APPENDICES

PLANNING - APPEAL HEARING STATEMENT

APPENDIX 1

Mockbeggars Farm, London Road,
Uckfield, TN22 2EA

PINS Reference: APP/C1435/W/23/3330872
LPA Reference: WD/2022/0648/MAO

planning
transport
design
environment
infrastructure

Housing Land Supply – Technical Note

MWB/LS/30166

January 2024

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1 Five Year Housing Land Supply

1.1 Overview and latest published position

1.1.1 The continued need to deliver more homes is reflected throughout the NPPF (December 2023). In particular, paragraph 11 sets the presumption in favour of sustainable development and that plans should positively seek opportunities to meet the development needs of their area. Furthermore, strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas.

1.1.2 Policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot show a robust five-year supply of housing land (or a four-year supply, if applicable, as set out in paragraph 226) or cannot fulfil the requirements of the Government's Housing Delivery Test.

1.1.3 It is common ground that the Council is not currently able to demonstrate a robust five-year housing land supply. However, I consider the current position to be materially worse than that set out in the published Five Year Housing Land Supply Statement - as of 1st April 2023 (December 2023) [CD6.1]. Accordingly, within this technical note I provide an overview of the published position, where there is common ground, and whether I consider aspects of the supply should be removed to provide a more credible assessment of the current supply context.

1.1.4 The weight that these findings have in the wider planning balance is a matter for the planning evidence.

1.2 The Target

Annual requirement

1.2.1 The Wealden Core Strategy [CD2.1] is more than five years old. Consequently, in line with paragraph 77 of the Framework the Council's supply of specific deliverable sites must be assessed against the local housing need as calculated using the standard method set out in national planning guidance. This matter is common ground as confirmed by paragraph 2.2 of the Five-Year Housing Land Supply Statement - as of 1st April 2023 (December 2023) [CD6.1].

1.2.2 For Wealden, the standard method housing need is 1,200 dwellings per annum. This matter is common ground as confirmed by Figure 1 of the Five Year Housing Land Supply Statement - as of 1st April 2023 (December 2023) [CD6.1].

1.2.3 With the above matters in mind, there is common ground that the starting target, prior to the application of any buffer, is a need to provide 5 x 1,200 new homes, which totals 6,000 dwellings for the five-year period.

Buffer

1.2.4 Paragraph 77 of the NPPF 2023 states that where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20%. This will be measured against the

Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement. The HDT 2021 measurement was the basis for the Five Year Housing Land Supply Statement - as of 1st April 2023 (December 2023). However, the HDT 2022 measurement has subsequently been published [CD6.4]. The 2022 results show completions as follows in Table 1.

Year	2019/20	2020/21	2021/22	Total
Requirement	1,127	816	1,221	3,163
Performance	1,034	743	685	2,462 (**78%**)

Table 1: Housing Delivery Test: 2022 measurement

1.2.5 Based on these findings, I agree that the Council is required to apply a 20% buffer to the annual requirement. This matter is common ground as confirmed by paragraph 2.11 of the Five-Year Housing Land Supply Statement - as of 1st April 2023 (December 2023) [CD6.1].

1.2.6 The application of a 20% buffer would see the housing target rise by a further 1,200 homes.

1.2.7 With the application of the 20% buffer, the housing target for the Wealden Five Year Housing Land Supply calculation increases to **7,200 homes.** This matter is common ground as confirmed by Table 2 of the Five-Year Housing Land Supply Statement - as of 1st April 2023 (December 2023) [CD6.1].

Past Deficits

1.2.8 I note that the Council has not had regard to the historic under delivery nor made allowance to recover any of the deficit accrued in recent years.

1.2.9 I accept that this approach is consistent with the Planning Practice Guidance (Paragraph: 031 Reference ID: 68-031-20190722, which contains guidance in respect of how past shortfalls in housing completions against planned requirements be addressed and specifies that Step 2 of the standard method factors in past under-delivery as part of the affordability ratio.

1.2.10 I am acutely aware from my own experience that failure to have any regard to the previous failings ultimately has the underlying effect of disguising a worsening situation. Nevertheless, I accept that not including past deficits within the supply calculation is common ground, and Wealden's position in this regard is confirmed by paragraph 2.4 of the Five-Year Housing Land Supply Statement - as of 1st April 2023 (December 2023) [CD6.1].

1.2.11 In summary, the housing requirement in Wealden for five year supply purposes is 7,200 homes.

1.3 Supply Components

1.3.1 Having undertaken a detailed critique of the latest position, a more detailed breakdown of the published position is as shown in Table 3 below. This mirrors the Five-Year Housing Land Supply Statement - as of 1st April 2023 (December 2023) [CD6.1] but breaks down the components of the supply.

			Dwellings
Requirement			
A	Annualised Housing Target	Calculated using standard methodology	1,200
B	Five Year Requirement	1,200 x 5	6,000
C	20% Buffer		1,200
Five Year Supply Requirement (inc. 20% buffer)			**7,200**
Supply			
D	Appendix 1 Sites	Sites with permission (small sites with 9 or less dwellings)	690
F	Appendix 2 Sites	Projected Delivery of Housing Developments with Detailed Planning Permission (major sites with 10 dwellings or more (net) within Wealden District as of 1 April 2022)	2,662
G	Appendix 3 Sites	Projected Delivery of Housing Developments with Outline Planning Permission (or Resolution to Grant Outline Planning Permission) for Major Development	2,083
H	Appendix 4 Sites	Projected Delivery/Loss of Use Class C2 Accommodation with Detailed or Outline Planning Permission within Wealden District as of 1 April 2022	78
I	**Total Supply**	**Total of Row D-H**	**5,513**
	Difference (Deficit)		**-1,687**
	No. Years Supply		**3.83 years**

Table 3: 2023 Latest published position with supply breakdown

1.3.2 Although the Council's published position is 3.83 years, I note that in determining an appeal on Land at Old Nursery House, The Street, Framfield appeal on 5th January 2023 (**Appendix A**), the Inspector concluded that Wealden's housing land supply position was closer to the Appellants position of 2.78 years as opposed to the Council's (at the time) 3.66 years position:

(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 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, its is common ground between the main parties that the shortfall is substantial, and I agree with this assessment.'*

1.4 Supply Critique

Deliverability

1.4.1 The Council incorporates four components within its projected supply, including:

(1) Projected Delivery of Housing Developments with Planning Permission (small sites with 9 or less (net) units);

(2) Projected Delivery of Housing Developments with Detailed Planning Permission (major sites with 10 dwellings or more (net);

(3) Projected Delivery of Housing Developments with Outline Planning Permission (or Resolution to Grant Planning Permission) for Major Development;

(4) Projected Delivery/Loss of Use Class C2 Accommodation with Detailed or Outline Planning Permission (or Resolution to Grant Planning Permission);

1.4.2 In having regard to these supply components, it is important to stress that to be relied upon in the context of a five-year supply calculation a site must be deliverable.

1.4.3 The Glossary definition of `Deliverable' in Annex 2 of the NPPF 2023 states:

> *'To be considered deliverable, sites for housing 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. In particular:*
>
> *a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*
>
> *b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.*

1.4.4 In critiquing the supply components, I have had detailed regard to these definitions and consider a proportion of the major outline sites cannot be considered 'deliverable' in line with the definition.

1.4.5 The PPG is clear that 'major' sites with outline permission should only be considered deliverable where there is clear evidence that housing completions will begin on sites within five years, including current planning status, timescales and progress towards permission.

1.4.6 Appendix 3 of the Five-Year Housing Land Supply Statement - as of 1st April 2023 (December 2023) [CD6.1] includes 14 major outline consents that are absent of any subsequent reserved matters submissions or consent or are subject to wider delays. It is assumed the Council's trajectory relies upon feedback of the site promoter/developer, but this does not represent a sound or impartial evidence base upon which to make an informed judgement about delivery.

1.4.7 The suitability of relying on developer statements was addressed during consideration of appeal Ref: APP/Q3115/W/20/3265861 for Little Sparrows, Sonning Common, Oxfordshire (**Appendix B**), where the Inspector offered clear findings on the benchmark level of evidence required to meet the tests of the PPG. Paragraphs 20-21 state:

> *'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 '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'*

1.4.8 It is also clear that many of the outline consents have been secured by landowners or promoters that are unlikely to deliver the sites personally. Accordingly, upon grant of outline permission there will be an inevitable delay whilst the land is marketed, and a developer partner secured. Thereafter, developers will often go back to planning to redesign aspects to suit their own needs.

