  However, if an enforcement notice has been served for the same or very similar development the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 12 weeks).

  NB – if the LPA have failed to determine the householder planning application, or for an appeal against the grant of permission subject to conditions, please follow the time limits under "Planning application" below.

- Planning application:

  6 months from the date on the decision notice, or
  6 months from the expiry of the period which the LPA had to determine the application.

  However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:
  - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
  - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

  NB – the LPA determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). If a longer period has been agreed with the LPA, the time limit runs from that date.

Further information

- The Planning Inspectorate has discretionary power to allow a longer period for the giving of a notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice to appeal.
- The Planning Inspectorate is not required to entertain an appeal if it appears that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- The Planning Inspectorate does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction issued by the Secretary of State.

Purchase Notices

- If either the LPA or Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the land has become incapable of reasonably beneficial use in its existing state nor rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix DV18

Land off Ashmead Drive, Gotherington appeal (APP/G1630/W/20/325619): Decision Notice

The Planning Inspectorate

Appeal Decision

Inquiry held on 30 November – 4 December 2020

Site visit made on 9 December 2020

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2021

Appeal Ref: APP/G1630/W/20/3256319
Land off Ashmead Drive, Gotherington

- 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 J J Gallagher Limited and Mr Richard Cook against the decision of Tewkesbury Borough Council.
- The application Ref 19/01071/OUT, dated 25 October 2019, was refused by notice dated 16 June 2020.
- The development proposed is an outline planning application with means of access from Ashmead Drive (all other matters reserved for subsequent approval), for the erection of up to 50 dwellings (Class C3); earthworks; drainage works; structural landscaping; formal and informal open space; car parking; site remediation; and all other ancillary and enabling works.

Decision

1. The appeal is allowed and planning permission is granted for an outline planning application with means of access from Ashmead Drive (all other matters reserved for subsequent approval), for the erection of up to 50 dwellings (Class C3); earthworks; drainage works; structural landscaping; formal and informal open space; car parking; site remediation; and all other ancillary and enabling works at Land off Ashmead Drive, Gotherington in accordance with the terms of the application, Ref 19/01071/OUT, dated 25 October 2019, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. This appeal is an outline planning application for up to 50 dwellings with all matters except for access reserved. Indicative plans have been provided detailing the layout and landscaping. I have had regard to these so far as relevant to the appeal.

3. The Tewkesbury Borough Local Plan 2011-2031 - Pre-Submission version 2019 (eLP) is due to be examined in early 2021. However, the Hearing dates have not yet been confirmed and no examination has taken place. There are also unresolved objections. Therefore, I attach little weight to the emerging policies.

4. The joint authorities in the area are in the early stages of preparing a Joint Core Strategy Review. Given its stage in the examination process, I give it very little weight.

5. The Cotswolds Conservation Board received Rule 6 Party status and presented evidence on the second main issue at the Inquiry.

6. Several planning obligations were submitted in draft form, discussed at the Inquiry and subsequently finalised. I have taken them all into account.

7. Reasons for refusal 4 and 5 were not pursued at the Inquiry owing to the drafting of the planning obligations. I have proceeded to determine the appeal accordingly.

Main Issues

8. The main issues are:
   (a) Whether the proposal would accord with the Council's plan led strategy for housing and growth;
   (b) The effect of the proposal on the landscape character and appearance of the area; including the setting of, and the effect in, the Cotswolds Area of Outstanding Natural Beauty; and,
   (c) The effect of the proposal on the social well-being and vitality of Gotherington.

Reasons

9. Located to the south of Gotherington's settlement boundary, the site is an open and relatively flat field. Existing residential development influences the northern and eastern boundaries of the site. To the western boundary, houses on Shutter Lane are evident to the north western part, but to the south of the public right of way (PRoW) that transects the site, the park home caravan site is not overly prominent from the site itself. Agricultural fields extend to the south, separating Gotherington from Bishops Cleeve, a larger village over 500m away.

10. To the north and east of Gotherington is the Cotswolds Area of Outstanding Natural Beauty (the AONB) and the site falls within a locally designated Special Landscape Area (SLA). Policy justification sets out that the SLAs play a role in providing the foreground setting for the adjacent AONB.

11. The proposal is for outline planning permission, developing the site for up to 50 dwellings. Based on the land use plan, these dwellings would be located to the south side of the site with large areas of formal and informal open space proposed on the northern and western parts of the site.

Strategy for housing and growth

12. Gotherington is identified as a Service Village in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) (JCS). Policy SP2 of the JCS details that Service Villages will accommodate in the order of 880 dwellings, yet this number is not a maximum.

13. Policies SP2 and SD10 of the JCS broadly encourage residential development to be located in Gloucester, Cheltenham and Tewkesbury, along with rural service centres and service villages. The site is not allocated for development in the JCS and does not meet any of the exception criteria in Policy SD10, sitting outside the settlement boundary of Gotherington.

14. Policy GNDP02 of the Gotherington Neighbourhood Development Plan 2011-2031 (September 2017) (NDP) identifies 3 sites for residential development. The site is not identified. The latter part of the policy refers to the future

development plan identifying the possibility of additional strategic housing need in Gotherington, with criteria if this occurs.

15. Similarly, policies GNDP03 and GNDP11 of the NDP set out criteria for development outside of the defined settlement boundary and not on allocated sites. One of the criteria in both policies is where evidenced need for additional housing in Gotherington has been established through the development plan and cannot be met within the defined settlement boundary.

16. The NDP identifies that Gotherington should provide around 86 homes between 2011-2031. This is based upon evidence in the Council's "Approach to Rural Sites" (February 2015) document, which has also formed the evidence base for the eLP. The allocated sites proposed a minimum of 66 new dwellings, with the 3 ensuing planning permissions granting 69 dwellings. Paragraph 5.11 of the NDP sets out that with the 3 allocated sites, and including 26 dwellings completed prior to the NDP being made, there would be a minimum of 92 dwellings delivered.

17. The appellant argued that the 3 allocated sites would not deliver the 92 dwellings and there was a shortfall of 23 units. I disagree. When 5.11 is read as a whole, 26 units were delivered after 2011 while the NDP was being prepared/examined. These form part of the housing supply in the plan period. Therefore, based upon the NDP, there is no identified shortfall of housing in Gotherington itself. That said, the Council acknowledge there is a shortage of housing in the Borough, with there being less than a 5 year housing land supply. I shall return to this matter later.

18. To conclude on this main issue, the location of development would not accord with the Council's plan-led strategy for housing and growth. This would be contrary to policies SP2 and SD10 of the JCS and policies GNDP02, GNDP03 and GNDP11 of the NDP. There would be conflict with Policy RES3 of the eLP, as the location of development would also not meet the strategy for the distribution of new development in the area, given the settlement boundary of Gotherington is not proposed to change in the eLP.

Landscape character and appearance

19. There are several topic areas in relation to this main issue referred to in the reason for refusal and the evidence before me. Therefore, I have split this section into subheadings dealing with each issue before concluding overall.

20. Although the site is within the SLA, its contribution to the setting of the AONB is limited. It has few special qualities aside from being a pleasant undeveloped field and given its proximity to the village and sense of enclosure on most sides, even its landscape and visual quality is low.

21. The importance of the AONB is enshrined by statue, and paragraph 172 of the National Planning Policy Framework (the Framework) gives great weight to conserving and enhancing landscape and scenic beauty in AONBs. Additionally, Policy SD7 of the JCS requires proposals within the setting of the Cotswolds AONB to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan 2018-2023 (MP). Various policies in the NDP also seek to

protect the AONB and views into and out of it, particularly those from Nottingham Hill and Cleeve Hill.

22. Policy CE1 of the MP sets out that proposals that are likely to impact on, or create change in, the landscape of the Cotswolds AONB, should have regard to the scenic quality of the location and its setting and ensure that views – including those into and out of the AONB – and visual amenity are conserved and enhanced.

Views towards the AONB

23. From the PRoW that runs east west and the PRoW that runs south to Bishops Cleeve, views of the AONB can be appreciated, especially towards Nottingham Hill and Cleeve Hill.

24. The proposal would introduce built development onto the southern parcel of the site. By its very existence, views from the PRoWs towards the AONB, in particular Nottingham Hill, would be changed by the introduction of housing. Whilst these views are of a high quality, given they take place from the PRoWs, the views are transient, appreciated by people travelling along the routes for a relatively short amount of time.

25. A large area of open space on the northern part of the site, along with footpath linkages is proposed. Unlike the existing transient views, the open space would provide people with the opportunity to spend time viewing the AONB, which would still be visible above or between the new houses depending upon where one was situated on the open space. Furthermore, the appellant has submitted a unilateral undertaking (UU) that makes provision for a multi-purpose community area (MPCA). The purposes of this space would be for meeting, play or holding events and the UU describes its form would be either a seating area (such as a mini amphitheatre) or covered space (such as a band stand).

