The Planning Inspectorate

Appeal Decision

Inquiry held on 5 July 2022

Site visit made on 13 and 14 September 2022

by Lesley Coffey BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2022

Appeal Ref: APP/C1435/W/22/3293970
Hindsland, Eastbourne Road, Willingdon, East Sussex, BN20 9NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
- The appeal is made by Danescroft (FREOF V Willingdon) LLP against Wealden District Council.
- The application Ref WD/2021/0594/MEA, is dated 5 March 2021.
  The development proposed is for the demolition of existing vacant dwelling and erection of up to 180 no. dwellings and medical centre together with all parking, servicing and onsite open space, with all matters reserved except for access (excluding internal estate roads beyond the access to serve the Medical Centre Plot)

Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of the existing vacant dwelling and erection of up to 180 no. dwellings and Medical Centre together with all parking, servicing and onsite open space, with all matters reserved except for access (excluding internal estate roads beyond the access to serve the Medical Centre Plot) at Hindsland, Willingdon, BN20 9NU in accordance with the terms of the application, Ref WD/2021/0594/MEA, dated 5 March 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with all matters except access reserved. Although access is a matter for determination the access arrangements within the site beyond the access to the Medical Centre, together with appearance, scale, layout and landscaping are reserved for future consideration. The submitted plans show how the site could be developed and provide a useful guide, however, since this is an outline application, alternative layouts are possible. Parameter plans show the area designated for the proposed Medical Centre. This area would be secured by way of a planning condition and the submitted Unilateral Undertaking.

3. The appeal arises from the failure of Wealden District Council to determine the application within the prescribed time. Following the submission of the appeal officers submitted a report to the Council's Southern Planning Committee setting out that had the Council still been in a position to determine the application the recommendation would have been for approval, subject to the

completion of a legal agreement. At the Committee meeting on 24 March 2022 the Council resolved not to defend the appeal.

4. The site is part of a larger site that was the subject of an appeal for 700 dwellings in 2019.[1] The Inspector for that appeal found that the development of the wider site was acceptable in all respects except for the highway impact and the appeal was dismissed for this reason.

5. The recent appeal decision in respect of Morning Mills Farm (the remainder of the previous appeal site) granted outline planning permission for a mixed-use urban extension comprising up to 700 dwellings including affordable housing and 8,600 square metres of employment floorspace.[2]

6. A signed and executed Unilateral Undertaking securing planning obligations pursuant to S106 of the Town and Country Planning Act 1990 was submitted. I have taken this into account in reaching my decision.

7. A Statement of Common Ground between the appellant and Wealden District Council addressed the planning history of the site and the planning policy context. It also set out the issues where there is agreement between the two parties and concluded that subject to the completion of a legal agreement under S106 of the Town and Country Planning Act 1990, there are no issues of dispute between the Council and the appellant.

8. A separate Statement of Common Ground between the appellant and East Sussex County Council (the Highway Authority) was also submitted. Amongst other matters this proposed a number of conditions should the appeal be allowed and set out the agreed planning obligations in respect of transport. It also agreed that site access arrangements and the traffic impact of the proposed development are acceptable. I have taken both Statements of Common Ground into account in reaching my decision.

9. At the time of the application Natural England stated that there was insufficient information in respect of the surface water drainage strategy to determine the effect of the proposed development on the Pevensey Levels designated sites. Additional information was provided by the appellant by letter dated 17 August 2022, and Natural England confirmed by letter dated 26 August that there was now sufficient information to support the Competent Authority in undertaking their Habitats Regulations Assessment. I have taken this additional information, together with the views of Natural England, into account in the determination of this appeal.

Main Issues

10. I consider that main issues to be:

- Whether the proposal is consistent with the relevant development plan policies, and whether there are any material considerations to justify a decision other than in accordance with the development plan; and
- The effect of the proposal on the integrity of European Protected Habitats.

[1] APP/C1435/W/19/3230484
[2] APP/C1435/W/22/3297419

Reasons

11. The appeal site comprises the former Hindsland Playing Fields. I understand that these were last used in about 2000/2001. The site was previously owned by the University of Brighton and is private, rather than public open space. It is situated between Polegate and Lower Willingdon. Both areas are characterised by a mix of bungalows, chalet style bungalows and 2 storey housing of mixed style and age. In terms of topography the site is generally level with a slight slope towards the south. The frontage onto Eastbourne Road is relatively open with a wide grass verge to the highway. A line of trees marks the southeastern boundary.

12. It is proposed to demolish the existing two storey dwelling situated towards the southeastern boundary and provide 180 dwellings and a Medical Centre on the site. Vehicular access to the site would be via a priority junction on Eastbourne Road. This would provide a spur to the Medical Centre and then continue towards the residential element of the proposed development.