1.4.9 This being the case, I say that major outline consents that have not progressed to reserved matters stages and do not have compelling evidence that development will come forward in the timescales envisaged, should be deleted and a precautionary approach adopted **(see Table in Appendix C for a detailed site by site evaluation)** in line with Annex 2 of the NPPF. This should result in the deletion of **753 homes** from the projected five-year supply.

1.4.10 In the case of major sites with detailed consent, the Council contends that 2,662 dwellings will be delivered over the 2023/24 to 2027/28 period, assuming the following delivery rates [CD6.1 – Page 17]:

- *Housing sites of up to 100 dwellings: 30 dpa.*
- *Housing sites of between 100 and 200 dwellings: 50 dpa.*
- *Housing sites of more than 200 dwellings: 75 dpa.*

1.4.11 The rates for sites comprising 100+ dwellings have been informed by an analysis of 12 housing sites with extant planning permission. Based on my analysis of these sites set out at **Appendix D**, it is not clear how the Council has reached its delivery rate assumption conclusions. My analysis indicates the following lower annual average delivery rates which have been applied as part of my assessment of Wealden's housing land supply position:

- *Housing sites of between 100 and 200 dwellings: 50 dpa.*
- *Housing sites of more than 200 dwellings: 62 dpa.*

1.4.12 This being the case, I dispute the delivery assumptions applied for two sites **(see Table in Appendix E for a detailed site by site evaluation)**. Therefore, **91** homes should be deleted from the major detailed consents.

1.4.13 In respect of the non-major development, I note that there is a significant number of dwellings that are to be delivered from small developments of under nine units. These contribute 690 homes to the overall five-year supply, yet in my experience there is a high likelihood that at least some of these permissions were obtained for valuation purposes rather than a firm commitment to deliver.

1.4.14 The council has not provided any trend analysis evidence demonstrating that 100% of small sites with permission are implemented within Wealden District.

1.4.15 I note that the neighbouring authority of Lewes District applies a 25% lapse rate and Mid Sussex applies a 40% lapse rate.

1.4.16 Given these existing small consents account for a significant proportion of the supply, and to ensure that the Council is not overly reliant on this source, I consider the Council should at least apply an industry standard 10% non-implementation rate on all permissions that have not yet started but are relied upon in the five-year trajectory. This will allow for flexibility and those consents that will inevitably not be implemented.

1.4.17 Having regard to the assumptions outlined above, I propose the following to be a more credible indication of the Council's supply components.

			Dwellings
Requirement			
A	Annualised Housing Target	Calculated using standard methodology	1,200
B	Five Year Requirement	1,200 x 5	6,000

C	20% Buffer		1,200
Five Year Supply Requirement (inc. 20% buffer)			**7,200**
Supply			
D	Appendix 1 Sites	Sites with permission (small sites with 9 or less dwellings) with 10% non-implementation	621
F	Appendix 2 Sites	Projected Delivery of Housing Developments with Detailed Planning Permission (major sites with 10 dwellings or more (net) within Wealden District as of 1 April 2022)	2,571
G	Appendix 3 Sites	Projected Delivery of Housing Developments with Outline Planning Permission (or Resolution to Grant Outline Planning Permission) for Major Development	1,330
H	Appendix 4 Sites	Projected Delivery/Loss of Use Class C2 Accommodation with Detailed or Outline Planning Permission within Wealden District as of 1 April 2022	78
I	**Total Supply**	**Total of Row D-H**	4,600
	Difference (Deficit)		**-2,600**
	No. Years Supply		**3.19 years**

Table 4: DHA Amended Assessment

1.4.18 In formulating the above table, and to assist the hearing, I have focussed upon core components of supply. This alone is sufficient to show that the position is worse than published and the unmet need is acute.

1.5 Conclusion

1.5.1 It is common ground that the Council is not able to demonstrate a robust five-year housing land supply.

1.5.2 The target of 7,200 homes for the purpose of the housing land supply position is common ground.

1.5.3 The area of difference relates to the over reliance upon small sites, some of which will not deliver as proposed and the over reliance upon major sites with outline permission that have not been progressed and do not meet the threshold for being deliverable.

1.5.4 In closing, I say that the Five-Year Housing Land Supply Statement - as of 1st April 2023 (December 2023) [CD2.4] is over optimistic and is not a sound basis to assess the current supply position. The five-year supply deficit remains substantial and based on my critique can be more accurately estimated as equivalent to 3.19 years. In conclusion on housing land supply matters, I am of the view that the housing land supply shortfall is significant, at the highest end of the scale, and the weight to be attached to the delivery of housing is therefore very substantial.

APPENDIX
A



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
B



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
C



Appendix 3 Sites – Outline consents proposed for deletion from 5 YHLS

Outline Ref.	Applicant	Site Address	WDC Expected Yield 2023 to 2028	Notes
WD/2020/1391/MAO **Approved (14/07/2022)**	Wates Development Ltd.	Friday Street Farm, Oak Tree Lane, Stone Cross	**100**	An outline application WD/2019/1994/MAO for development of up to 250 dwellings (35% affordable) was refused permission on 27/05/2020, contrary to officer recommendation to Committee to approve. The Council refused consent because of unsustainable development due to the reliance of private cars to access the site and application submissions were not considered to make sufficient provision of sustainable drainage systems. An outline planning permission for a development comprising up to 250 dwellings (WD/2020/1391/MAO) was granted in July 2022. At this point in time, there is no evidence of any planning activity associated with discharging any of the conditions attached with the outline consent, nor have the reserved matters submissions been submitted. Wates are predominantly a strategic promoter and so there is no guarantee that they will deliver on the ground, so post issue of a decision the site is likely to be marketed and any future developer may wish to re-plan certain elements of the scheme rather than work within the scope of the outline consent. In the absence of the approval of the reserved matters, there is a lack of clear evidence that the site will begin delivering units as projected. **100 units** should be removed from the supply figures until the reserved matters are approved.
WD/2020/1596/MAO **Approved (06/12/2022)** **WD/2023/0699/O** **Approved (07/07/2023)**	Mr I Martin	Land adjoining 154 Station Road, Hailsham	**12**	Outline planning permission for a development comprising up to 12 dwellings (WD/2020/1596/MAO) was granted in December 2022. To date there has been no planning activity associated with associated with discharging any of the conditions associated with the outline consent, nor have the reserved matters submissions been submitted. In March 2023 an outline planning application was submitted on the site for a development comprising up to 9 dwellings (WD/2023/0699/O). This application for 9 dwellings was approved in July 2023. It is evident from the Planning Statement submitted in support of the 9 dwelling outline planning application that the development comprising up to 12 dwellings is neither viable nor deliverable. It is noted that there is no evidence of any planning activity associated with discharging any of the conditions associated with the outline consent, nor have the reserved matters submissions been submitted. **12 units** should be removed from the supply figures.
WD/2021/2454/MAO **Approved (26/09/2022)**	Gladman Developments Ltd and The Worrall & Fuller Charity	Land Off Bexhill Road, Ninfield	**65**	Outline planning permission for a development comprising up to 65 dwellings (WD/2021/2454/MAO) was granted in September 2022. At this point in time, there is no evidence that the reserved matters have been submitted. Consistent with the methodology, in the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. **65 units** should be removed from the supply figures until the reserved matters are approved.
WD/2018/2526/MAO **Approved (11/11/2022)**	Sussex Weald Homes Ltd	Horeham Flat Farm, Chiddlingly Road, Horam, TN21 0JJ	**36**	Outline planning permission WD/2018/2526 was approved in November 2022 however at the time of writing there has been no progress on the discharge of conditions or submission of reserved matters. A further detailed application WD/2022/1899/MAJ was submitted in July 2022. However, in the absence of a formal decision it remains undetermined. At this point in time, there is no evidence of any planning activity associated with discharging any of the conditions associated with the outline consent. **36 units** should be removed from the supply figures until the outline and reserved matters are approved.
WD/2017/0694/MAO **Approved (23/06/2022)**	Portman Homes	Land at Straight Half Mile, Maresfield	**25**	Outline planning planning permission WD/2017/0694/MAO was granted in June 2022. At this point in time, there has been no progress on the discharge of conditions or submission of reserved matters. In the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. **25 units** should be removed from the supply figures until the reserved matters are approved.
WD/2019/1575/MAO **Approved (27/08/2021)**	Muntham Estates Limited	Land East of North Street, Lower Horsebridge	**105**	Outline planning permission for a development comprising up to 130 dwellings (WD/2019/1575/MAO) was granted in August 2021. At this point in time, there is no evidence of any planning activity associated with discharging any of the conditions associated with the outline consent, nor have the reserved matters submissions been submitted.