26. Providing the MPCA is sensitively sited, the space, particularly that of a mini amphitheatre, would provide a formal area in which the public could view the AONB, including Nottingham Hill for as long as they desired. Owing to the formal and informal space becoming publicly available space, existing views from this currently private part of the site towards the escarpment and AONB would become publicly available. Whilst these views would include the new housing development in the foreground, I do not consider that this would significantly reduce the quality of the view. This is because existing housing development is visible from the existing PRoWs and the 'new' views could be appreciated for a longer and more leisurely period. Additionally, views from the PRoWs would also remain above or between the dwellings, such that at different points along the PRoWs, some views could still be gained.

Views from the AONB

27. The effect of the proposal on views from Nottingham Hill and Cleeve Hill was the subject of much discussion during the Inquiry, and I viewed the site from both viewpoints on my visit.

28. Evidence at the Inquiry focussed on whether paragraph 172 of the Framework was relevant to this appeal. Having regard to case law[1] presented, along with the Planning Practice Guidance, in my view, although the proposal is outside

[1] Stroud District Council v SSCLG v Gladman Developments Limited [2015] EWHC 488 (Admin)

the AONB, the effect on views out of the AONB, gained from within the AONB would result in paragraph 172 being relevant.

29. *Nottingham Hill* – the appellants conclude the effect from this viewpoint would be moderate adverse. The Council state major/moderate adverse. The Rule 6 Party state significant adverse.

30. The viewpoint takes in a panoramic view from the Cotswold escarpment towards the Vale of Gloucester/Severn Vale with the Malvern Hills beyond. Gotherington is prominent in the foreground and the proposal would be visible. That said, the view is extensive and long ranging, and the development would be located between 2 'fingers' of development that run along Cleeve Road and the park home caravan site. Whilst it would introduce permanent built development onto an undeveloped site, it would be an edge of settlement site, enclosed from this view point on 3 sides by other built development, such that in the context of the wide ranging view, the proposal would not lead to a major or significant adverse effect. Indeed, I agree with the previous Inspector, who assessed a similar appeal[2] at this site, that it would recede into the existing settlement pattern.

31. However, I acknowledge that views from the escarpment are one of the special qualities of the AONB, and the effect would be moderately adverse owing purely to the introduction of built development and the change to the view. This would lead to a moderate harm to the AONB from this viewpoint.

32. *Cleeve Hill* – the view from Cleeve Hill is more extensive than that from Nottingham Hill and takes in Cheltenham, Bishops Cleeve, Gotherington, other villages and open countryside. Views of the site are available and it is seen as part of the gap between Gotherington and Bishops Cleeve, yet, the site is clearly enclosed on 3 sides by development from this viewpoint. Additionally, in the context of the wide panoramic views taken from this point, the development of the site would have a neutral effect.

Coalescence of Gotherington and Bishops Cleeve

33. Spatially, the gap between Gotherington and Bishops Cleeve would not be reduced by the proposal given the existing development to 3 sides of the site. Indeed, the narrower gap that exists between dwellings on Cleeve Road and the Homelands site would remain the same, and there would be a substantial gap of over 500m remaining between the site and Bishops Cleeve.

34. When viewed from Nottingham Hill, even with the new residential development that has taken place in Bishops Cleeve, because much of Bishops Cleeve is not readily visible, and the site is enclosed on 3 sides, it would also not result in encroachment or perceived coalescence of the villages.

35. From Cleeve Hill, similarly, the site is visibly enclosed by existing development and the proposal would not contribute towards further coalescence of Gotherington and Bishops Cleeve. From other viewpoints around the site, there would not be a noticeable reduction in the gap.

36. Nonetheless, perceptually, residents and the Council take the PRoW running east west across the site to be the natural line of where development stops in the village. Development to the south of this, where the housing is proposed,

[2] APP/G1630/W/17/3175559

would, in their view, perceptually bring Gotherington closer to Bishops Cleeve. When travelling on the PRoW than runs north south between the villages, I agree there would be a sense of development advancing towards Bishops Cleeve.

37. However, the indicative plans show a landscaping buffer to the southern edge of the site. This would continue the existing well-established landscaping strip to the south east corner of the site along the southern boundary, to the extent that any perceptual effect of encroachment from this PRoW would be satisfactorily ameliorated over time. Therefore, a strong sense of separation would be maintained.

38. The site's allocation in the eLP strategic gap policy was also the subject of much discussion. However, this is a matter for the Local Plan Inspector in examining the eLP.

39. Nevertheless, it is my view that the site does not function as an essential part of the gap between villages and development of the site would appear as an infill. Additionally, a clear gap would remain which is likely to be subject to protection in the eLP, and development of the site would not result in coalescence of Gotherington and Bishops Cleeve.

Linear form of Gotherington

40. The proposal would not project into the open countryside beyond existing development southwards. When viewed from Nottingham Hill, although the depth of Gotherington would become greater and the proposal would not follow the linear shape of the settlement; to my mind, it would be read as infill development. Even so, Malleson Road and Gretton Road would remain as the most prominently developed roads in the village, and the linear form would not be adversely affected.

Conclusion on landscape character and appearance

41. Given its location adjacent to the settlement boundary, the relatively enclosed nature of the site and its limited contribution to the SLA; development of the site would not appear as a significant encroachment into the surrounding rural landscape that could be considered as harmful or disproportionate. The gap between villages would be maintained and the linear nature of Gotherington would not be adversely affected. Views towards the AONB from the site would change, but with the views that would become available from the open space, the effect would be acceptable.

42. It is, however, inevitable that there would be a permanent change to the landscape character of the area by the development of a greenfield site with housing. Whilst the site is not a valued landscape for the purposes of paragraph 170 (a) of the Framework, the site is locally valued, and the proposal would not enhance the landscape character of the area. For this reason, there would be some limited harm. There would also be a moderately adverse effect from the viewpoint at Nottingham Hill. Furthermore, whilst the effect on the view from Cleeve Hill would be neutral, it would not enhance landscape and scenic beauty.

43. Therefore, when looking at the overall effect and drawing this together, it is my view that the proposal would lead to some limited harm to landscape character and appearance of the area and the setting of the AONB. There would be

overall moderate harm to views from the AONB. Thus, the proposal would conflict with Policy LND2 of the LP, Policies SD6 and SD7 of the JCS, Policies GNDP02 and GNDP09 of the NDP, and Framework paragraphs 170 and 172. However, given my finding on the views towards the AONB, there would be no conflict with GNDP10 of the NDP, which seeks to give special attention to locally significant views.

44. Like the previous Inspector, I agree that LND2 of the LP is not entirely consistent with the Framework, and this reduces the weight which I afford it.

45. Whilst I do not find the site to be of high quality in landscape terms, based on the current eLP, there would be conflict with Policy LAN1, which seeks to maintain the quality of the natural environment and its visual attractiveness. However, given my findings on the gap, there would be no conflict with Policy LAN3 of the eLP, which seeks to protect the strategic gaps.

46. My conclusion on this main issue is different to that of the previous Appeal Decision on this site. However, I do not know what evidence was presented to this Inspector; and the evidence presented to me, particularly the effects from the AONB, have led me to a different opinion.

Social well-being of Gotherington

47. Gotherington village is identified as a Service Village in the JCS and would be expected to take a reasonable amount of new housing development. That said, the village has seen housing developments built out over the last few years on sites at Malleson Road and Shutter Lane.

48. The previous Appeal Decision at the site, for a very similar development, found there would be harm to the social well-being of the village at the time of the decision. This was owing to the scale and extent of development that had taken place in the village at the time, and the Inspector was not provided with persuasive evidence that the facilities were capable of expansion.

49. However, since this decision was made in April 2018, these housing developments have been substantially completed such that it would be reasonable to conclude that their effect upon the village has been largely absorbed or would be by the end of this year. Indeed, the appellant's evidence indicates that the last property within the Shutter Lane development was purchased in September 2017, and development of Malleson Road is projected to be completed by the end of March 2021. Development of this site would not commence until around 2023/24, and at that point, would result in around a 9% increase in the village, which is not exceptionally large, nor disproportionate to the size of the village at that time. I also note there is no anticipated delivery of homes in Gotherington between 2021/22 to 2022/23, nor anytime beyond this except for this site. Thus, when dwellings would start to be delivered, no new homes would have been delivered in the village for 2 years, so any new development could be assimilated differently to when the previous Inspector was considering the proposal.