Development Plan

13. The Development Plan comprises the saved policies of the Wealden District Council Local Plan 1998, the Wealden District Local Plan Core Strategy 2013, and the Affordable Housing Delivery Local Plan May 2016.

Principle of Development

14. Core Strategy Policy WCS1 states that land will be identified in subsequent Development Plan Documents for the provision of some 4,525 net additional dwellings in Wealden District to provide for 9,440 dwellings over the Plan period, whilst Policy WCS2 sets out the distribution of these dwellings within Wealden District. Within Polegate and Willingdon 1,265 are expected to be delivered between 2006 and 2027. Of these 565 had been delivered at the time the Core Strategy was adopted.

15. Core Strategy Policy WCS4 identifies strategic development areas that are considered to be critical to the delivery of the overall strategy and provide new housing employment and community facilities. These include SD4: Land at South Polegate and East Willingdon. This identified the site for the provision of around 700 dwellings, 8,600 square metres net employment floorspace, leisure, recreation and community facilities. The appeal site, together with Morning Mills Farm, come within this area. It is intended that the exact extent and detailed form of the developments will be undertaken in the Site Allocation DPDs that were anticipated to follow the Core Strategy.

16. I have also had regard to the Policies DC17 and GD2 of the 1998 Local Plan. DC17 is a protective countryside policy which restricts development outside of settlement boundaries, and GD2 seeks to achieve the same effect by reference to the Local Plan's defined settlement boundaries. The parties agree that these policies are out of date since they do not reflect the current housing needs of Wealden and are inconsistent with the Core Strategy. In planning terms, the site can no longer be considered to be within the countryside by virtue of its allocation for strategic development within the Core Strategy. I therefore afford policies DC17 and GD2 little weight. Overall, I conclude that the

principle of the proposed development is acceptable and accords with Policy WCS4.

Accessibility of location to services and facilities

17. The parties agree that the site is sustainably located in relation to the urban areas of Polegate and Willingdon, which have been identified as sustainable locations for growth by the Core Strategy. A number of everyday retail and educational facilities are available within a reasonable walking distance of the Appeal site. Eastbourne town centre is accessible within a circa 20-minute bus journey, and 8 minutes rail journey from Polegate. Eastbourne provides a wide range of employment, retail, and leisure opportunities. The town's main higher and further education college and general hospital is also available on the same bus routes, within a 10 minute journey time.

18. I conclude that the appeal site is well located relative to services and facilities, including the facilities and employment opportunities within Eastbourne. It would also facilitate the use of sustainable modes of transport.

19. Overall, I conclude that the proposal would comply with the relevant policies within the Core Strategy and the Local Plan, with the exception of Local Plan policies DC17 and GD2. For the reasons given above, I afford Local Plan Policies DC17 and GD2 little weight.

European Sites

20. There are a number of European Protected Habitats in the area surrounding the site, including the Pevensey Levels Special Area of Conservation (SAC)/Ramsar/Site of Special Scientific Interest (SSSI), Lewes Downs SAC, Ashdown Forest SAC, and the Ashdown Forest Special Protection Area (SPA).

21. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') transpose the Habitats Directive and the Birds Directive into English and Welsh law. The aim of the Directives is to conserve key habitats and species across the EU by creating and maintaining a network of sites known as the National Site Network. They require competent authorities before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects.

22. If the AA demonstrates that the integrity of a European site would be affected then consent for the plan or project can only be granted if there are no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest and compensatory measures will be provided which maintain the ecological coherence of the Natura 2000 network.

23. I have taken the appellant's shadow Habitats Regulation Assessment (sHRA), together with the additional information submitted following the Inquiry, into account in reaching my own conclusions, as the Competent Authority in this case.

Pevensey Levels SSSI, SAC and Ramsar site

24. The appeal site lies within 3km of the Pevensey Levels SSSI, SAC and Ramsar sites (the Pevensey Levels Sites). This is an internationally important wetland designated predominantly for wetland features such as birds, invertebrates and

vegetation. These interest features rely on a high quality of water and stable water levels.

25. The proposed development would increase the hard surfaces leading to a risk of increased, potentially contaminated, surface water run-off into the designated site. Natural England considered that further detail on the SuDS design, was required in order to determine whether the proposed surface water drainage strategy would adequately mitigate water quality impacts to the Pevensey Levels Sites in perpetuity. This information was provided by the appellant following the close of the Inquiry. NE confirmed by way of letter dated 26 August 2022 that sufficient information has now been provided to support the Competent Authority in undertaking their Habitats Regulations Assessment and do not now object to the appeal proposal.

26. The sHRA confirms that the proposed SuDS would include measures to convey, treat and attenuate surface water run-off. During operation all surface water would be attenuated and pass through at least two stages of treatment. These measures are integral to the proposed development in that they would be required even if there was no potential for harm upon a European Site. For this reason, they can be taken into account at the screening stage. Based on these measures I am satisfied that there would not be a likely significant effect on the Pevensey Levels sites arising from surface water run-off.