				In the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. **105 units** should be removed from the supply figures until the reserved matters are approved.
WD/2021/2056/MAO **Approved (31/03/2023)**	Frost Architects	Land West of North Street, Lower Horsebridge	**40**	Outline planning permission was approved in March 2023 for up to 55 dwellings (WD/2021/2056/MAO). At this point in time, there is no evidence of any planning activity associated with discharging any of the conditions associated with the outline consent, nor have the reserved matters submissions been submitted. In the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. **40 units** should be removed from the supply figures until the reserved matters are approved.
WD/2017/0143/MAJ	Millwood Designer Homes Ltd and Susan Lynn Edmonton and Michael Herbet McCaghy	Land to the East of Benhall Mill Road, Tunbridge Wells	**120**	WD/2017/0143/MAJ is held in long term abeyance owing to the appropriate mechanism to secure off site mitigation. In the absence of a detailed consent, and owing to the age of the application, it is premature to believe there is clear evidence that it will begin delivering units as projected. **120 units** should be removed from the supply figures until the outline and reserved matters are approved.
WD/2020/1504/MAO **Allowed (04/04/2022)**	TA Homes (Land) Limited	Coldthorn Barn Coldthorn Lane, Hailsham	**15**	Outline planning permission for the subdivision of the existing dwelling into 2 no. separate residential units and erection of up to 30 no. dwellings was allowed at appeal in April 2022 (WD/2020/1504/MAO). A revised application for the subdivision of the existing dwelling into 2 separate residential units and erection of up to 32 no. dwellings was submitted and subsequently withdrawn on 10th August 2023 (WD/2022/1668/MAO). At this point in time, there is no evidence of any planning activity associated with discharging any of the conditions associated with the approved outline consent, nor have the reserved matters submissions been submitted. In the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. **15 units** should be removed from the supply figures until the reserved matters are approved.
WD/2019/1136/MAO **Allowed (15/12/2022)**	Danecroft Developments Ltd	Danecroft Nurseries, Station Road, Hellingly	**50**	An outline application for the erection of up to 80 no. dwellings was allowed at appeal on 15/12/2022. A revised outline application for the erection of up to 65 no. dwellings was submitted and subsequently withdrawn in February 2023 (WD/2022/1002/MAO). At this point in time, there is no evidence of any planning activity associated with discharging any of the conditions associated with the outline consent, nor have the reserved matters submissions been submitted. In the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. **50 units** should be removed from the supply figures until the reserved matters are approved.
WD/2020/2667/MAO **Approved (14/12/2022)**	Leaper Land Promotion and Mr & Mrs Dann and Mr & Mrs Foster	Land at Chiddingly Road, Horam	**22**	An outline application for phased development comprising the erection of up to 20 no. custom and self-build dwellings was approved in December 2022. At this point in time, there is no evidence of any planning activity associated with discharging any of the conditions associated with the outline consent, nor have the reserved matters submissions been submitted. In the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. Nor is it clear why 22 units have been included in the expected yield. **22 units** should be removed from the supply figures until the reserved matters are approved.
WD/2021/0573/MAO **Allowed (06/01/2023)**	Inland Ltd	Land at Old Nursery House, Framfield	**40**	An outline application for up to 58 new homes (including 35% affordable housing) was allowed at appeal in January 2023 (WD/2021/0573/MAO). At this point in time, there is no evidence of any planning activity associated with discharging any of the conditions associated with the outline consent, nor have the reserved matters submissions been submitted. In the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. **40 units** should be removed from the supply figures until the reserved matters are approved.
WD/2016/1659/MAJ **Approved (17/10/2016)**	The Firle Estate	Land at Station Farm, Station Road, Berwick	**23**	Planning permission for the erection of 33 dwellings, 3 shops and 2 offices and associated works was granted in October 2016, but subject to a judicial review. The application was subsequently remitted back to the council for assessment and is currently recommended for approval at committee. In the absence of a formal decision, the application remains undetermined. In addition, in the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. **23 units** should be removed from the supply figures until the reserved matters are approved.

WD/2021/0174/MEA **Allowed (28/09/2022)**	Mr & Mr Peter and Robert Vine	Mornings Mill Farm, Eastbourne Road, Willingdon	**100**	An outline application for the comprehensive development of a mixed-use urban extension comprising up to 700 dwellings was allowed at appeal in September 2022. At this point in time, there is no evidence that the reserved matters submissions have been submitted. Consistent with the methodology, in the absence of reserved matters, it is premature to believe there is clear evidence that it will begin delivering units as projected. **100 units** should be removed from the supply figures until the reserved matters are approved.
TOTAL DEDUCTION			**753**	

APPENDIX
D



Large Sites Delivery Rate Analysis

Site Name	Outline Permission Granted	Total (Gross)	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	Annual Average
Land West of Park Road, Hellingly	02/10/2013	240	0	0	0	56	59	28	33	20	37	7	**34.29**
Land East of Park Road, Hellingly	30/04/2014	460	-	0	0	0	0	76	176	53	64	68	**87.40**
The Wells, Rattle Road, Stone Cross	28/10/2013	276	0	0	8	85	82	87	14	-	-	-	**55.20**
Land West of Uckfield	24/03/2016	1,000	-	-	0	0	0	3	50	45	35	31	**32.80**
Broderickands and Hamlands Farm, Willingdon	14/10/2016	390	-	-	-	0	0	0	0	58	81	150	**96.33**
Land at Walsh Manor Farm, Crowborough	18/12/2015	160	-	-	0	0	0	5	65	40	50	-	**40.00**
Land off Mill Road, Hailsham	01/06/2016	183	-	-	-	0	0	63	63	35	22	-	**45.75**
Land Rear of Police Station, High Street, Heathfield	26/02/2014	115	0	0	0	0	20	57	38	-	-	-	**38.30**
Land South of Rattle Road, Stone Cross	09/04/2013	120	0	0	0	0	53	51	16	-	-	-	**40.00**
Land off Amberstone, A271, Hailsham	14/10/2016	110	-	-	-	0	0	31	62	17	-	-	**36.70**
Land at Uplands Farm, Rattle Road, Stone Cross	14/04/2016	183	-	-	-	0	0	0	0	13	52	85	**50.00**
Land north of Eridge Road, Crowborough	21/09/2020	119	-	-	-	-	-	-	-	0	0	51	**51.00**
											ANNUAL AVERAGE (ALL SITES)		**50.65**

ANNUAL AVERAGE (100-200 DWELLINGS)	**43.12**
ANNUAL AVERAGE (200+ DWELLINGS)	**61.20**

APPENDIX
E



Appendix 2 Sites – Detailed consents proposed for deletion from 5 YHLS

Cuckoo Fields and Ersham Park, Land South of Hailsham

Trajectory Position	2023/24	2024/25	2025/26	2026/27	2027/28	HLS Period Total
WDC Delivery	30	75	75	75	75	330
Appellant Delivery	30	62	62	62	62	278
Difference	0	-13	-13	-13	-13	**-52**

Land West of Uckfield

Trajectory Position	2023/24	2024/25	2025/26	2026/27	2027/28	HLS Period Total
WDC Delivery	50	50	75	75	75	325
Appellant Delivery	50	50	62	62	62	286
Difference	0	0	-13	-13	-13	**-39**

APPENDIX 2

The Planning Inspectorate

Appeal Decision

Site visit made on 25 May 2022

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2022

Appeal Ref: APP/C1435/W/21/3283533
Land West of Five Ash Down Road, Cooper's Green

- 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 Mr Justin Owens on behalf of Silverleaf Group against the decision of Wealden District Council.
- The application Ref WD/2020/1088/MAO, dated 2 June 2020, was refused by notice dated 1 April 2021.
- The development proposed is for the development of land for up to 35 residential dwellings.

Decision

1. The appeal is allowed and planning permission is granted for the development of land for up to 35 residential dwellings at Land West of Five Ash Down Road, Coopers Green in accordance with the terms of the application, Ref WD/2020/1088/MAO, dated 2 June 2020, subject to the conditions in the conditions annexe at the end of this decision and the Unilateral Undertaking dated 29 April 2022.

Preliminary Matters

2. The above spelling of Cooper's Green is taken from the Ordnance Survey. The above description of development reflects the amended planning application form which changed the number of proposed dwellings from up to 39 to up to 35. The Council duly considered the proposal as up to 35 houses.

3. The application was submitted in outline with all matters reserved except the access. I have therefore considered the submitted layout and elevations as indicative only.