50. Moreover, as part of the proposal, a Multi-Use Games Area (MUGA), Locally Equipped Area of Play (LEAP) and MPCA would be provided on-site within the area of Public Open Space. This MUGA and MPCA are new to the proposal before me. Together with the LEAP, these facilities are likely to act as a focal point for the development which would benefit both new residents and the

existing community. The public open space and MUGA would also accord with aspirations from the NDP by providing more activities for young people. The MUGA could be used for football of which residents assert a shortage, and any potential noise issues would be addressed at a later stage. The MPCA would deliver a social benefit for people of all ages being able to meet in a formalised area, and the LEAP would provide an area of play for children and parents or carers to meet. These on site facilities would be of a social benefit and contribute towards supporting strong, vibrant and healthy communities. The current space is valued by the community and formalised use of it would be of benefit to the existing residents.

51. Furthermore, the monetary contributions towards the provision of school places, which is agreed by the County Council, indicates that the increase in demand can be accommodated, even if this is in Bishops Cleeve. However, as the catchment area for the primary school includes this site, I see no reason why occupiers of the new dwellings would not be able to access school places over time. Other planning obligations will provide monies toward libraries to ensure any effect upon their capacity is suitably mitigated. The Community Infrastructure Levy (CIL) would also provide monies in the village.

52. The range of services in the village is satisfactory and although the Council considered them to be generally low quality, I disagree. The evidence I have been presented with demonstrates that the facilities are well used, and new residents could access them if they wished to do so. This would have a positive effect upon local services and facilities. Furthermore, whilst there may be waiting lists for some groups, this is not uncommon for popular children's activities. The residents assert that the village hall has a restricted layout and size. Whilst this may be the case, there are other facilities in the village, such as the Old Chapel, and it is also not uncommon for older community buildings to have some form of size restriction.

53. Whilst the proposal is not anticipated by the NDP, the cumulative development of the village would not be overly disproportionate, and there is no tangible evidence before me that the village has reached capacity. Furthermore, I gauged a strong sense of community from the interested parties such that I see no reason why new residents would find it difficult to assimilate into the village.

54. Therefore, the proposal would not be harmful to the social well-being and vitality of the village. Moreover, given the onsite facilities and the many benefits new housing can bring by enabling local people to stay local, providing family homes and contributing to the local economy, it could lead to an enhancement of the vitality and well-being in the village.

55. This would be compliant with Policy SP2 of the JCS, which seeks to accommodate lower levels of development proportional to their size and function. There would also be compliance with the Framework, which seeks to support strong, vibrant and healthy communities.

Other Matters

Housing Land Supply

56. The Council cannot demonstrate a 5 year housing land supply. At this appeal, the Council claim that it has 4.37 years supply, based on the October 2020 Five

Year Housing Land Supply Statement (HLSS). The appellants assert 1.82 years. The significant difference in numbers is largely attributed to the Council's reduction in its 5 year annual requirement owing to a significant oversupply in previous years.

57. On the first day of the Inquiry, the appellants brought to my attention the Council's response to the eLP Examining Inspector's preliminary questions. Within this document, the JCS Monitoring Report (Autumn 2020) is appended and sets out that Tewkesbury Borough has 2.9 years of housing supply. To explain this clear anomaly in evidence, the Council referred me to paragraph 3.2 of the response, which sets out that "*the Council's Housing Monitoring Report 2019/20 and Five Year Supply Position Statement will provide the most up to date information specific to Tewkesbury Borough*". However, whilst this may be the Council's position, the JCS Monitoring Report is dated a few months prior to the publication of the HLSS and the very different figures in each document weakens the Council's position on this matter.

Additional supply

58. The Council indicate that their approach to incorporating additional supply is consistent with Planning Practice Guidance (PPG) paragraph 32[3]. This states that "*where areas deliver more completions than required, the additional supply can be used to offset any shortfalls against requirements from previous years*". However, paragraph 73 of the Framework states "*LPAs should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies*".

59. The policy in the Framework makes no allowance for subtracting additional supply from the annual requirement. Moreover, whilst the guidance in the PPG enables LPAs to take additional supply into account, there is no requirement to do so. It is not a symmetrical approach to dealing with undersupply as advocated by the Council.

60. PPG paragraph 32 details that the additional supply can be used to offset shortfalls against requirements from previous years. Therefore, shortfalls against requirements from previous years would be necessary, in order to take account of any additional supply. The requirement from previous years, being those since the development plan was adopted, is 495 dwellings per annum (dpa). In the 3 years since adoption, there has been an overall surplus of 797 dwellings, and since the base date there has been an overall surplus of 1,115 dwellings. Therefore, there is no shortfall against requirements from previous years which could conceivably be offset.

61. Furthermore, for a site to be considered deliverable, it should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. Housing already delivered cannot possibly meet this definition.

62. The Council's argument that the loss of additional housing delivery would have significant implications for plan making, potentially resulting in Council's holding back sites and restricting sites, is unfounded. This is because it would be unreasonable to refuse planning permission for housing if there had been

[3] Reference ID: 68-032-20190722

additional supply, bearing in mind the Government's objective of significantly boosting the supply of homes. Additionally, Policy SP1 of the JCS requires at least 9,899 new homes. There is no maximum number.

63. Whilst it is clear that housing above the annual requirements has been delivered in the area and housing supply has been boosted in line with the Framework; it is my view that additional supply is not a tool that can be used to discount the Council's housing requirement set out in its adopted strategic policies. Consequently, the annual requirement should be 495 dpa as set out in the adopted strategic policies, and the future supply should reflect this. Therefore, the past additional supply should be removed from the 5 year housing requirement. As detailed by the appellant, this would reduce the housing land supply to 2.4 years.

Disputed sites

64. *Land at Fiddington, Ashchurch* – the site has outline planning permission and is subject to several planning conditions. One of these is the submission of a site wide master plan prior to reserved matters, which is currently being considered by the Council. As it stands, there are outstanding concerns from Sport England and a re-consultation was taking place.

65. There have been no pre-application discussions or the submission of reserved matters application, nor does it appear any site assessment work has taken place. There is also no known developer. Notably however, the email I have from the site promoter, which agrees with the Council's trajectory in the HLSS, postdates the publication of the HLSS. This raises significant concerns over the validity of the trajectory used. I appreciate the site promoter may have a good track record for delivering sites and the Council believe there is no reason to prevent development within a 5 year period, yet, the site promotor is not the developer. The test in the Framework is that there should be clear evidence that housing completions will begin on site within five years. In this case, I do not believe I have clear evidence.

66. *Land at Stoke Road, Bishop's Cleeve* – similar to the above site, the site has outline planning permission. The Council is in pre-application discussions with a major housebuilder, but these details are confidential. However, no reserved matters, site assessment work or conditions have been submitted for discharge. The site remains in the ownership of the promoter, and again, the email from the site promotor, which considers the Council's trajectory to "*remain broadly accurate*" also postdates the publication of the HLSS.

67. Therefore, it would be unrealistic to expect housing to be delivered on site in 2022/23, and I have no clear evidence to suggest this. Yet, the pre-application discussions indicate that there is developer interest and it would be reasonable to assume some delivery in 2023 and beyond.

Future supply

68. Aside from the 2 disputed sites and windfall developments, there is only one other site beyond years 1 and 2 in the trajectory which is predicted to deliver 5 dwellings. Notwithstanding my findings on the above sites, this is a grave situation.

69. The Council asserts that the eLP contains numerous housing allocations, which will feed into the supply following adoption. However, at the current time, the

plan is of limited weight and these allocations should not be included in the trajectory. Furthermore, the eLP details that it is not the role of the Plan to meet the shortfall identified by the JCS, but it could contribute towards meeting some of this housing need.

70. The JCS was adopted with a shortfall, which was to be remedied by an immediate review on the plan. It is now 3 years later and there is little progress towards this.

71. The trajectory does not include sites which have a resolution to permit awaiting planning obligations. I also have very little evidence to indicate if any of these would come forward in the next 5 years. There are also, it is asserted, numerous major applications for housing being considered. Nonetheless, as these sites are not been included in the trajectory, I have little evidence whether these would be deliverable.

72. Therefore, despite the Council's arguments, the future supply in the borough, at the current time is deeply concerning.

Conclusion on housing land supply

73. Considering my conclusions on the additional supply and the disputed sites, the housing land supply would reduce to 1.82 years. This reflects the appellant's conclusions. Additionally, the lack of supply beyond year 3 is deeply concerning; and, even if I had taken account of the additional supply, the Council would still not have a 5 year housing land supply and the past trend of additional supply is not projected to continue.

Provision of market and affordable housing

74. The state of housing land supply is such that very significant weight should be given to the delivery of housing generally. Additionally, the Council could provide me with no 'better' sites for development. The site has good accessibility to facilities and services using a genuine choice of transport modes.