27. There is also potential for any foul water discharge to harm water quality through a net-increase in dissolved nutrient load. The Pevensey Levels Sites were not among the European Sites identified by Natural England in March 2022 as being likely to be significantly impacted upon by any net-increase in dissolved nutrient load. The proposed development scheme does not lie within a recognised nutrient neutrality zone.

28. Although the Pevensey Levels SAC / Ramsar sites are sensitive to water pollution events, the current levels of dissolved available nitrogen and phosphate in the fluvial catchment do not exceed the site-specific critical levels. The levels of nutrients which enter the Pevensey Levels Sites are within the range where the natural processes that occur within the sites habitats, can absorb, metabolise, store or otherwise break them down. On this basis there would not be a likely significant effect on the Pevensey Levels Sites arising from the foul water discharge.

29. The reason that the amount of nitrogen and phosphate being discharged into the Pevensey Levels remains within an ecological acceptable range is, in part, due to preventative action taken in 2018 to improve the filtration processes of the Waste Water Treatment Works (WWTW) which discharge into it. Sufficient capacity exists at the Hailsham South WWTW to treat the foul water outputs from the proposed scheme. This ensures any foul water generated will be subjected to a sufficient level of treatment processes so that when it is discharged into the fluvial catchment of the Pevensey Levels Sites its nutrient concentrations are well below the level of the Levels natural tolerances.

30. Having regard to the precautionary principle and in order to provide certainty, the appellant proposes full occupation of the proposed development would only occur once sufficient sewage capacity has been confirmed by Southern Water, thereby avoiding any adverse effect on the Pevensey Levels Sites. This can be secured by way of a condition.

Lewes Downs SAC, Ashdown Forest SAC, Ashdown Forest SPA

31. The qualifying features of the Lewes Downs SAC and Ashdown Forest SAC and the supporting habitats upon which the qualifying species of Ashdown Forest SPA are reliant, are recognised as being sensitive to increasing levels of atmospheric pollution. These European sites are most likely to be impacted upon in this manner by development, which would result (directly or indirectly) in the increased deposition of the oxides of nitrogen (nitrogen oxide, nitrate or nitrite, collectively NOx), gaseous ammonia (NH3), or sulphur dioxide (SO2).

32. The proposed development will not directly generate additional air pollutants of the types known to harm the qualifying features / supporting habitats of any of these European Sites. There is the potential for a significant increase in NOx deposition upon the European Sites occurring as an indirect result of the proposed development through emissions arising during its operational phase due to increased vehicular movements on roads within close proximity to the sites.

33. Natural England's (2018) guidance ("*Natural England's approach to advising competent authorities on the assessment of road traffic emission under the Habitats Regulations*", determines that a Competent Authority should consider the implications of a plan or project on 'nitrogen thresholds' when undertaking Stage 1 (screening) of HRA in relation to the impacts of increasing road traffic emissions from major roads upon a European site.

34. If a development exceeds these thresholds it may still be screened out if the level of emission is shown to be less than 1% of the nitrogen critical load of the site under consideration. If the nitrogen critical load thresholds for the site are exceeded, then further consideration of the bespoke manner in which increased nitrogen deposition is likely to impact upon the European site in question should be undertaken.

35. The modelled likely increase in trips will not result in an exceedance in Annual Average Daily Traffic (AADT) above the threshold set by Natural England guidelines (1000 domestic vehicles or greater) along any major road within 200 m of the boundaries of the European sites considered.

36. The Habitats Regulations and best practice methodology also require the potential for a project or plan to impact upon a European site must also consider the 'in combination' effect with other projects or plans.

37. The evidence available demonstrates that the proposed development will not impact upon the Pevensey Levels Sites. All harmful impacts can be fully avoided. Therefore, no in-combination assessment of likely significant effects is required.

38. Based upon the evidence available it is considered that the proposed development will not result in any impacts upon the Lewes Downs SAC due to increased levels of air pollution (atmospheric deposition of nitrogen) arising through increased vehicular usage. It is considered that the proposed development will likely result in an insignificant impact to Ashdown Forest SAC and Ashdown Forest SPA due to increased levels of air pollution (atmospheric deposition of nitrogen) arising through increased vehicular usage.

39. The evidence available demonstrates that the proposed development would not result in any increase in AADT along either of the roads within 200 m of the

boundary of the Lewes Downs SAC. As it has been shown that the proposed development will not result in any measurable impact via increasing the AADT along the stretches of the major roads in consideration it cannot reasonably contribute to a significant effect in combination with other plans and projects. Therefore, no in-combination assessment of likely significant effects is required.