4. The decision notice refers to the impact of the proposal on the biodiversity of the appeal site. However following receipt of a survey for bats, the Council in their submitted evidence withdrew their concern on this ground. This issue is considered in more detail in the other matters section below. The appeal site is close to the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC), and the Lewes Downs SAC which warrant consideration as a main issue.

5. The Council's remaining concerns relate to the scale of the development in terms of the location and the effect of the proposal on the character and appearance of the area. The latter subdivides into the impact of the proposal

on the appeal site, whether coalescence would result and the extent of development.

The main issues

6. The main issues are therefore:

   - whether the appeal site is a suitable location for housing, having regard to local and national policies for development in the countryside;
   - the effect of the proposal on the character and appearance of the area and;
   - the effect of the proposal on biodiversity including the Ashdown Forest SPA and SAC and Lewes Downs SAC.

Reasons

The suitability of the location for housing

7. The decision notice records that the site is within the countryside and the site is outside a development boundary where the Wealden Local Plan (LP), 1998, saved Policies GD2 and DC17 resist residential development. Policies EN1 and EN2 promote sustainable and accessible development. Paragraph 79 of the National Planning Policy Framework (the Framework) requires the location of development to enhance or maintain the vitality of villages and identify opportunities for villages to grow and thrive. Paragraph 110 foresees the need for residential development to have access to sustainable transport modes.

8. The above policies seek to locate new development within or by settlements with facilities. The appeal site is almost adjacent to Five Ash Down village, segregated only by the A272 road.

9. Five Ash Down has a pub and a local post office/shop which is close to the appeal site and linked by roadside footpaths. Consequently, they would be readily accessible for the intended occupants by walking as I found on my site visit.

10. Whilst the village would not provide wholescale facilities, approximately 2 miles away is Uckfield, which is a pleasant town with a wide range of community facilities. Other settlements are also nearby. The Council's statement also acknowledges that bus services are reasonable. Cycling would be feasible as the roads and topography are generally favourable.

11. I therefore find that the occupants would have a choice to access facilities without use of a private vehicle, but the location would have some car dependency for some services and facilities.

12. The Council also refer to the scale of development in this location being contrary to the strategy in the above policies. Whilst the intended occupiers would have some car dependence, a development of up to 35 would not be excessive in terms of the size of Five Ash Down, and I do not consider this amount of houses would necessarily have to be located within a large settlement: it would not amount to the scale of a strategic site warranting substantial infrastructure. Moreover, the strategy towards larger settlements depends on whether sufficient land is clearly available within such settlements, which I return to latterly.

13. I conclude that the proposal would conflict with the above policies, but that conflict would be limited.

The effect of the proposal on the character and appearance of the area

Site as existing

14. The appeal site is within the dispersed hamlet of Cooper's Green which almost adjoins the much larger Five Ash Down, divided only by the A272. The latter is a village with a discernible centre but thereafter spreads out in a more dispersed form. To the south approximately 2 miles away is Uckfield.

15. The settlements in the area are very close to each other with generally little physical separation. To the western side of the appeal site the houses of Cooper's Green encroach up to the A272 frontage with Five Ash Down Road. Budlett's Common and Ringles Cross are hamlets which adjoin Cooper's Green and the appeal site. As a result, there are houses along the west and south sides of the appeal site, whereas the north and east sides are defined by roads.

16. The appeal site itself is an open field with long tussocky grass and a small area of ferns. There is a discernible slope towards mature trees on its west side and a slight fall to the south, but it is otherwise fairly featureless.

17. There are trees and scrub along the eastern boundary of the site with Uckfield Road, some of which are particularly tall specimens and draw the eye to the road. This roadside vegetation is not continuous and there are a few gaps through which the appeal site is evident.

18. On the opposite side of Uckfield Road is Buxted Park which is an area of historic parkland and woodland around the associated house; the house is not visible from the appeal site as a mass of various trees form a dense screen. However, an archetypal lodge marks the entrance to the Park which together with its discernible gate is a notable feature.

19. From my observations and the submitted landscape and visual appraisal, the views into the appeal site are close by and short range. The frontage vegetation limits the views into the site and the eye is also drawn to the boundary trees of the parkland to the east of the appeal site. The rising land to the west constrains outward views too.

The effect of new housing in principle

20. The proposed access is a detailed matter for consideration at this stage. It would be broadly in the middle of the appeal site, off Uckfield Road. The creation of the access and its visibility splay would result in some clearance of vegetation which would open up the view of the appeal site.

21. The proposed houses would be visible from the new opening particularly across the visibility splay. There would also be limited views elsewhere along the Uckfield Road frontage through the existing gaps in the frontage vegetation.

22. At the time of my site visit the trees were in leaf and offer considerable screening and filtering of some of the views that were attainable. However, during the winter, the site is likely to be more conspicuous.

23. Whilst the layout would be a consideration for the reserved matters, the proposal inevitably would lead to the majority of the site being changed from open grass to one of built development.

24. However, in principle the presence of housing in this location would not be unexpected, bearing in mind the houses to the west and south and to the north at Five Ash Down. In particular the houses to the north at Five Ash Down are prominent both along the A272 frontage and the road leading northwards through the village.

25. As I have found earlier, the views in and out of the site are short range. Consequently, the impact of the development would therefore be localised within the immediate area. These short-range views are not particularly distinctive as the site is fairly featureless except for the boundary vegetation. Therefore, in principle houses would not obstruct or intrude upon any notable views.

26. The site does provide a sense of openness, but this is limited as the boundary vegetation and the significant slope to the west prevent more distant views. Consequently, residential development in principle would not be significant in this regard.

27. Whilst the Council's submission suggests that the form of the development would be inappropriate and point to a line of development on the north side of Five Ash Down and west to the appeal site, I did not find on my site visit that a linear form of development was widely repeated in the vicinity of the appeal site, in particular, the neighbouring part of Five Ash Down has an expanse of housing.

28. I therefore find that in principle the development would not be out of place because of the other houses in the area, which are seen in conjunction with the appeal site, the nature of the views in and out of the site, as well as the nature of the site itself.

The number of dwellings and space for potential landscaping

29. The prominence of the houses would be muted if set away and behind the trees along the boundaries. The gaps in the frontage vegetation could be remedied by additional planting. The submitted layout shows that the existing landscaping can be retained whilst allowing for the quantum of dwellings. It is also on the edge of the appeal site so would not prejudice a potential layout. Consequently, I conclude that a reserved matters scheme would be capable of retaining this boundary landscaping.

30. As I have found above, new buildings would not appear out of keeping because of the presence of houses around three sides of the appeal site, particularly those of Five Ash Down which are prominent. There is no pressing need here to wholly obscure a development and ignore its presence. Rather the need of the landscaping would be to soften and filter views rather than obscuring buildings; there would be sufficient space for the existing and additional landscaping to offer such a prospect. A well-designed reserved matters scheme would have the potential to appear in keeping with the area.

31. There would be a loss of several trees and scrub due to the new access, a pedestrian access and outflow from the SUDs pond. The submitted arboricultural implications assessment shows that these would include some

hawthorn hedging, hazel shrubs and sycamores. However, these would be U and C category which are likely to be lost within 10 years or of low quality and value. There is potential for their replacement. Some crown lifting works would be needed to two oaks, but this would not be damaging if done in accordance with proper arboricultural practice. The above assessment shows that tree protection measures can be provided in conjunction with the quantum of development.

32. Whilst the layout would be a consideration for reserved matters, a SUDS pond is shown at the southern end of the site and being the lowest point, this would be likely to feature as such in the final design. There are also notable trees in this area which would have to be avoided. Thus, the southern part of the site would be capable of having little new development.

33. The indicative scheme across the appeal site is 23 dwellings per hectare[1]. This shows that the quantum of development could be accommodated on site without appearing intrusive or intensive.

Potential coalescence

34. The decision notice refers to concern about coalescence between Cooper's Green and Five Ash Down. However, the A272 road provides a distinct physical separation between the two settlements. In any event, the existing houses at Cooper's Green, to the western edge of the appeal site, encroach up to the road frontage.

35. The appeal site has significant trees and shrubs around its frontages facing Five Ash Down, which would be reasonably expected to be retained and potentially reinforced (away from the visibility splay line). These would provide separation between the settlements. The vegetation would also soften the extent of development.

36. The southern part of the site as I have found above would be likely to have only sparse or no development due to the SUDs pond and the mature trees. Therefore, the extent of development would be limited in size. Consequently, even if one did consider that the proposal would lead to coalescence, the collective expanse of development would not appear as either large or dominating.