75. Furthermore, the proposal would deliver 40% affordable housing. This would be policy compliant (with JCS SD12) and there is an accepted need for 126 affordable houses per annum in Tewkesbury. The appellant asserts there will be a shortfall of 333 affordable dwellings in the next 5 years. The Council does not dispute this, and the delivery of this site would double the affordable housing stock in the village.

76. Although I heard comments from interested parties that there is little need for affordable housing in the village itself, on the substantive evidence before me, there is little affordable housing stock in the village and there is a clear need in the Borough. This proposal would deliver a considerable amount of affordable housing, which is a benefit of significant weight.

Ecology and biodiversity

77. The proposal would produce net gains in biodiversity from the creation of attenuation features, with permanent water elements, tree planting and wildflower grassland within areas of open space. It would create around 17% net gain for habitat areas and about 83% net gain for linear features. This is a significant benefit in favour, providing more net gains than would be necessary.

Habitats Regulations Assessment

78. The proposal is near to Cleeve Common Site of Special Scientific Interest (SSSI), Dixton Wood Special Area of Conservation (SAC) and Bredon Hill SAC, such that development of the site could have a significant effect upon the important interest features of the sites. These effects would be the increase in people who may visit the SSSI and SACs for recreational purposes, and this could adversely affect the integrity of the sites.

79. The Shadow Habitats Regulation Assessment (SHRA) carried out by the appellant details that fewer than 1 additional visitor (0.79) would be likely to visit either the Dixton Wood SAC or Bredon Hill SAC annually. Therefore, recreational pressure would not be likely and there would be no adverse effects either alone or in-combination on the integrity of the SACs.

80. However, future residents may use Cleeve Common more frequently and the SHRA advises that new homeowners should be made aware that, in order to maintain the conservation value of the SSSI, livestock may be grazing on the common. As such, dogs should be kept under control and walkers should be vigilant. Homeowner information packs (HIPs) should be provided to all new residents, outlining informal recreational assets in the area and key 'Countryside Code' messages.

81. With the HIPs, the potential adverse effect would be avoided, and the integrity of the site would not be adversely affected. The aim of this would be to direct new residents to other sites, avoiding the SSSI. Natural England have no objections to the proposal on this basis.

82. I am satisfied that the HIP could be effectively secured by condition, and having undertaken the appropriate assessment, I am satisfied that the scheme would not adversely affect the integrity of the nearby habitats sites.

Public Open Space

83. The amount of public open space on site would exceed the standards set out in Policy RCN1 of the LP, and this would be of a moderate benefit to the scheme.

Economy

84. The development would have an economic benefit through the provision of jobs over the construction period as well as the contribution the local economy throughout the lifetime of the development. The appellant purports £3.4M gross value added per annum and £1.1M per annum on retail expenditure. However, all residential development of this scale is likely to deliver similar benefits, and this weighs moderately in favour.

Highways

85. Despite assertions from local residents, the substantive evidence presented on highway matters indicates that the surrounding highway network has sufficient capacity to accommodate the additional traffic resulting from the proposed development. Therefore, there would be no harm caused to the safety of users of the highway, nor any adverse effect upon capacity.

Planning obligations

86. There are several planning obligations. An agreement with Gloucester County Council obliges the payment of education contributions, a libraries contribution and a travel plan monitoring fee. It also obliges the developer to provide for bus stop upgrade works. The CIL Compliance Statement adequately sets out sufficient justification for the education and libraries contribution and monitoring fees, along with the requirement for bus stop upgrades. All these obligations would be necessary to make the development acceptable, directly related and fairly and reasonably related in scale and kind.

87. The travel plan monitoring fee would pay for monitoring associated with the submitted Travel Plan. During the Inquiry, I raised questions over whether the Travel Plan was necessary, given the consultation response from the Council's Highways team. Based on the evidence I heard, the Travel Plan would encourage a modal shift towards sustainable travel, which would be in accordance with the Framework, and thus the obligation would be necessary. Furthermore, access to Bishops Cleeve on the PRoW would be difficult in inclement weather and the Travel Plan could encourage means of transportation other than a private car. Therefore, the monitoring fee would be necessary to make the development acceptable, directly related and fairly and reasonably related in scale and kind.

88. A second obligation is with the Council. This would deliver at least 40% affordable housing, the onsite MUGA and LEAP (and their transfer to a management company), along with a refuse and recycling contribution and a monitoring fee. The CIL Compliance Statement submitted with the appeal sets out how each obligation would meet the tests in the CIL Regulations and the Framework. Based on this evidence, I am satisfied that each obligation contained in the second agreement would meet the tests, in that they are all necessary to make the development acceptable, directly related and fairly and reasonably related in scale and kind.

89. The last obligation is in a unilateral undertaking, which provides for the MPCA. The Council contests that this would not be compliant with the tests in the Framework. I disagree. Following on from my conclusions on the main issues, the MPCA would deliver a social benefit for the community, providing a meeting place and social focal point for residents of all ages. It would also enable an area where views of the AONB could be appreciated over a longer period than on the existing PRoWs. I consider it would be necessary to make the development acceptable. It is directly related to the development and fairly and reasonably related in scale and kind to the development.

Planning Balance

90. The proposal would conflict with the spatial strategy of the area and the NDP. It is clearly not plan-led development. However, given my conclusions on the housing land supply, the policies which govern the spatial strategy and housing development in the area are deemed out of date by Framework paragraph 11 d). Because of the very poor housing land supply position, this indicates that the spatial strategy is not effective and therefore these policies are of limited weight.

91. There would be limited harm to landscape character and appearance of the area and the setting of the AONB, and moderate harm to views from the AONB.

This would conflict with the JCS, NDP, LP, Framework 172 and the MP in this regard. However, the harm is limited for the purposes of the character and appearance of the area and this attracts limited weight against the proposal. Nevertheless, I give great weight to the moderate harm to the AONB as required by the Framework.

92. In favour of the development is the provision of housing in general, affordable housing, net gains in biodiversity and the delivery of on site facilities that would contribute towards the village's social wellbeing. The delivery of affordable and market housing would be a very significant benefit, of overriding importance when considering the chronic housing land supply position. The net gains in biodiversity are of considerable weight and the on site public open space would be of moderate weight. Additionally, there would be economic benefits during construction and from the additional residents that would contribute towards spending in the area. This is of moderate weight.

93. Framework paragraph 11 d) requires permission to be granted unless [i.] the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Even giving great weight to the moderate harm to the AONB, it is my view that this does not provide a clear reason for refusing the development.

94. Taking account of all the above, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As such, the material considerations indicate a decision other than in accordance with the development plan.

Conditions

95. In addition to the conditions I have already detailed above, the plans are listed for certainty. Furthermore, a condition requiring general compliance with the illustrative details ensures the reserved matters presented are those envisaged by the Council. Despite the Council's suggestion, reserved matters would include layout, and this would comprise internal access roads such that a separate reserved matter for access would be unnecessary.

96. A Construction Ecological Management Plan and a Landscape and Ecological Management Plan are necessary to ensure proper provision is made to safeguard protected species and their habitats. A Construction Method Statement is necessary to reduce the potential impact on the public highway, accommodate the efficient delivery of goods and supplies and ensure the effect upon residential living conditions during construction is not adverse. Archaeological investigations are necessary to ensure any archaeological remains are recorded and investigated.

97. To ensure safe access to the site for construction works, a condition requiring the access to be provided is necessary. Foul and surface water details are required to ensure the development is provided with a satisfactory means of drainage. A footpath from the site to nearby roads would need to be installed prior to occupation to ensure safe and suitable access on foot. A lighting scheme is required to safeguard protected species and their habitats, along with ensuring the village remains a low light pollution area.

98. To ensure that an appropriate housing mix is delivered to contribute to the creation of mixed and balanced communities compliant with the NDP, a housing mix statement would be necessary. A Tree Protection Plan and Arboricultural Method Statement to ensures protection of trees. A condition restricting the reserved matters to 50 dwellings is necessary for certainty.

99. I have not included conditions relating to proposed ground levels, landscaping and electric vehicle charging, as these details would be proposed at reserved matters, thus they are not necessary. The condition for site waste management has been included in the Construction Method Statement.