40. The proposed development is deemed likely to result in an insignificant impact to the Ashdown Forest SAC and SPA (i.e. >1 car <1000 car increase in AADT) along the A22 (north of Maresfield) and A26 (north of Maresfield). The development's impact on parts of the SAC or SPA within 200 m of these roads must be considered in combination with other plans or projects.

41. The increases in AADT were considered in combination with likely traffic growth predicted to occur due to other known plans and projects. These included Mornings Mill Farm development (700 units) and Brodericklands Farm development (440 units). Additionally, a regional growth factor was determined and also applied to roads under consideration as part of the in-combination assessment.

42. After considering the likely traffic growth as a result of the proposed development in combination with the likely traffic growth predicted to occur via known plans and projects and including likely 'background' traffic growth it has been demonstrated that the development, in combination with other plans, projects and forecast local traffic growth, will not result in an increase in AADT along any of the roads considered which will meet or exceed the Natural England thresholds.

43. In accordance with Natural England guidance there is no reasonable likelihood that the proposed development will (alone or in combination with other plans or projects) result in significant harm, via increased levels of air pollution arising from increased vehicular usage, to either the qualifying habitats or critical functions of the supporting habitats upon which the qualifying species are reliant, of either of the Ashdown Forest SAC or Ashdown Forest SPA. Accordingly, all issues for all Europeans sites considered can be screened-out.

Other Material Considerations

44. A number of issues were raised by interested parties at the Inquiry and in written submissions.

Highways

45. The Hailsham, Polegate and Eastbourne Movement and Access Corridor (HPEMAC) is a package of integrated transport improvements along the A22/A2270/A2021 corridor between Hailsham, Polegate and Eastbourne. The scheme is fully funded through East Sussex County Council and includes improvements such as bus lanes, shared footway and cycleways and new and improved pedestrian and cyclist crossings. These include improvements along the A2270 Eastbourne Road to the south of the appeal site that are due to commence in early 2023.

46. The site would be accessed via a ghost island right turn priority junction to the A2270 Eastbourne Road. The access arrangements have been prepared for two scenarios; with and without the HPEMAC improvements. The access proposal enhances the HPEMAC plans by allowing it to continue further north than

currently planned, as the Hindsland site is able to deliver additional land on the eastern side of the carriageway. The main change is that the off-carriageway cycle lane can now commence at the site access rather than at the new toucan crossing at Broad Road, providing a further 115m of off-carriageway cycle lane, and also allows the northbound bus lane to extend a further 40m north to beyond the site access. Should the HPEMAC be constructed before the site access, then the access proposal could be built around it, with no material changes. This would be a benefit of the proposed development.

47. A Stage 1 Road Safety Audit (RSA) of the proposed site access has been undertaken. The RSA assessed the proposed access junction with and without the proposed HPEMAC improvements. The proposed site access arrangements reflect comments made within the RSA and are acceptable to the Highway Authority.

48. I conclude that the proposed development would comply with Local Plan Policy TR3 in that it would not create or perpetuate unacceptable traffic conditions, fail to provide a satisfactory means of access. It would also make suitable provision for public transport.

49. A number of parties described the A2270 as being the most congested road in England. The appellant submits that these comments are derived from the average annual delay on the Strategic Road Network per year released by the Department for Transport in March 2022. The appellant acknowledges that this shows the A2270 Eastbourne Road as the most congested in England during 2021 but submits that this relates to the 50m approach to the A27 Polegate signals junction and occurred at a time when it was subject to significant road works (including lane closure and temporary traffic lights) by National Highway's A27 East of Lewes. Moreover, during the period concerned travel restrictions relating to the Covid 19 pandemic, resulted in much reduced travel (and therefore delay) on the majority of the country's highway network. For this reason, the appellant believes the reliance on this data is flawed.

50. The concern of interested parties as to the ability of the A2270 Eastbourne Road to accommodate the traffic flow from the development is not shared by the Highway Authority or National Highways who operate and manage the networks, and who have reviewed the relevant evidence.

51. I visited the appeal site and the surrounding area, during the morning and evening peak periods. My visit took place during term time as requested by local residents at the Inquiry. At the time of my visit during the morning peak, the weather was very poor and there was significant congestion within the wider area. However, similar levels of congestion were not apparent in either Willingdon or Polegate. Therefore, having regard to all of the evidence submitted to the Inquiry, including the view of National Highways, I do not consider that the impact on this stretch of Eastbourne Road would be severe, or would justify the dismissal of the appeal on highway grounds.

52. Willingdon Residents' Association raised concerns with the location of the access to the appeal site from the A2270 Eastbourne Road in relation to visibility. It suggests that the Highway Authority would prefer a crossroads access to the site with Broad Road. There is no substantive evidence before the Inquiry to suggest that this is the case, moreover the Transport Statement of Common Ground, which the Highway Authority was party to, confirms that the proposed access is acceptable.