Conclusion on character and appearance

37. I therefore conclude that the proposal would have an adverse impact due to the loss of a grass field, amounting to between limited and very limited harm, depending upon the quality of a reserved matters scheme, in terms of its landscaping, elevations and layout.

38. Wealden Local Plan (LP), 1998, saved Policies GD2 and DC17 resist residential development outside development boundaries. Policies EN1 and EN2 promote sustainable and accessible development reflecting the existing settlement pattern. Policy EN8 is similar seeking to protect the landscape and together with Policy EN14 requires the retention of boundary trees. Policy EN27 of the LP requires consideration of the scale, site coverage, respect for the area and its local distinctiveness. LR3 and LR5 require open space provision. Policies WCS6 and WCS9 of the Wealden District Core Strategy Local Plan 2013, seek

[1] Page 14 Design and Access Statement

to provide general housing and affordable housing reflecting the form of settlements, their accessibility and meeting the needs of the area.

39. The Wealden Design Guide Supplementary Planning Document provides more detailed explanation and guidance on character, local distinctiveness and landscape. It provides guidance to consider matters such as settlement form, visual impact and landscaping.

40. Paragraph 126 of the Framework sees the creation of high quality, beautiful and sustainable buildings and places as fundamental to what planning should achieve. Paragraph 130 states developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

41. The proposal would conflict with the above policies and guidance because the proposal would be outside a settlement boundary and would be harmful, albeit limited/very limited impact. I consider the weight to this conflict latterly in the planning balance.

The effects of the proposal on the SACs and the SPA

42. The site lies within the zone of influence of Ashdown Forest SPA. This is noted for various scarce species and distinctive habitat, which are protected under The Conservation of Habitats and Species Regulations 2017.

43. Having regard to the evidence provided by the Council I consider that the development could, in combination with other development in the area, have a significant adverse effect on the above designations through added recreational pressure, particularly dog walking, causing disturbance to ground nesting birds including Dartford Warblers and European Nightjars.

44. The proposal would increase the number of people living within a short drive of the SPA, which is an attractive semi-natural area, likely to be used for recreation. Visitor surveys carried out for the Council demonstrate that residents living within 7km of the Ashdown Forest are likely to visit it leading to disturbance.

45. It is therefore necessary to assess whether the potential adverse impact could be adequately mitigated so as to avoid any significant adverse effect on the conservation objectives of the above designations.

46. Due to the size of the appeal site there is no scope to provide on-site mitigation for the impacts on the SPA. The Council, in partnership with neighbouring councils and conservation bodies, including Natural England, has developed an approach to mitigation based on the provision of suitable alternative natural greenspace, enhancement of existing green space, enhancement of footpaths/rights of way, and access management. Residential development close to the designations can mitigate its potential adverse impact by making a financial contribution towards these initiatives.

47. Thus, it is necessary to secure a financial contribution towards Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) in line with the tariffs in the Council's Ashdown Forest Mitigation Zone Background Paper. This is an approach supported by Natural England (NE).

48. The contributions would be used to improve / maintain the visitor experience at the nearby strategic SANG in order to displace recreational trips away from the SPA. I am advised that there is capacity at the strategic SANG to accommodate the recreational trips that would arise from the appeal scheme. The contribution towards SAMM would be used to monitor and limit recreational disturbance at the SPA.

49. The mitigation would help support an alternative recreational destination for residents of the scheme to avoid an impact and would assist in mitigating disturbance through behavioural change. The mitigation would ensure the proposal would not adversely affect the integrity of the SPA.

50. The contributions would be directly related to the impacts of the proposal on the SPA and necessary to make the development acceptable. Moreover, the contributions would be fairly and reasonably related in scale and kind to the development, as they follow the methodology for calculating them in the Council's strategy. Accordingly, the contributions towards SANG and SAMM are material considerations.

51. The appellant has provided a unilateral undertaking (UU) which commits to making a financial contribution to the above management. I consider that the undertaking meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and therefore carries weight. I am satisfied that these contributions, would result in suitable mitigation such that the development would avoid having any significant adverse effect on the SPA. The Council confirmed that the UU resolved their concerns in relation to this reason for refusal.

52. There is potential impact on heathland habitat in the Ashdown Forest SAC and habitat in the Lewes Downs SAC**,** which are vulnerable from atmospheric pollution from several sources including vehicle emissions from increased traffic associated with new development on the roads which go through, or run adjacent to, the SACs. Many of the characteristic plants, mosses and lichens of heathland habitats are adapted to nutrient poor conditions. Additional nitrogen could disadvantage these characteristic species in favour of others with a greater tolerance of higher nitrogen levels.

53. In March 2019, NE published its European Site Conservation Objectives: Supplementary Advice on Conserving and restoring site features ("the NE Advice") following consultation and based on extensive survey work which reached unambiguous conclusions that housing development in the wider area in combination would not be harmful. The Inspector for the plan covering South Downs National Park Authority confirmed this conclusion.

54. NE is satisfied that this proposal would not adversely affect the integrity of Ashdown Forest SAC and Lewes Downs SAC from air quality impacts. NE's advice regarding air quality is that this conclusion can be reached without mitigation measures being needed under the specific requirements of the Habitats Regulations. The advice is based on the evidence provided, their expert knowledge of the particular characteristics, interest features and management of the designated sites in question and professional judgement. I therefore find that the proposal would not be harmful to the above designations in terms of air quality.

55. In conclusion, subject to the mitigation discussed above and secured through the planning obligation, the scheme would not adversely affect the integrity of the SPA in view of the site's conservation objectives. It would not be harmful to the SACs. Accordingly, the proposal would not conflict with Policy WCS12 of the Wealden District Council's Core Strategy and saved Policies EN1, EN7 and EN15 of the Wealden Local Plan (1998).

Other matters

56. The appellant undertook a bat survey at the appropriate time of year using the recognised methodology. This found insignificant use of the site by bats. The Council acknowledged and accepted these findings and withdrew their concerns on biodiversity. I also note the SUDS pond would provide a damp habitat which would diversify the ecosystem. Much of the trees around the edge of the site would be maintained and new planting would also be beneficial to wildlife. The appellant has submitted a biodiversity assessment which shows that a positive gain would result, bearing in mind the site has limited value at present. I find that the proposal would not be harmful to biodiversity and potentially an enhancement with new planting and other habitat creation measures.

57. The Parkland to the east is the registered Grade II* Buxted Park which includes gardens, parkland and woodland across two valleys separated by a central Ridge. It's boundary with the Uckfield Rd, facing the appeal site, consists of a dense mass of mixed species trees which screen the parkland. The lodge and its gates are notable features and demonstrate a parkland style although they are not listed.

58. The lodge is partly shielded from the appeal site by trees and a fence, and its orientation is towards the gateway, which shows an inward looking perspective. Thus, the lodge does not feature significantly in the views when seen in conjunction with the appeal site. The heritage report also shows no historic or cultural association between the site and the Park. In addition, the Uckfield Road also forms a substantial physical and visual barrier with the Park. I therefore find that the proposal would not harm the setting of the lodge or the Park as a whole. I also note the Council had no objection in this regard.

59. The Grade II listed Five Wents is 50m west of the appeal site. This 17th century red brick/tile dwelling is set back from the A272, so there is very limited visual connection with the appeal site and in any event the road and twentieth century houses intervene. It appears set within its own private grounds which forms its own context. I have not been made aware of any historic or cultural association with the appeal site. Coopers Cross House is also Grade II listed. This is within Five Ash Down village, which forms part of a view towards the appeal site but is sufficiently distanced to appear distinct with no apparent historic or cultural connection. Consequently, I find that the proposal would not harm the setting of the heritage assets. I also note the Council had no objection in this regard.

60. The Council have presented a decision in 2007 by the Secretary of State[2] for 15 dwellings at Oakleigh, Five Ash Down, and highlight a conclusion that the development would only add to the settlement's dormitory role. I note that site was concluded as being accessible, which the Council also accept in this case too. I find that the intended occupants of this proposal would be well located to

[2] APP/C/1435/V/06/1198477

use the local facilities, which would contribute to their viability. Whilst the employment opportunities may be limited (and hence a dormitory) that would be the case with many villages in the area.

61. The above decision also makes reference to the linear built form however that was in another part of the village. In addition, the 2007 proposal was for 15 dwellings, and it was concluded that this would not significantly contribute to housing land supply, whereas this appeal proposal is for up to 35 dwellings. Moreover the 2007 decision substantially pre-dates the Framework and its promotion of growth. Consequently, this decision does not point to a negative consideration of this appeal proposal.