Conclusion

100. For the reasons set out above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR

APPEARANCES

For the Local Planning Authority:		
Jeremy Patterson		Solicitor and Principal Planning Lawyer, Tewkesbury Borough Council
He called		
	Phil Williams BA Hons MSC MBA MRTPI	Council's planning witness
	Stuart Ryder BA (Hons) CMLI	Director, Ryder Landscape Consultants Ltd
	Gary Spencer LLB (Hons)	Planning solicitor, One Legal
	Keith Warren BA (Hons) Dip TP MRTPI	Associate Director, Astbury Planning Consultants
	Stephen Hawley IENG FIHE MCIHT MTPS	Highways Development Management Team Leader, Gloucestershire County Council
	Adam White MRTPI	Senior Planner, Tewkesbury Borough Council
	Bryn Howells	Housing Strategy and Affordable Housing Officer, Tewkesbury Borough Council
	Bridgette Boucher	Solicitor, Gloucestershire County Council
For the appellant:		
Killian Garvey of Counsel		Instructed by J J Gallagher Limited and Mr Richard Cook
He called		
	Mark Sitch BSc (Hons) Dip TP MRTPI	Senior Partner, Barton Willmore LLP
	Ben Connolley BSc (Hons) PG DipLA CMLI	Associate Landscape Architect, The Environmental Dimension Partnership Ltd
	Matthew Grist BSc Dip UD MCIHT MCILT	Director, Jubb
For the Cotswolds Conservation Board Rule 6 Party:		
	John Mills BEng (Hons) MSc MRTPI	Planning and Landscape Lead, Cotswolds Conservation Board
Interested parties:		
Eddie McLarnon		CPRE
Simon Tarling		Gotherington Parish Council
Caroline Ryman		Local resident
Philip Cule		Local resident
Michael Stevens		Local resident

INQUIRY DOCUMENTS

ID1	Appellant Opening Submissions
ID2	Local Planning Authority Opening Submissions
ID3	Rule 6 Opening Submissions
ID4	Inspector's Report and Secretary of State Decision Letter for APP/G1630/W/17/3184272
ID5	Mr Tarling's submissions
ID6	Local Plan Examining Inspector's Preliminary Questions
ID7	Tewkesbury Borough Council's response to Examining Inspector's Preliminary Questions
ID8	Sport England objection to the details relating to condition 8 (Site Wide Masterplan Document) of planning application re 17/00520/OUT
ID9	Suggested site visit points – Mr Tarling
ID10	Written comments from Mr Stevens
ID11	Gotherington Neighbourhood Plan – Report of Examination extract
ID12	Appellant's note on 5 year housing land supply in the Pre-Submission Tewkesbury Borough Plan 2011-2031.
ID13	Mrs Ryman's closing statement
ID14	Gotherington Primary School Admissions Policy 2021
ID15	Site visit route
ID16	Cotswolds AONB Landscape Strategy and Guidelines Introduction
ID17	CPRE statement
ID18	Rule 6 Closing Submissions
ID19	Local Planning Authority Closing Submissions
ID20	Appellant Closing Submissions

SCHEDULE OF CONDITIONS

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for the approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (Drawing No. BM-M-04 Revision B), Land Use Plan (Drawing No. BM-M-02) and Site Access (Drawing No. SK_002 Revision P1) September 2019.

5) No development shall take place until a Construction Ecological Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not limited to the following:

   i) Risk assessment of potentially damaging construction activities including provisions for protected species,

   ii) Identification of 'biodiversity protection zones' including (but not exclusively) hedgerows and mature trees,

   iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements),

   iv) The locations and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour after sunset),

   v) The times during construction when ecological or environmental specialists need to be present on site to oversee works,

   vi) Responsible persons and lines of communication,

   vii) The role and responsibilities on site of an ecological clerk of works (ECoW) or similar person,

   viii) Use of protective fences, exclusion barriers and warning signs; and

   ix) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

   The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

6) No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall cover the first ten years of management following the commencement of construction and enabling works. Enhancement measures should be included for existing natural habitats and created habitats, as well as those for protected species. All Ecological enhancements outlined in the LEMP will be implemented as

recommended in the LEMP and the number and location of ecological features to be installed should be specified.

7) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

8) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall:

   i) provide for the parking of vehicles of site operatives and visitors
   ii) provide for the loading and unloading of plant and materials
   iii) provide for the storage of plant and materials used in constructing the development
   iv) provide for wheel washing facilities
   v) specify the intended hours of delivery and construction operations
   vi) include measures to control the emission of dust and dirt during construction
   vii) a scheme for recycling/disposing of waste resulting from construction works; setting out measures for dealing with such materials to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy
   viii) construction lighting scheme

   The approved CMS shall be adhered to throughout the construction period.

9) No development above ground level shall commence until the site access has been provided in accordance with the submitted plan SK_0002 Revision P1. The first 20m of the access road from Ashmead Drive shall be surfaced in a bound material and the access shall be retained and maintained in that form until and unless adopted as highway maintainable at public expense.

10) No dwelling hereby permitted shall be occupied until surface water and foul water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. The submitted details shall:

   i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters
   ii) include a timetable for its implementation; and,
   iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

11) Prior to first occupation of any individual dwelling, a footpath to that dwelling including connections to Aggs Close and Ashmead Drive, shall be completed to a minimum of 2m wide with bound surfacing.

12) Prior to first occupation, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall clearly demonstrate that lighting will not cause excessive light pollution or disturb or prevent bat species using key corridors, forage habitat features or accessing roost sites. The details shall include, but not be limited to, the following:

    i) A drawing showing sensitive areas and/or dark corridor safeguarding areas.

    ii) Description, design or specification of external lighting to be installed including shields, cowls or blinds where appropriate,

    iii) A description of the luminosity of lights and their light colour including a lux contour map.

    iv) A drawing(s) showing the location and where appropriate the elevation of the light fixings.

    v) Methods to control lighting control (e.g. timer operation, passive infrared sensor (PIR)).

    All external lighting shall be installed in accordance with the specifications and locations set out in the approved details. These shall be maintained thereafter in accordance with these details.

13) Prior to first occupation, a Homeowner Information Pack (HIP) setting out the location and sensitivities of the Cleeve Common Site of Special Scientific Interest shall be submitted to and approved in writing by the local planning authority. The HIP shall include reference to the sensitivities of the sites, messages to help the new occupiers and their families enjoy informal recreation at the site and how to avoid negatively affecting it, alternative locations for recreational activities and off road cycling and recommendations to dog owners for times of year dogs should be kept on lead when using the site (i.e. to avoid disturbance to livestock). Two copies of the HIP shall be provided to all future residents prior to occupation of each dwelling.

14) The approved Travel Plan (Reference: 15163-TA-V2) shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter with the exception that the Travel Plan monitoring period shall be a minimum of 5 years.

15) Applications for the approval of the reserved matters shall be generally in accordance with the principles and parameters described in the Design and Access Statement (October 2019) and the Illustrative Site Layout BM-M-01 Revision A.

16) The reserved matters shall include a Housing Mix Statement to setting out an appropriate mix of dwelling sizes, types and tenures to be provided on site that will contribute to a mixed and balanced housing market. It will address the needs of the local area and of older people, as set out in the local housing evidence base, including the most up-to-date Strategic Housing Market Assessment for the area at the time of the submission of the relevant reserved matters. The development shall be implemented in accordance with the approved Housing Mix Statement.

17) The reserved matters shall include a scheme for the protection of retained trees and hedgerows, in accordance with the most up-to-date BS 5837, including a Tree Protection Plan (TPP) and an Arboricultural Method Statement (AMS). All construction works shall be implemented in strict accordance with the approved details.

18) The reserved matters shall propose no more than 50 dwellings.

END OF CONDITIONS

Appendix DV19

Network Rail's response to Land to the East of Benhall Mill Road, Tunbridge Wells (WD/2017/0143/MAJ)

Lisa Clarke

From: Nicholas Donoghue <Nicholas.Donoghue@networkrail.co.uk>
Sent: 30 April 2021 12:34
To: planning
Cc: Asset Protection London South East; Town Planning Southern
Subject: Network Rail Consultation Response: WD/2017/0143/MAJ - LAND TO THE EAST OF BENHALL MILL ROAD, TUNBRIDGE WELLS
Attachments: ASPRO Informatives 2020.pdf

Categories: Consultee

OFFICIAL

Dear Sir / Madam,

Thank you for consulting Network Rail on the planning application WD/2017/0143/MAJ, please see our formal comments below.

Due to the close proximity of the proposed works to Network Rail's land and the operational railway, Network Rail requests the applicant / developer contacts Network Rail's Asset Protection and Optimisation (ASPRO) team via AssetProtectionLondonSouthEast@networkrail.co.uk as soon as possible.

Our ASPRO team will review the details of the proposal to ensure that the works can be completed without any risk to the operational railway. The applicant / developer may be required to enter into an Asset Protection Agreement to get the required resource and expertise on-board to enable approval of detailed works. More information can also be obtained from our website https://www.networkrail.co.uk/running-the-railway/looking-after-the-railway/asset-protection-and-optimisation/.

As well as contacting Network Rail's ASPRO Team, the applicant / developer must also follow the attached Asset Protection informatives (compliance with the informatives does not remove the need to contact ASPRO).