53. Amongst other matters, the submitted Unilateral Undertaking includes a series of traffic calming measures within the Willingdon area. A number of parties consider that this area needs to be extended to include Lower Willingdon. It is also suggested that such measures would not deter motorists. Whilst it may not deter motorists from using these roads, such measures would reduce the speed at which vehicles travel and thereby benefit highway safety.

54. It was suggested that traffic lights would be preferable to the proposed priority junction. Mr Marshall on behalf of the appellant, explained that this would add to delays on Eastbourne Road. Moreover, the proposed junction has been subject to a road safety audit and has been found to be safe.

Need for Housing and Affordable Housing

55. The National Planning Policy Framework (NPPF) stresses the importance of significantly boosting the delivery of new homes, as a matter of national priority. The parties agree that Wealden District Council is only able to show 3.66 years' housing land supply. This represents a shortfall of some 1,964 homes against the requirement (including the 20% buffer) and therefore the presumption in favour of sustainable development is engaged.

56. There is also a significant need for affordable housing within Wealden District. It is intended that 35% of the dwellings would be affordable dwellings. Supporting evidence to the emerging Local Plan found a need for 867 affordable dwellings per annum, whereas only 275 were delivered last year adding to the existing shortfall. Some parties suggested that the need for affordable housing was inflated and that the actual need was for about 12 dwellings. No evidence was submitted to support this figure and the Council's Housing Officer states that there is an acute need for affordable homes in Willingdon and Jevington. Therefore, I conclude that there is a local need as well as a district wide need and the proposed development would assist with meeting this need. The location, mix and tenure of these dwellings will be considered at the reserved matter stage.

South Downs National Park

57. The South Downs National Park Authority has raised concerns about the potential impact on the proposed development on the setting of the National Park, as well as on the dark skies reserve. In particular it was concerned that the cumulative effect of the proposed development, when taken together with the windfall development at Brodricklands & Hamlands Farm, it would be excessive, and effectively result in settlement coalescence. The Core Strategy was prepared jointly between Wealden District Council and South Downs National Park Authority.

58. The NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. The context of the area around the appeal site is one of urban residential development, consequently the proposed development would not significantly alter the setting of the National Park. Moreover, the appeal site comprises part of the Strategic Development Area SD4 set out within the adopted Core Strategy. The Examining Inspector stated that '*The scale of development proposed at SD4 is such that this could be achieved without unacceptable further visual coalescence between Polegate and Willingdon*.' On the basis of the submitted evidence, I have no reason to reach a different conclusion.

59. South Downs National Park Authority was also concerned that details of external lighting (both during and after the construction period) should be secured by an appropriate planning condition in order to limit light pollution and avoid harm to the Dark Night Skies Reserve. I agree that such a condition is necessary.

Infrastructure

60. The proposal would make provision for a new Medical Centre. The need for the Medical Centre is long-standing, and the delivery of such a centre was endorsed by the Inspector who considered the 2019 Morningsmill Farm appeal. It would be used to relocate two existing GP practices within the town. Whilst the delivery of the medical centre is outside of the control of the appellant, a letter from Assura confirms that the Clinical Commissioning Group is supportive of the project and has approved an outline business case. The delivery of the Medical Centre would be a significant benefit of the proposed development.

61. A number of parties raised concerns about the lack of sports and recreational facilities within the area and referred to a deficit of about 15-20 hectares of playing fields and allotments in Willingdon Parish. It was also submitted that the recreational areas provided within new developments have not been available to the wider community.

62. The appellant and Wealden District Council agree mitigation via a financial contribution calculated using Sport England's Playing Pitch Calculator is appropriate. They also agree that there are a range of projects in the vicinity of the Appeal Site where the contribution could be applied to enable offsite sports pitch upgrades. The agreed contribution is secured through the S106 Agreement. Sport England confirms that it does not object to the granting of planning permission subject to such mitigation. The mitigation seeks to upgrade existing facilities. Sport England are keen to avoid the provision of a single pitch isolated from other facilities, for a number of reasons including maintenance costs. The Nortoft study engaged with a number of local groups, including both Parish Councils and Hailsham Town Council to assess the projects where the financial contribution could be used. I conclude that the agreed planning obligations would adequately mitigate the sports and recreational requirements of the proposed development.

63. The NPPF is clear that, planning obligations must only be sought where, amongst other matters, they are necessary to make the development acceptable in planning terms and are fairly and reasonably related in scale and kind to the development. I accept that there may be a shortfall in recreational provision within the area, but it is not for this appeal to make good that shortfall.

Planning Obligations

64. The appellant submitted a Unilateral Undertaking dated 8 July 2022. The obligations have been identified by the Council and are supported by a CIL Compliance Statement which explains how each obligation accords with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations. I have assessed the submitted obligations against the advice at paragraph 57 of the NPPF and the CIL Regulations.