Planning obligation

62. A Unilateral Undertaking (UU) dated 29 April 2022 has been submitted. This covenants to 35% of the dwellings being affordable housing[3] and provides the details and processes for its delivery. This would be necessary to help meet the housing needs of the area and is a material consideration in the planning balance and is also a requirement in Policy AFH1 of the Affordable Housing Delivery Plan 2016. The UU also makes provision for up to 5% of the dwellings to be custom/self-build. This is promoted in paragraph 65 of the Framework and would help towards this particular need in the area.

63. Contributions to youth and adult playing space provision would be provided and a formula is shown based on the bedspaces resulting from a reserved matters scheme. This would be necessary to provide for the needs and mitigate the impact of the additional residents, in accordance with saved policies LR3 and LR5 of the Wealden Local Plan.

64. The UU also has a clause for the access works and adoption of the road. This would avoid problems of an unfinished or unmaintained road which would impair the safety and access of the residents.

65. The UU also provides £5,000/dwelling for measures to provide alternative open space to divert pressures from Ashdown Forest Special Protection Area. Additionally, £1,170/dwelling would also be provided for monitoring impacts. This is necessary to mitigate impacts on protected species as considered earlier.

66. I am satisfied that each obligation contained in the UU would meet the tests in the CIL Regulations and the Framework, in that they are all necessary to make the development acceptable, directly related and fairly and reasonably related in kind and scale.

Planning Balance

67. As I found earlier the proposal would be outside a settlement boundary and would be in a location which would have partial reliance upon private car use. The proposal would also lead to harm to the character of the area. Accordingly, the proposal would be contrary to the Development Plan.

68. The Council confirms its assessment of housing land supply at 1 April 2021 was 3.66 years. This means that paragraph 11d (ii) of the Framework is therefore triggered as footnote 7 does not apply. This states that where policies are out

[3] Definitions on page 3 of the UU

of date 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.

69. This housing land supply shortfall is substantial, and I have not been made aware of any prospect of the situation improving. Indeed, as the Local Plan was adopted in February 2013 and an early review was recommended, this dated plan does not offer hope of an improving situation.

70. The inadequate housing land supply situation shows that the housing strategy policies have not delivered sufficient housing. Consequently, there is a need to consider additional development even if contrary to the strategy.

71. Whilst the occupiers of the proposal would have some reliance upon private car for some access to services and facilities, inadequate alternative housing land would be deliverable to offer wholly accessible locations. Accordingly, I give the conflict with the Development Plan limited weight in this regard.

72. As I found earlier the proposal would lead to an adverse impact on the character and appearance of the area of between limited to very limited harm (depending upon the scheme approved at the reserved matters stage). In the absence of an up to date local plan and very deficient housing land supply, there is no clear likelihood of other sites coming forward which would have less impact. Accordingly, I give the conflict with the Development Plan very little weight in this regard.

73. Taken as a whole I find that the proposal would be in conflict with the Development Plan but this would be of limited weight.

74. Paragraph 8 of the Framework provides the three overarching objectives of the planning system: economic, social and environmental. The proposal would provide up to 35 houses which would have economic benefits from their construction. Additionally, there would be an economic benefit as the occupants would support local services. The dwellings would provide new houses which would be a social benefit, such new homes are particularly important considering the land supply situation. The affordable houses, potentially 9, would be a significant benefit to those in substandard living conditions. Similarly, the self-build and custom build units would contribute towards this social need. In terms of the environmental objective the proposal would lead to landscape harm as above. The suggested condition on approval of water and energy efficiency measures would ensure that the houses are environmentally favourable in keeping with the environmental objective.

75. In the light of the above, I therefore conclude that the adverse impacts of the proposal would not significantly outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conditions

76. Paragraph 56 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions. There was agreement between the parties on conditions except for the timing of the submission for reserved matters as below.

77. The standard conditions on outline permissions are imposed in the interests of clarity, albeit the wording in the model conditions is preferrable in terms of

precision. Whilst the Council in their suggested condition 2 states a one-year commencement following reserved matters approval this would be overly constraining on the development process and it is not guaranteed that this would be achievable. Whilst the more usual timescale of three years may be a discouragement towards implementation to meet the pressing housing shortfall, a two year commencement would be reasonable.

78. The suggested archaeology conditions 3 and 4 are combined for clarity. The condition is necessary to allow for the understanding and appreciation of the remains. The appellant's heritage report acknowledged the appropriateness of a recording condition. This is worded as pre-commencement so that the survey is implemented prior to ground disturbance.

79. The suggested condition on the mix and location of the market dwellings is put forward on the basis of infrastructure impact. However, this is only 35 dwellings on a contained site so the infrastructure demands would not be onerous or different across the site and the UU makes provision. This is not therefore considered necessary.

80. The contaminated land conditions are necessary as this is an agricultural field and chemicals may have been in use. However, the wording is changed to the model condition for clarity. A noise condition is suggested in the interest of avoidance of disturbance to bedrooms and gardens. However, the dwellings would be likely to be set back from the road to maintain the boundary landscaping and the roads are not major routes. This is not considered necessary. The suggested condition 8 on air quality during construction management would be onerous on this greenfield site but dust and disturbance measures are warranted, and the model condition is imposed. The working hours condition is similarly imposed to maintain living conditions.

81. The foul drainage condition is necessary so that this basic infrastructure is provided albeit that the last sentence of the suggested condition confuses what should be the submission and approval of necessary details. The surface water condition confirming the use of SUDs is necessary in the interest of accommodating run off on site to avoid overloading the existing system and help biodiversity. This condition and drainage maintenance are worded as pre-commencement submission of details, so that they would not be prejudiced by the built development. The condition on the maintenance and management is necessary to ensure that these facilities are kept in full operational order. The suggested condition 13 on submission of photographs is unnecessary as the Council would be able to inspect the system.

82. A suggested condition promotes energy and water efficiency. Local Plan Policy EN1 does promote both and this is supported in the climate change thrust of the Framework. This could be incorporated into the detailed design. The wording of the condition has been simplified.

83. The condition on the details of the access and footway are important for safety and to provide for pedestrian accessibility for the intended residents, so are imposed. These are necessary as pre-commencement to allow for provision during construction. Similarly, the provision and maintenance of the visibility splays are required. The dimensions for car parking spaces would be shown in the detailed layout for the reserved matters and do not therefore need a condition at this outline stage. The submission of a Travel Plan would help promote low carbon accessibility and is therefore necessary, albeit that the

wording has been simplified. The conditions on road drainage, street lighting and road adoption are matters for the highway authority as part of the adoption process and not therefore warranted as conditions. In any event the UU has a clause on road adoption.

84. The landscaping details would be considered in the submission of reserved matters but a management scheme for the future upkeep would be needed particularly bearing in mind the vegetation around the site and the open space to the south. Similarly, a condition is warranted on the provisions and management for biodiversity improvement in the interests of maximising opportunities within the site and its boundaries. A condition on external lighting is needed to respect bats and a dark landscape in accordance with paragraph 185 of the Framework. Arboricultural conditions are imposed for the retention and protection of vegetation which as I found earlier would help the appearance of the development.

Conclusion

85. For the reasons set out above, I conclude that the appeal should be allowed, subject to the conditions in the annexe below.

John Longmuir

INSPECTOR

Conditions annexe

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 2 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. No development shall take place until the developer 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. The archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved.

5. 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 a scheme that has been submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared in accordance with a scheme that has been submitted to and approved in writing by 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.

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities and their use; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; delivery, demolition and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

7. During the construction phase, no audible 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 only take place between 08:00 to 18:00 Monday to Friday only and not at all on Saturdays, Sundays, Public or Bank Holidays.

8. No works below ground level 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. Such works shall be implemented as approved before the associated buildings to which they relate are occupied.

9. No development shall commence until details of surface water drainage, which shall follow the principles of sustainable drainage, 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 related dwellings within a phase. The detailed surface water drainage drawings and calculations shall include the following:

a). The surface water drainage strategy outlined in Motion Consultant's Flood Risk Assessment and SUDs Assessment Report (dated November 2020) shall be carried forward to detailed design. Surface water runoff from the proposed development shall be limited to 2.7 l/s for all rainfall events, 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 of 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 proposed outfall connection shall be provided as part of the detailed design. This should include 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 attenuation pond shall be informed by findings of groundwater monitoring between autumn and spring. The design shall leave at least 1m unsaturated zone between the base of the ponds 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 drainage system shall be provided.

10. Prior to the commencement of development a maintenance and management plan for the entire drainage system shall be submitted to the Local Planning Authority for approval in writing, together with a timescale for implementation. 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. These approved details shall be implemented in accordance with the approved timescale and shall thereafter remain in place.