I trust the above is clear, however, if you require any additional information from Network Rail, please do not hesitate to contact me.

Kind Regards,

Nick Donoghue
Town Planning Technician
Network Rail Property (Southern)
Office Address: 1 Eversholt Street, London, NW1 2DN
Email: Nicholas.Donoghue@networkrail.co.uk
Mobile: 07732 639934
Website: www.networkrail.co.uk

Please note I am on study leave on Thursdays.

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Asset Protection Informatives for works in close proximity to Network Rail's infrastructure

The developer must ensure that their proposal, both during construction and after completion does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

Network Rail strongly recommends the developer complies with the following comments and requirements to maintain the safe operation of the railway and protect Network Rail's infrastructure.

Future maintenance

The applicant must ensure that any construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of/or encroaching upon Network Rail's adjacent land and air-space. Therefore, any buildings are required to be situated at least **2 metres (3m for overhead lines and third rail)** from Network Rail's boundary.

This requirement will allow for the construction and future maintenance of a building without the need to access the operational railway environment. Any less than **2m (3m for overhead lines and third rail)** and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works as well as adversely impact upon Network Rail's maintenance teams' ability to maintain our boundary fencing and boundary treatments. Access to Network Rail's land may not always be granted and if granted may be subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant.

As mentioned above, any works within Network Rail's land would need approval from the Network Rail Asset Protection Engineer. This request should be submitted at least 20 weeks before any works are due to commence on site and the applicant is liable for all associated costs (e.g. all possession, site safety, asset protection presence costs). However, Network Rail is not required to grant permission for any third-party access to its land.

Plant & Materials

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no plant or materials are capable of falling within 3.0m of the boundary with Network Rail.

Drainage

Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property. Proper provision must be made to accept and continue drainage discharging from Network Rail's property; full details to be submitted for approval to the Network Rail Asset Protection Engineer. Suitable foul drainage must be provided separate from Network Rail's existing drainage. Soakaways, as a means of storm/surface water disposal must not be constructed within **20 metres** of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property. After the completion and occupation of the development, any new or exacerbated problems attributable to the new development shall be investigated and remedied at the applicants' expense.

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The applicant/applicant's contractor must consider if they can undertake the works and associated scaffold/access for working at height within the footprint of their property boundary.

Piling

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Fencing

In view of the nature of the development, it is essential that the developer provide (at their own expense) and thereafter maintain a substantial, trespass proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. The 1.8m fencing should be adjacent to the railway boundary and the developer/applicant should make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point during or post construction should the foundations of the fencing or wall or any embankment therein, be damaged, undermined or compromised in any way. Any vegetation within Network Rail's land boundary must not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers' vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's Asset Protection Engineer's approval of their detailed proposals regarding lighting.

Noise and Vibration

The potential for any noise/vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of the National Planning Policy Framework which hold relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.

Vehicle Incursion

Where a proposal calls for hard standing area/parking of vehicles area near the boundary with the operational railway, Network Rail would recommend the installation of a highways approved vehicle incursion barrier or high kerbs to prevent vehicles accidentally driving or rolling onto the railway or damaging lineside fencing.

Landscaping

Any trees/shrubs to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. Network Rail wish to be involved in the approval of any landscaping scheme adjacent to the railway. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. If required, Network Rail's Asset Protection team are able to provide more details on which trees/shrubs are permitted within close proximity to the railway.

Existing Rights

The applicant must identify and comply with all existing rights on the land. Network Rail request all existing rights, covenants and easements are retained unless agreed otherwise with Network Rail.

If you would like to discuss any of the above, please contact your local Network Rail's Asset Protection team:

Anglia: AssetProtectionAnglia@Networkrail.co.uk
Kent and Sussex: AssetProtectionLondonSouthEast@NetworkRail.co.uk
Wessex: AssetProtectionWessex@NetworkRail.co.uk

To identify your route, please use the link: https://www.networkrail.co.uk/running-the-railway/our-routes

Appendix DV20

Land at Old Orchard House, Horebeech Lane, Horam (APP/C1435/W/22/3297371) appeal decision.

The Planning Inspectorate

Appeal Decision

Hearing held and site visit made on 12 July 2022

by Jonathan Price BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 4 August 2022

Appeal Ref: APP/C1435/W/22/3297371
Land at Old Orchard House, Horebeech Lane, Horam, East Sussex TN21 9DZ

- 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 Chailey Homes Ltd against the decision of Wealden District Council.
- The application Ref WD/2021/2356/MAO, dated 3 September 2021, was refused by notice dated 25 March 2022.
- The development proposed is the erection of up to 38 dwellings, access, landscaping and other associated infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 38 dwellings, access, landscaping and other associated infrastructure at land at Old Orchard House, Horam, East Sussex TN21 9DZ in accordance with the terms of the application, Ref WD/2021/2356/MAO, dated 3 September 2021, subject to the conditions set out in the schedule attached to this decision.

Preliminary Matters

2. The application was made in outline, with all matters reserved for later consideration apart from access. I have dealt with the appeal on the same basis, taking the site layout in drawing no. 3278:01 Rev A.E as indicative only, other than in respect of the site entrance. The application date is that given on the application form.

3. A Unilateral Undertaking (UU) made by the appellant pursuant to Section 106 of the Town and Country Planning Act 1990 was discussed at the Hearing. A signed and completed version dated 22 July 2022 was subsequently provided, which the Council had agreed to. I address the obligations made in the UU below.

4. A full application for 58 dwellings relating to this site had been dismissed in an appeal decision made on 7 August 2020[1]. The previous Inspector's conclusions are material considerations in assessing the effects arising from the fewer dwellings now proposed.

Main Issues

5. The main issues in the appeal are:

[1] Appeal Ref: APP/C1435/W/19/3235754 for the proposed is erection of 58 dwellings, associated garages and infrastructure on land adjacent Old Orchard House, Horebeech Lane, Horam TN21 9DZ

- the effect of the proposed development on the character and appearance of the area and
- the accessibility future occupiers would have to regularly required services.

Reasons

Character and appearance

6. The appeal site comprises a parcel of rough grassland surrounded by thickly vegetated outer edges, including along the roadside frontage. The land is situated within the low-density housing fronting this southern section of Horebeech Lane, from where access is proposed. The land lies just outside the main built-up extent of Horam and opposite the site of 123 dwellings under construction to the north of Horebeech Lane. To the rear, the site runs up to the former railway line which now provides the Cuckoo Trail. This footpath and cycleway pass under Horebeech Lane and would provide an alternative route for non-motorised users from the development to the facilities in Horam.

7. The appeal site lies within the Low Weald landscape, outside both the South Downs National Park and the High Weald Area of Outstanding Natural Beauty (AONB). With reference to paragraph 174 of the National Planning Policy Framework (the Framework), there is not the onus here to protect and enhance valued landscapes in a manner commensurate with any statutory status. This requires me instead to recognise the intrinsic character and beauty of the countryside. Furthermore, as part of the Framework's aims for achieving well-designed places, paragraph 130 requires development to be sympathetic to local character, including the surrounding landscape setting.

8. Such intrinsic character and beauty are provided by the open field and its vegetated boundaries, which provide a green frame to the settlement edge. The site offers a break in development along the southern side of Horebeech Lane, which retains the appearance of countryside and provides a strongly rural character to this side of the road. Although the site is visually well contained, where any development would not impinge greatly in wider views, the access to the new access would puncture the roadside hedging and open up the enclosed site. The housing would inevitably have a suburbanising impact upon the rural scene in views from Horebeech Lane, and also those from the Cuckoo Trail.

9. The proposed housing would thus cause harm to the character and appearance of the area, due to the same noticeable urbanisation of the green break between Horam and the adjacent settlement at Marle Green found in the previous appeal decision. However, the significant reduction in dwelling numbers would allow for a lower density and more landscape dominated scheme. A wider extent of landscaping in and around the development would reduce the scheme's adverse visual impacts to an appreciable degree, due to the opportunity for a more verdant and spacious layout which would mollify the starkness of the suburbanising effects.

10. The relevant development plan policies are those of the Wealden Local Plan 1998 (LP), the Core Strategy Local Plan 2013 (CS) and the Affordable Housing Delivery Local Plan 2016. Over this issue, there remains conflict with LP policies GD2, DC17, EN1, EN8 and E27. Collectively, these resist housing outside the Horam development boundary to protect its character and countryside setting

and help achieve sustainable development. Furthermore, the proposal would exceed the scale of development identified for Horam in CS Policy WCS6. The proposal also conflicts with Policy WCS9, in not being a small scale affordable residential scheme, permissible in rural areas outside development boundaries in order to meet an identified local housing need. Both policies augment the CS rural areas' strategy for locating housing growth so as to protect the countryside.