65. The appellant undertakes to provide 35% of the proposed dwellings as affordable housing in accordance with a scheme and tenure mix agreed with the Council. Policy AFH1 of the adopted Affordable Housing Delivery Local Plan 2016 requires that 35% of new dwellings should be affordable, of which around 80% should be provided for social rented accommodation. I agree that the provision of affordable housing would comply with the relevant tests.

66. Policies LR1, LR2, LR3 and LR5 of the Local Plan set out the requirement for developments to provide adequate levels of outdoor playing space, children's play space and informal amenity space within new developments. The provision of outdoor playing space comprising youth and adult recreation space, equipped children's play space and informal amenity areas are required under the development plan policies for all large new housing developments. Policy LR3 also requires that a capital sum or other arrangement will be sought for future maintenance. The site is unable to accommodate the necessary youth and adult recreation space therefore a financial contribution is required towards off-site provision in the locality. On the basis of the evidence submitted to the Inquiry, I am satisfied that the provision of these measures and financial contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind.

67. The Unilateral Undertaking includes provision for the Medical Centre and requires pedestrian and vehicular access from the edge of the Medical Centre to the public highway. The Core Strategy requires the SD4 allocation to make provision for community facilities. Although the Submission Local Plan was withdrawn, Policy SWGA3 within it identified a medical centre as critical infrastructure required to be delivered in the short term. Evidence submitted to the Inquiry suggests that there are few alternative sites available within Polegate or Willingdon. Two GP practices in Polegate have been in advanced discussions with the CCG and the appellant regarding the provision of a new primary health care facility on the site. I conclude that provision for the Medical Centre is necessary to make the development acceptable due to the unmet need for such facilities in the local area which would be exacerbated by the proposed development. This need was acknowledged in the previous appeal decision. Although the Medical Centre will be to service both the existing community and the development, I am therefore satisfied that the planning obligations in relation to the Medical Centre would comply with the relevant tests.

68. The Unilateral Undertaking includes a number of planning obligations in relation to highway works and sustainable travel. The highway works are discussed above and I find that the proposed works are necessary to make the development acceptable, are directly related to the development and are related in scale and kind to the development.

69. The planning obligations in relation to sustainable transport include a Bus Service Contribution, Travel Plans in respect of both the housing and Medical Centre, and car club membership for future occupants. These obligations are necessary in order to encourage sustainable travel and satisfy the relevant tests within the NPPF and the CIL regulations.

70. The Unilateral Undertaking also covenants to provide self-build and custom-build plots. Under the Self-build and Custom Housebuilding Act 2015 (as

amended) and the associated Self-build and Custom Housebuilding Regulations 2016, the Council is required to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the District which arises in each base period. At the end of May 2022, of the 170 applicants on the self-build register, 8 applicants had detailed Polegate and 2 had detailed Willingdon as their preferred location. There is evidence of unmet need for serviced plots in the District and within the local area. To be legally compliant, plots relied upon as custom or self-builds must be secured by way of a planning obligation. I therefore conclude that the planning obligation would meet the relevant tests.

71. A representation on behalf of the owners of Morningmills Farm suggested that the proposed development should also contribute towards the public realm improvements in Polegate High Street and the Huggetts Lane/A2270 junction to upgrade the signals. These contributions have not been sought by the Highway Authority or Wealden District Council. On the basis of the evidence submitted to the Inquiry I am satisfied that the impact of the proposal on the local highway network would be mitigated, and I do not find that these contributions are necessary to make the development acceptable.

Planning Balance

72. The proposed development is in accordance with Policy WCS4 of the Core Strategy, which specifically seeks the type and amount of development proposed. Although there is a conflict with policies GD2 and DC17 of the Local Plan, these policies are out of date for the reasons that I have set out above and so I attach this conflict little weight. I have found no conflict with any other development plan policy.

73. The proposal would deliver a number of benefits. These include market and affordable houses in a sustainable location, economic benefits through job creation during the construction and operation of the development, and a Medical Centre. I found above that there would be no harm to the European sites, and I have identified no other significant harm.

74. I conclude that the proposed development would accord with the development plan, taken as a whole. The benefits arising from the proposed development would be significant. Having regard to the provisions of the development plan and all material considerations, planning permission should clearly be granted.

Conditions

75. I have considered the suggested conditions in the light of the advice at paragraphs 55 and 56 of the NPPF. In some instances, I have adjusted the wording in the interests of precision and clarity as well as to reflect discussion at the Inquiry.

76. A condition requiring compliance with the parameter plan and the access drawing (either with or without the HPEMAC scheme) is necessary in the interests of certainty, and to ensure that the land for the Medical Centre is reserved. A phasing plan for the development and associated infrastructure is required to ensure that the necessary infrastructure is in place at the relevant time.