11. 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. These arrangements shall be retained thereafter.

12. The development shall not commence until technical details of the new access and highway works which shall include details of crossing points and footway widening on Coopers Green Road 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 and associated highway works have been completed in accordance with the approved specification.

13. The access shall be brought into use until visibility splays of 2.4m by 115m north and 2.4 by 130m south have been provided. They shall be maintained as such thereafter and kept clear of any obstruction to visibility above a height of 600mm above each carriageway level.

14. No part of the development shall be occupied until a Travel Plan Statement has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document.

15. Before the development is first occupied or brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved.

16. Before any above ground works a wildlife management plan shall be submitted to the Local Planning Authority for approval. This shall include a timetable for measures to protect and enhance bats, birds, reptiles, newts and badgers. The approved management plan shall be implemented in accordance with the approved timescale.

17. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to

design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

18. All works shall be carried out in strict accordance with the approved Arboricultural Impact Assessment and Arboricultural Method Statement and all tree work shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).

19. No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development unless in accordance with details submitted to and approved agreed in writing by the Local Planning Authority beforehand.

20. Prior to occupation, all the new dwellings shall be constructed in accordance with details of water and energy efficiency measures which have first been submitted to and approved by the Local Planning Authority.

End of conditions

APPENDIX 3

The Planning Inspectorate

Appeal Decision

Inquiry held on 6-8 September 2022
Site visit made on 8 September 2022

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2022

Appeal Ref: APP/C1435/W/22/3297419
Mornings Mill Farm, Eastbourne Road, Lower Willingdon, BN20 9NY

- 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 Peter & Robert Vine against the decision of Wealden District Council.
- The application Ref. WD/2021/0174/MEA, dated 20 January 2021, was refused by notice dated 10 December 2021.
- The development proposed is comprehensive development of a mixed-use urban extension comprising up to 700 dwellings including affordable housing, 8,600 square metres of employment floorspace, medical centre, school, community centre, retail, playing fields, children's play space, allotments, amenity open space, internal access roads, cycle and footpath routes and associated landscaping and infrastructure.

Decision

1. The appeal is allowed and planning permission is granted for comprehensive development of a mixed-use urban extension comprising up to 700 dwellings including affordable housing, 8,600 square metres of employment floorspace, medical centre, school, community centre, retail, playing fields, children's play space, allotments, amenity open space, internal access roads, cycle and footpath routes and associated landscaping and infrastructure at Mornings Mill Farm, Eastbourne Road, Lower Willingdon, BN20 9NY in accordance with the terms of the application, Ref WD/2021/0174/MEA, dated 20 January 2021, subject to the conditions contained in the attached Schedule.

Application for costs

2. Before the Inquiry a written application for costs was made by Peter & Robert Vine against Wealden District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline with all matters (appearance, landscaping, layout and scale) reserved for subsequent consideration except for the means of access to Eastbourne Road. This is the basis on which I have considered the appeal.

4. The application is accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations), including technical appendices and a non-technical summary. It covers a range of relevant topics,

informed by a Scoping Opinion from the Council. This information was supplemented during the course of the appeal, following a Regulation 25 request on behalf of the Secretary of State. I am satisfied that the totality of the information provided is sufficient to meet the requirements of Schedule 4 of the EIA Regulations and this information has been taken into account in reaching a decision.

5. A signed and executed Unilateral Undertaking securing planning obligations pursuant to S106 of the Town and Country Planning Act 1990 was received after the Inquiry, in accordance with an agreed timetable. I deal with this later in my decision.

6. On 11 August, the Council confirmed that it had reviewed its position and would no longer defend the appeal. Consequently, no evidence was submitted to support any of its reasons for refusal. Many matters are positively agreed between the Council and the appellant and these are set out in the various statements of common ground.

7. On 18 August, the Willingdon and Jevington Parish Council, having been granted Rule 6 status in the appeal, withdrew from the proceedings and opted to take no further part.

8. In light of the above, there was no main party present at the Inquiry who opposed the development. Nevertheless, I heard extensively from interested parties and the appellant called witnesses to introduce their evidence and to allow the opportunity for questions.

Main Issues

9. The main issues are:
   (a) Whether the site is a suitable location for the proposed development, having regard to planning policy;
   (b) The effect on local highways, with particular regard to whether safe and suitable access arrangements would be achieved;
   (c) Flood risk and drainage;
   (d) The effect on European Protected Habitats;
   (e) The effect on the character and appearance of the area, including landscape and visual impacts.

Reasons

Planning policy

10. The development plan, so far as it is relevant to the appeal, comprises the saved policies of the Wealden Local Plan (1998) (LP), the Core Strategy Local Plan (2013) (CS) and the Affordable Housing Delivery Local Plan (2016) (AHDLP).

11. Policy WCS4 of the CS refers to Strategic Development Areas, which are said to be locations critical to the delivery of the overall strategy. The general location of the appeal site is specifically identified (SD4) for provision of around 700 dwellings, 8,600sqm net employment floorspace, leisure, recreation and community facilities.

12. The CS Key Diagram identifies the Strategic Development Areas. It was expected that the Strategic Sites Development Plan Document would subsequently provide a more detailed site allocation, specific policies and phasing requirements but this document has not been forthcoming and is no longer being actively pursued by the Council.

13. Although the development extends beyond the indicative Strategic Development Area, this is not intended to be a detailed site boundary, rather a broad indication of the expected location for development. In the absence of a detailed site boundary or any prospect of one being identified through the plan making process within a reasonable timeframe, it is important that this development, critical to the delivery of the CS strategy, is not delayed. The proposed development is clearly in accordance with Policy WCS4.

14. Saved policies GD2 and DC17 of the LP seek to restrict development to within defined development boundaries. The proposed development is outside of the development boundaries, but these were drawn to accommodate the level of housing required at the time the LP was adopted, which is far below the level now required. If these policies continue to be strictly applied, they will inevitably prevent the delivery of much needed housing in the district, in conflict with the objectives of the National Planning Policy Framework (the Framework). This would be particularly troubling given the Council's poor record of housing delivery and current housing land supply of just 3.66 years at best. For all of these reasons, policies GD2 and DC17 are out of date. Whilst the proposal is in conflict with them, I attach the conflict only very limited weight.

15. Having regard to planning policy, the appeal site is a suitable location for the proposed development in principle.

Highways

16. The appeal proposal has been subject to extensive transport assessment using a variety of industry standard tools and modelling. The A2270 is a key route through Wealden into Eastbourne and I heard that it is a very busy road. This was evident during my various site visits and is confirmed by evidence before the Inquiry, including the submitted Transport Assessment. There is little doubt in my mind that residents regularly encounter congestion on local roads in the vicinity of the site, particularly at peak times, although reports that the A2270 is the most congested road in the UK are likely to have been influenced by recent and extensive road works.

17. The proposed development would inevitably introduce a great deal more traffic onto the local and strategic road network, but this is growth that has long been anticipated through identification of the site in the CS, as a Strategic Development Area. Indeed, the CS anticipates a great deal more growth and planning permission has already been granted for several other schemes in the vicinity of the appeal site. All relevant schemes have been taken into account in the appellant's modelling, which uses data agreed by National Highways and/or the Local Highway Authority. The submitted evidence demonstrates that the additional traffic anticipated can be accommodated by the surrounding road network, albeit that junction improvements will need to be delivered to accommodate the scheme.

18. The proposed development would deliver highway improvements to the Cophall Roundabout, the A27/A22 Golden Jubilee Roundabout, the A22 Golden Jubilee Way and Dittons Road Roundabout and works to Polegate High Street Signals. Subject to these works, the additional traffic generated by the scheme could be satisfactorily accommodated without any unacceptable impact on highway safety or severe residual cumulative impact on the road network, which is the test in national policy.

19. A similar scheme to the current proposal has been considered at a previous appeal, which identified a specific concern that the development would compromise planned bus priority measures forming part of the Hailsham, Polegate and Eastbourne Movement and Access Corridor (HPEMAC) and pedestrian safety issues surrounding the proposed access arrangements. The current proposal has been amended to address these concerns after extensive consultation and engagement with the highway authorities. It allows for a northbound and southbound bus lane, along with priority measures at the southern signal-controlled site access. An additional signal-controlled pedestrian crossing is likely to improve opportunities to safely cross Eastbourne Road, including for local school children. As such, this appeal proposal would not compromise delivery of the HPEMAC, delay buses or result in a pedestrian safety issue.