Accessibility to regularly required services

11. In the previous appeal decision, the Inspector concluded that the 58 dwellings would lead to reliance on the private car by future occupiers. The situation is the same, insofar as Horam is a local service centre in the CS settlement hierarchy. This indicates a limited supply of social and economic infrastructure, including employment, and a place where local residents depend upon other centres to meet a broad range of needs, with there being some form of accessibility to these.

12. Horam's services, including a doctor, a dentist, a village hall and various other facilities including shops and churches, are located around 1km from the site. There are pedestrian footways along Horebeech Lane linking to these, as well as the alternative Cuckoo Trail pedestrian/cycle route into Horam. A primary school in Maynards Green and secondary school in Heathfield are within a modest drive from the site.

13. Horam has no railway station and the nearest bus stop for services to larger centres is approximately 850m from the site. There is no lighting to the Cuckoo Trail or along parts of Horebeech Lane, which would discourage pedestrian and cyclist use outside of daylight hours. The mix of housing sizes is yet to be provided, but the proposal would quite clearly generate a need for residents to travel outside of the village to access services and facilities, including employment and leisure.

14. Due to these factors, the proposal gives rise to conflict with CS Policies SP07 and SP09. This is insofar as these seek to minimise greenhouse gas emissions by concentrating development where it is related to public transport opportunities, to make it easier to travel by more sustainable modes.

Other Matters

15. Further concerns were raised by interested parties to the application, the appeal and at the Hearing. Regarding the proposed access arrangements, these are to the satisfaction of the local highway authority. Subject to conditions, the local highway network has the operational capacity to safely accommodate up to 38 additional dwellings in this location.

16. In the previous appeal, the Inspector found the proposal would harm the living conditions of the neighbouring occupiers at Old Orchard House, in respect of outlook, privacy and light. However, the reduced quantum of housing in the current scheme would permit a detailed layout which would avoid such harm.

17. Subject to conditions, the scheme would not increase flood risk and could be provided satisfactory foul and surface water drainage.

18. Health and dental services are generally over-stretched and those in Horam would need to respond to this further development. However, such concerns

would not be grounds for resisting the further houses proposed. The lower density scheme would provide some compensatory natural habitat and wildlife connectivity.

Scheme Benefits

19. It is common ground that the CS is out of date and does not meet Wealden's local housing needs. The plan provides for only 450 homes per annum as opposed to a requirement for 1,225, as calculated under the standard method set out in national planning guidance. Paragraph 74 of the Framework requires Councils identify and update annually a minimum five-year housing land supply (5YHLS) against their local housing need. Wealden can currently demonstrate a 3.66-year housing land supply. I consider this to be a substantial shortfall in meeting current Government policy requirements.

20. A lack of a 5YHLS has endured in Wealden for over six years. In this situation the Council has granted permission for housing in a number of sites outside the Horam settlement boundary, as detailed in the appellant's evidence. Unlike this proposal, these sites appear to have all been within a development boundary proposed in a Submission Local Plan. However, this was later withdrawn and the Council is now preparing a new Local Plan, due for Regulation 18 consultation later this year.

21. Paragraph 60 of the Framework refers to the Government's objective of significantly boosting the supply of homes. In the light of this and the substantial and long-standing shortfall in housing land supply in Wealden, with no imminent prospect of plan-led resolution, the up to 38 dwellings proposed is a social benefit to which I attach very significant weight. This is particularly as the scheme is of a scale which could come forward relatively quickly in response to meeting current housing needs.

22. The 35% affordable housing provided would comply with CS Policy WCS8. The appellant's evidence over an acute need for affordable housing in Wealden, with affordability worsening, was not challenged. This is a specific social benefit to which I also attach very significant weight. Quite significant weight is attached to the provision of two plots for self-build homes, as this would help meet a demand for such opportunities.

23. The development would provide appreciable economic benefits through the generation of jobs during the construction period, both directly and indirectly. Furthermore, the new residents would support local businesses within Horam and help maintain the viability of its services and facilities. In these respects, I attribute moderate weight to the proposal's local economic benefits.

Planning obligation

24. The UU secures the 35% affordable housing provision, 5% serviced plots for custom and self-build units, a link from the development to the Cuckoo Trail, children's play area provision and a financial contribution towards bus services. I have considered the obligations made against the tests set out in paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I consider all to be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

Habitats Regulations

25. The appeal site is 7km beyond Ashdown Forest, which is an area classified under the Habitats Regulations[2] as a Special Protection Area (SPA) in relation to birds. This SPA is classified for its ground nesting species which are susceptible to increased recreational pressure. I am satisfied with the evidence that this proposal, in combination with other plans or projects, would have no likely significant effects upon the qualifying features of that SPA, due to increased recreational pressure.

26. Likewise, I am content with the evidence that this proposal would not adversely impact on the integrity of the characteristic heathland plant species in Ashdown Forest, for which it is also designated under the Habitats Regulations as a Special Area of Conservation (SAC). This is based on Natural England deciding that the air quality implications of the quantum of growth proposed for this District in the Submission Local Plan would not adversely affect the integrity of either Ashdown Forest, Lewes Downs or Pevensey Levels SACs.

Planning Balance

27. The appeal scheme would conflict with CS policies WCS6 and WCS9 and LP policies GD2, DC17, EN1, EN8 and E27. This is through being within countryside outside the defined Horam development boundary and causing some harm to the character and appearance of the area, by encroaching into the settlement's undeveloped rural surroundings. I have also found the proposal gives rise to conflict with CS Policies SP07 and SP09. This is insofar as future occupiers would generally need to have some private car access to meet all regularly required needs and this would then impact upon greenhouse gas emissions. These are quite fundamental conflicts and, despite the support of other policies, the proposal would be contrary to the development plan when read as a whole.

28. The Framework's presumption in favour of sustainable development, in paragraph 11, is a material consideration. The Council's lack of a 5YHLS deems the development policies most important for determining the appeal to be out-of-date. This does not mean these policies carry no weight but it reduces the amount I can attach to those restricting development outside development boundaries and which might prevent local housing needs being met.

29. The decisive harm to the living conditions of occupiers of Old Orchard House has been overcome since the last appeal and no longer weighs against the proposal. The access to the highway would still open the site up, with the loss of the thick roadside hedgerow, and the housing would occupy a field visible from the much-valued Cuckoo Trail. Through reserved matter approval based on the indicative layout submitted, the Council could require a strong landscape buffer around the site, including a re-planted set back from Horebeech Lane, and a low-density layout with tree-lined streets. The lower number of dwellings proposed thus provides for a greatly reduced level of harm to character and appearance, relative to that found by the Inspector in the previous appeal.

30. As a predominantly rural District, with a relatively poor public transport network, there are challenges in meeting local housing need without an associated degree of car dependency. In this case the housing is not within the

[2] Conservation of Habitats and Species Regulations 2017 (as amended).

800m walking distance to services recommended in the Manual for Streets. However, the distances are not greatly in excess of this and would be mainly accessible by footpaths. The scheme is on the edge of Horam, like the other recently approved schemes, rather than being any deeper in the countryside and beyond the limits of footway access. Cycling or walking to some services would remain a realistic option for many future occupiers of the proposed housing, who would be far from entirely dependent on car travel. The degree of harm from the level of service accessibility in this location would be at most moderate in weight.

31. Development growth in Wealden is constrained by the protected landscapes of the High Weald AONB and South Downs National Park, as well as ecologically sensitive areas such as Ashdown Forest and the Pevensey Levels. As a predominantly rural area, with a relative lack of previously developed land, it is unavoidable that some countryside will be required to be built on to meet housing needs. The benefits of the scheme towards meeting local housing need, including that which is affordable or provided on a self-build basis, are accounted for above. Any adverse impacts of allowing this housing would not significantly and demonstrably outweigh these considerable benefits, when assessed against the Framework policies taken as a whole. The presumption in favour of sustainable development therefore applies to the proposal.

Conditions and conclusion

32. I have considered the conditions suggested by the Council against the tests in Framework paragraph 56. This requires conditions be imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. These conditions were largely agreed by the appellant, apart from the one-year periods for reserved matters applications and subsequent commencement upon last approval of these, which might cause practical difficulties in being met. I have therefore amended the latter to two years. Otherwise, the standard outline conditions are necessary to encourage the early take up of the permission, given the pressing need to deliver housing in Wealden. I have made further amendments to the wording of other conditions, mainly in the interests of succinctness.

33. In addition to the standard conditions for outline permission (1-3), it is necessary in the interests of certainty to condition consent to the detailed plan showing the position and design of the vehicular access onto Horebeech Lane (4).