77. The County Archaeologist advises that the site lies within an Archaeological Notification Area defining an area of wetlands containing a buried waterlogged

prehistoric land surface and associated organic structures and remains. Therefore, conditions requiring a programme of archaeological works, a Written Scheme of Investigation and post investigation assessment is necessary in order to safeguard potential heritage assets on the site.

78. A Code of Construction Practice is required in the interests of site safety and also to safeguard the amenities of nearby residents. For the same reason the hours of work should be restricted.

79. In order to ensure that the impact of traffic arising from the proposed development can be mitigated and sustainable modes of transport are available, a condition requiring that the A2270 and Polegate High Street signalised junction and the HPEMAC (Stage 1) have commenced is required. A condition requiring technical details of the site access arrangements is sought, together with the provision of the access prior to first occupation of the development is necessary in the interests of highway safety. Also in the interests of highway safety, the visibility splays at the site access are required and should be permanently retained.

80. A scheme for the implementation of the foul drainage works is necessary in order to ensure that there would be no adverse effect on the Pevensey Levels Sites. For the same reason the discharge of foul or contaminated drainage into the ground water or surface water is prohibited. A detailed surface water drainage strategy, a survey of the condition of watercourses and a maintenance and management plan for the entire drainage system is required for the same reason and also to ensure that the site drainage is acceptable and will be maintained over its lifetime.

81. A lighting scheme is necessary to safeguard the night skies of the South Downs National Park. A landscape and ecological management plan is necessary in order to safeguard wildlife and habitats that may be present on the site and to enhance the site's nature conservation value. Measures to safeguard any trees and hedges to be retained are necessary in the interests of visual amenity and biodiversity. Water and energy efficiency measures in accordance with Core Strategy policies SPO9 and SPO13 are necessary in the interests of sustainability.

82. The Council also suggested a condition to ensure that the market housing is delivered in full. The justification for this is that the improvements to meet highway capacity improvements to accommodate the development at junctions on the road network at the A27/A22 Golden Jubilee Roundabout and the A22 Golden Jubilee Way/Dittons Road Roundabout will need to be secured by CIL. In addition, CIL funding will also 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 purpose of CIL is to mitigate the impact of development on services and facilities. If for any reason not all of the dwellings are not completed, then the demand from this development on services and facilities would be proportionately reduced. Moreover, I do not consider that the suggested condition would ensure the delivery of the market housing in its entirety, since it does not include a date by which such development should be completed. Even if it did so, I do not consider that it would pass the test of reasonableness.

83. National Highways also requested a condition requiring improvements to the A27 Cophall Roundabout prior to the occupation of the 91st dwelling. The Transport Statement of Common Ground concludes that the proportional impact of the proposed development on the local highway network would result in significantly less than a 5% increase in total flows at the local junctions during peak hours. Therefore, although the maybe a cumulative effect on the local highway network should the Morningmills Farm development proceed, this does not justify the suggested condition in relation to the development proposed by this appeal.

84. Several interested parties requested a condition requiring the Medical Centre to be provided in advance of the housing. I do not consider that such a condition is necessary or reasonable, particularly given the need for housing and affordable housing in the locality, and that the delivery of housing on this site is consistent with the relevant development plan policies.

Conclusion

85. For the reasons given I conclude that the appeal should succeed.

Lesley Coffey

INSPECTOR

Appeal Ref: APP/C1435/W/22/3293970

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) (a) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

   (b) 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.

3) The development hereby permitted shall be carried out in accordance with the following approved plans:Location Plan Ref LP01 and Parameter Plan Ref PP01 and either Drawing Nos ITL15734-GA-003B (without HPEMAC) and ITL15734-GA-001F (with HPEMAC).

4) Prior to commencement of development a phasing plan shall be submitted for approval to the local planning authority. This shall include the phasing for the various elements of the development, including associated infrastructure. Unless otherwise agreed in writing by the local planning authority, the development of the site shall be carried out in accordance with the approved phasing plan.

5) Prior to development of each Phase the applicant shall secure the implementation of a programme of archaeological works in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted to and approved in writing by the local planning authority.

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.

7) Prior to development of each Phase, including any ground works or works of demolition, 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 (COCP) shall provide for:

   a) An indicative programme for carrying out the works;

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

   c) 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;

d) 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.,

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

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

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

h) 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),

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

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

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

l) The arrangements for public consultation and liaison during the construction works, including contact details.

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

No bonfires are permitted during site clearance or construction.

8) During the construction phase, no works shall take place other than within the hours Monday to Friday 0800 to 1800 hours, Saturday 0800 to1300 and not at all on Sundays Public or Bank Holidays.

9) The development shall not be occupied until the necessary strategic highway mitigation works for East Sussex Highway networks have commenced at the A2270 and Polegate High Street signalised junction and the HPEMAC (Stage 1).

10) The development shall not commence until technical details of the layout of the access which shall include details of cycle/footway, uncontrolled crossing point, right-turn ghost island/stack lane, drainage, street lighting and signage have been submitted to and approved in writing by the local planning authority in consultation with the Highway Authority. The development shall not be occupied until the construction of the access has been completed in accordance with the approved details and specification.

11) The access shall not be used until visibility splays of 2.4m by 120m (as shown on Plan ITL15734-GA-001F or ITL15734-GA-003B) are provided in both directions and maintained thereafter. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 600mm.

12) For each phase of development before preparation of ground levels for the development approved, 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, shall be submitted to and approved in writing by the local planning authority with a view to subsequent adoption as a maintainable highway. The approved details shall be completed with the progress of building construction to the written approval of the local planning authority.

13) For each phase of development, before preparation of ground levels of the development approved 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.

14) Prior to either the commencement of development, or commencement of each phase, where a phase is drained independently of any other phase in the 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 proposed 18.5l/s 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.
b. 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.
c. The detailed design of the attenuation ponds 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.
d. Details of the measures proposed to manage exceedance flows and measures to prevent surface water run-off onto the A2270 Eastbourne Road shall be submitted to the local planning authority. This shall also include details of how the existing overland surface water flows have been retained.
e. Evidence that the existing watercourses on site have been retained shall be provided. The surface water drainage shall be provided in accordance with the approved details before first occupation of the related dwellings. Prior to occupation of each phase, evidence (including as built drawings and photographs) shall be submitted showing that the

drainage system has been constructed as per the final agreed detailed drainage designs.

15) Prior to the construction of the outfall, a survey of the condition of the watercourses 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 and programme for implementation shall also be included and, if approved by the local planning authority, implemented in accordance with the approved details and timetable.

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. 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.

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.

18) 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 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.

19) For each phase of development, a Landscape and Ecological Management Plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to, and approved in writing by, the local planning authority. The landscape and ecological management plan shall be carried out as approved over the lifetime of the development

and any subsequent variations shall be agreed in writing by the local planning authority.

The scheme shall include the following elements:

a) 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;

b) details of maintenance regimes and management responsibilities;

c) details of any proposed planting scheme, which should be of native species of local provenance where reasonably practicable, bearing in mind access for maintenance. These should include: wet woodland habitat as part of the tree planting proposals and floodplain meadows as part of the wildflower grassland proposals;

d) retention of existing watercourses and construction of new swales and ditches (SuDS), ideally with at least one permanently wet pond to operate as a water filtration system to maintain the quality and quantity of the surface water run-off entering the existing watercourses; and

e) provide for connectivity to adjacent watercourses to enhance the potential for breeding and dispersal of reptiles and amphibians on and around this site and to adjacent habitat.

20) Details of landscaping as required by Condition 1 shall include those trees and hedgerows to be retained (including protection zones), those to be removed and new planting. No trees and hedgerows that have been approved as being retained, 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 written 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'.

21) Before preparation of any groundworks or foundations for each phase of 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. The approved details shall be implemented prior to occupation of the associated phase and thereafter so retained.

APPEARANCES

FOR THE APPELLANT:
SASHA WHITE Q.C and LUKE WILCOX LANDMARK CHAMBERS

Instructed by:

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Neame Sutton Limited

They Called:

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David Neame, BSc (Hons), MSc, MRTPI Director Neame Sutton Limited

Neil Marshall BSc (Hons) MIHT MCILT i-Transport

FOR THE LOCAL PLANNING AUTHORITY:

Stacey Robins Head of Planning and Environmental Services at Wealden

Claire Turner Principal Planning Officer Wealden District Council

INTERESTED PARTIES:

Andy Watkins

Cllr Douglas Murray

Cllr John Pritchett

Cllr Stephen Shing

Cllr Daniel Shing

DOCUMENTS SUBMITTED TO THE INQUIRY

1. Appellants opening Statement
2. Andy Watkins Inquiry Submission
3. Cllr Douglas Murray
4. Cllr John Pritchett
5. Councillor Stephen Shing
6. David Bowie National Highways
7. Willingdon and Jevington Parish Council
8. Joint submission on Play space by Appellant and Wealden District Council
9. Wealden District Council comment on condition 18 (External Lighting)
10. Mark Bewsey (on behalf of Morning Mills Farm appellants)
11. List of correct appeal plans submitted by the appellant
12. Unilateral Undertaking dated 8 July 2022
13. Note dated 6 July confirming amendments to Unilateral Undertaking submitted by the appellant
14. Letter dated 8 August 2022 from Natural England regarding Shadow Habitats Regulations Assessment
15. Appellant response to Natural England dated 17 August 2022.
16. Natural England Response dated 26 August 2022