34. To satisfactorily address matters which might otherwise have comprised reasons for dismissing the appeal, a number of conditions need to be met prior to any development being allowed to commence. These conditions are necessary in the interests of investigating any on-site archaeology (5), ensuring highway safety through compliance with an agreed Construction Traffic Management Plan (7), securing off-site highway improvements (9) and requiring adequate means of surface water drainage (14, 15).

35. In the interests of ensuring such surface water drainage measures are delivered, conditions are also necessary to ensure the receiving water course is engineered up to standard (16) and the arrangements are provided prior to occupation (17). In the interests of ensuring suitable foul drainage, a condition is necessary requiring details to be agreed prior to ground levels being

prepared and these then being implemented as each dwelling becomes occupied (13). A post occupancy monitoring and management condition is also necessary to safeguard against ground or surface water pollution (18).

36. In the interests of promoting the take up of sustainable transport modes, a condition makes occupation of the housing dependent upon implementation of an agreed Travel Plan (11).

37. In the interests of sustainable development, a condition is necessary that ensures the development accords with agreed water and energy efficiencies and further carbon saving measures (6).

38. In the interests of certainty conditions are necessary to agree the location of the 65% market dwellings (8), the phased construction of the estate road to adoptable standards (10) and the dimensions and provision of parking spaces (12).

39. Further conditions are necessary to address air quality (19, 20), landscape management (21), Great Crested Newt mitigation (22), wildlife management (23), lighting (24) and tree/hedgerow protection (25).

40. A condition governing the provision and specification of the Cuckoo Trail link is covered in the UU, so does not need to be addressed by condition.

41. The Framework's presumption in favour of sustainable development is a material consideration sufficient to indicate this appeal be determined otherwise than in accordance with the development plan. Accordingly, based on the reasons given above and subject to the conditions set out below, I conclude that the appeal should succeed.

Jonathan Price

INSPECTOR

Schedule of Conditions

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

4) In respect of the means of access into the site from Horebeech Lane, the development hereby permitted shall be carried out in accordance with the following approved plan: 3278:01 Rev A.E.

5) No development shall take place until the appellant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

6) Before preparation of any groundworks or foundations for the development hereby approved, full details for the incorporation of water and energy efficiency measures, the promotion of renewable energy and sustainable construction within the development shall be submitted to and agreed in writing by the local planning authority and the development shall be carried out in accordance with the approved details and thereafter so retained.

7) No development shall commence on site until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. Thereafter, the approved CTMP shall be implemented and adhered to throughout the construction period. The CTMP shall include the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and egress and routeing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works,
- pre-condition survey accompanied by the local highway authority providing photographic evidence of the existing highway, to be carried out prior to commencement,
- a scheme for the control of noise and dust,

- measures to manage flood risk, both on and off the site, during the construction phase.

8) The reserved matters shall identify the 65% market dwellings to be provided on site and the development shall thereafter be in accordance with these.

9) The development hereby permitted shall not commence until a scheme for off-site highway measures, including a 30-mph speed limit extension, gateway feature and north side footway/cycleway on Horebeech Lane, has been submitted to and approved in writing by the local planning authority. The approved highway measures shall thereafter be completed prior to occupation of any of the dwellings hereby permitted.

10) The new estate road shall be constructed to a standard for adoption as a maintainable highway in tandem with the phasing of housing development.

11) No part of the development shall be occupied until a Travel Plan has been approved in writing by the local planning authority. The Travel Plan shall thereafter be implemented as approved.

12) Parking spaces shall measure at least 2.5m by 5m (with an extra 50cm on each side where spaces abut walls, fences or hedges). Car parking shall be provided prior to the occupation of the associated dwellings and thereafter retained for that purpose.

13) Before preparation of ground levels of the development approved by this permission a scheme for foul drainage shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved before any of the dwellings served are occupied.

14) Prior to the commencement of development, a detailed surface water drainage system shall be submitted to and approved in writing by the local planning authority.

The surface water drainage system shall incorporate the following:

a) Detailed drawings and hydraulic calculations. The hydraulic calculations shall take into account the connectivity of the different surface water drainage features. The calculations shall demonstrate that surface water flows can be limited to the greenfield runoff rates for rainfall events with an annual probability of occurring greater than 1 in 2.33 and mean annual discharge (Qbar) for rainfall events with an annual probability of occurrence less than 1 in 2.33, including those with a 1 in 100 (plus climate change) annual probability of occurrence. An allowance for urban creep (recommended 10% increase in impermeable area) shall be incorporated within the calculations.
b) The proposed ground levels adjacent the western and southern boundaries, to allow for the conveyance of the existing overland surface water flow route without increasing flood risk on or offsite.
c) The detailed design of the surface water drainage features (attenuation ponds and swales), informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1m unsaturated zone between the base of the drainage structures and the highest recorded groundwater level. If this cannot

be achieved, details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system should be provided.

d) Information on how surface water flows exceeding the capacity of the surface water drainage features will be managed safely.

The drainage shall be provided in accordance with the approved details before first occupation of the related dwellings.

15) The development hereby permitted shall not commence until a maintenance and management plan for the drainage system shall have been submitted to and approved in writing by the local planning authority. The management plan shall cover the following:

a) who will be responsible for managing all aspects of the surface water drainage system, including piped drains,
b) evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development.

The approved maintenance and management plan shall thereafter be implemented and remain in place for the lifetime of the development.

16) Prior to the construction of the outfall, a condition survey of the watercourse which will take surface water runoff from the development shall be investigated and the results submitted to and approved in writing by the local planning authority and any improvements recommended to the condition of that watercourse carried out.

17) Prior to occupation of the development, evidence (including photographs) showing that the drainage system has been constructed to the final agreed detailed drainage designs shall have been submitted to and approved in writing by the local planning authority.

18) There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways. Prior to being discharged into any watercourse, surface water sewer or soakaways system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies and silt traps to BS 5911:1982, with an overall capacity compatible with the site being drained and shall be retained thereafter.

19) Unless otherwise agreed in writing, the development shall take place in accordance with the recommendations set out within the Air Quality Assessment authored by Phlorum Limited (date stamped 13 December 2021).

20) Prior to the construction of the roof of any dwellings hereby permitted, a scheme for the required onsite/offsite emissions off setting mitigation measures (in accordance with the development damage costs calculated within the submitted Air Quality Assessment or any amended Assessment provided with reserved matters detailing the number of dwellings to be provided) shall be submitted to and agreed in writing by the local planning authority. The agreed onsite/offsite emissions off setting mitigation measures shall be provided prior to the first occupation of the dwellings hereby approved.

21) Prior to the occupation of any of the dwellings hereby permitted, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned, domestic gardens or areas to be adopted by the local highway authority, shall be submitted to and approved in writing by the local planning authority. The approved landscape management plan shall be adhered to for the lifetime of the development.

22) The development shall be carried out and thereafter maintained in accordance with the recommendations set out within the Great Crested Newt Report June 2021 and Ecological Update Report October 2020, both by Phlorum Ltd.

23) Before preparation of ground levels for the development hereby permitted, a wildlife management plan shall be submitted to and approved in writing by the local planning authority. This should include detailed proposals for the protection of bats, birds, reptiles, great crested newts and badgers, and measures for the mitigation of any harm to them likely to be caused by the development. The works and other measures forming part of that plan shall be carried out in accordance with it.

24) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained thereafter.

25) No trees and hedgerows on the site shall be felled, reduced, pruned or destroyed without the consent in writing of the local planning authority. Furthermore, the following operations shall not be carried out within the approved protection zone of any tree or hedgerow, except with the consent of the local planning authority:-

- ground levels raised or lowered;
- roots cut, trenches dug or soil removed;
- buildings, roads or other engineering operations constructed or carried out;
- fires lit (or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of the tree or hedgerow as per the requirements of *BS5837:2012 Trees in relation to design, demolition & construction − Recommendations)*;
- vehicles driven;
- materials or equipment stored (as per the requirements of *British Standard 5837:2009 'Trees in Relation to Construction')*.

APPEARANCES

FOR THE APPELLANT:

Mark Best	Parker Dann Chartered Town Planning Consultants

FOR THE LOCAL PLANNING AUTHORITY:

Stacey Robins	Head Planning/Environmental Services, Wealden District Council
Stephanie Wood	Team Leader Development Management Wealden District Council

INTERESTED PARTIES:

Councillor David White	Wealden District Council
Councillor Neil Cleaver	Wealden District Council
Councillor Susan Stedman	Wealden District Council
Councillor Andrew Billings	Horam Parish Council
Lucy Atabey	Editor, Horam/Vines Cross Village Diary
Mike Gadd	Editor, Wealden Green Spaces
Tony Niblock	Local resident
Cornelie Usbourne	Local resident
Peter Knowles	Local resident
Brian Arnott	Local resident