20. The site is located close to Polegate town centre with its various shops and facilities within a short walk using a variety of available routes, a railway station and various bus services serving a range of larger settlements. It is unquestionably a highly sustainable location where opportunities for sustainable modes of travel will be available, and which will be maximised through various measures to encourage uptake contained within the planning obligations. Once the HPEMAC scheme has been implemented, this is likely to further improve opportunities for sustainable travel to and from the site.

21. Given the ease of accessibility by sustainable means, it is not likely that the development would generate significant parking issues in Polegate and the presence of a level crossing in the town would deter 'rat-running', given the availability of alternative routes. A planning obligation could also secure funding towards highway improvements on Polegate High Street, aimed in part, at deterring 'rat running', a significant concern of local residents.

22. Reference was made to a highways report produced by Aecom, commissioned by Eastbourne Borough Council. This was not a document before the Inquiry but I have no reason to expect that this should alter the conclusions contained in the transport assessment work undertaken for this appeal, all of which uses data and assumptions agreed by the relevant highway authorities, as well as appropriate industry standard modelling tools.

23. Issues were raised about access for properties on Foulride Green but the scheme makes provisions to ensure continued and appropriate access for these properties. I heard that common land would be affected by the development and the appellant explained that compensatory land was likely to be offered. This is a matter for a separate regulatory regime and there is no reason to expect it should have any significant bearing on implementation of any planning permission granted as a result of this appeal.

24. National Highways and East Sussex County Council, as Local Highway Authority raised no objection to the development, subject to appropriate conditions and

planning obligations. I have no reason to disagree with the highway authorities. It is clear that the development is acceptable in highway terms. As such, I find no conflict with saved policies EN1, EN2, TR3 and TR13 of the LP or spatial planning objectives SPO7 and SPO15 and policies WCS7 and WSC14 of the CS.

Flood risk and drainage

25. The proposed built development can be accommodated within flood zone 1, the lowest category of flood risk identified by the Environment Agency. As such, it is not at inherent risk from flooding.

26. The scheme is designed to manage its own flood risk, including an allowance for climate change, using sustainable drainage principles so that run-off is directed to attenuation basins and subsequently released at a steady and controlled rate which will not exceed existing flow rates. Therefore, the site will not be at risk of flooding and will not cause flooding elsewhere. In fact, it is expected that the development would reduce the likelihood of flooding given the improved management of water within the site.

27. In addition, permeable paving and gully features will be used to provide multiple stages of run-off treatment prior to water reaching the drainage system and avoiding detriment to receiving water bodies. Concerns were raised about the impact of the development on the Wannock Mill Stream, which does not in fact cross the site but is likely to benefit from the reduced peak flows created by the development.

28. It is likely that foul drainage capacity will need to be increased to accommodate the development and Southern Water has confirmed that it will undertake any necessary upgrades to the network, should planning permission be granted. A condition could be used to prevent occupation of properties until such time as capacity is available in the network to ensure that the development is phased with this in mind.

29. No statutory consultees have raised an objection to the scheme on flooding or drainage grounds and the evidence before the Inquiry indicates that the development is acceptable. The Pevensey and Cuckmere Water Level Management Board, whilst raising no objection, noted that surface water currently drains to the Eastbourne Lakes. No indication was given that the development would affect this arrangement, given the measures to control surface water run-off within the site set out above, but the detailed design of the drainage scheme is a matter for subsequent consideration in any case.

30. So far as they are relevant to the appeal proposal, I find no conflict with saved policies EN1, EN8, EN15 and CS1 of the LP, or policies WCS12 and WCS14 of the CS.

Protected habitats

31. There are a number of European Protected Habitats in the area surrounding the site, including the Ashdown Forest Special Area of Conservation (SAC), Ashdown Forest Special Protection Area (SPA), Lewes Downs SAC, and Pevensey Levels SAC/Ramsar/SSSI. As such, a Habitat Regulations Assessment (HRA) is needed to consider whether the development would be likely to adversely affect the integrity of these sites, either alone or in combination.

32. A HRA was first carried out by the Council in contemplating the grant of planning permission and a shadow HRA was subsequently undertaken by the appellant in support of this appeal. I have considered this information in reaching my own conclusions, as the Competent Authority in this case. Natural England (NE) has also considered these documents and raised no objection to the appeal proposal. I attach great weight to this expert view.

Ashdown Forest SAC

33. Large parts of Ashdown Forest (2,729 hectares) are designated as a Special Area of Conservation (SAC). The qualifying features underpinning the SAC designation are the presence of European dry heath, North Atlantic wet heath and great crested newts. The conservation objectives for the SAC can be summarised as ensuring the favourable conservation status of its qualifying features by, amongst other things, maintaining or restoring qualifying habitats. The main threat to the SAC relates to air pollution and the effect of new development with regards to an increase in additional traffic movements resulting from development.

34. The site is located around 25km from this designation at its nearest point and no functional habitat will be lost as a result of the proposal. No habitat loss or fragmentation will be caused by the proposal. Given the distance involved, no impacts are anticipated from urbanisation and recreational disturbance, or in relation to hydrology and water quality.

35. NE's supplementary advice on conserving and restoring the SAC explains that the heathland habitat of the Ashdown Forest is sensitive to changes in air quality. Exceedance of 'critical values' for air pollutants may modify its chemical substrate, accelerating or damaging plant growth, altering its vegetation structure and composition and causing the loss of typical heathland species. Accordingly, the appeal proposal could result in an impact pathway to the SAC if it contributes to an exceedance in critical values.

36. The heathland habitat in the Ashdown Forest SAC is vulnerable to atmospheric pollution from several sources including vehicle emissions from motor vehicles. There is a potential impact pathway from increased traffic flows associated with new development on the roads which go through, or run adjacent to, the SAC. Many of the characteristic plants, mosses and lichens of heathland habitats are adapted to nutrient poor conditions and extra input of nitrogen can disadvantage these characteristic species in favour of others with a greater tolerance of higher nitrogen levels. Consequently, likely significant effects cannot be ruled out and an Appropriate Assessment is required.

Ashdown Forest SAC - Appropriate Assessment

37. In 2019, the Council proposed a significant amount of development as part of its emerging Local Plan. Whilst it has since been withdrawn, the consideration of air quality and nitrogen deposition affecting the SAC remain relevant, albeit that the appeal scheme is on a much smaller scale than the amount of development anticipated as part of the formerly emerging Local Plan.

38. In March 2019, NE published its European Site Conservation Objectives: Supplementary Advice on Conserving and restoring site features, following consultation and based on extensive scientific work. It concluded on air quality and nitrogen deposition that even without improvements in car emissions over

time that "nitrogen levels from additional transport [as a result of the expected housing development in the surrounding areas] would fall below the level that would reduce species richness on the site, even if the expected declining trend in Nitrogen failed to materialise".

39. NE, the Government's statutory advisor on such matters therefore concluded that the housing development in the wider area in combination would not adversely impact integrity because it would not infringe the relevant conservation objectives. NE also referred to improvements in air quality and nitrogen deposition as a result of existing rules under which all new vehicles were being manufactured. Clearly, as older vehicles are replaced by newer and more efficient vehicles, the situation will improve.

40. Even in the context of the significant amount of growth anticipated in the then emerging Local Plan, NE was content, considering the effects of that quantum of growth, that air quality impacts would not adversely affect the integrity of Ashdown Forest SAC. NE's advice regarding air quality was that this conclusion can be reached without mitigation measures being needed under the specific requirements of the Habitat Regulations.

41. The appeal proposal represents a very small fraction of the level of growth then being contemplated. Therefore, for the same reasons, it can be concluded that when considered on its own or in combination, the proposed development would not adversely impact on the integrity of the protected Ashdown Forest SAC. NE has specifically considered the evidence submitted for this appeal and raised no objection.

42. An interested party raised concerns at the Inquiry about the approach adopted by the Council, the appellant and NE, making reference to the 2019 Local Plan examination and the previous appeal at Mornings Mill Farm. References were made to the evidence submitted by the Council at that time, when it took a different view in relation to air quality and nitrogen deposition matters, but that evidence is not before me in this case. Regardless, the Council explained that its position on the matter has changed because its previous approach has been shown to be incorrect. Reference was made to physical monitoring data collected within the SAC between 2014-2018. Again, this data was not put before the Inquiry but it is difficult to see how any such data could be relied upon in the present appeal, many years later. None of the submissions made by interested parties on this topic lead me to doubt my conclusions above, which are consistent with the Council's present-day conclusions and that of NE.

Ashdown Forest SPA

43. Large parts of the Ashdown Forest (3,205 hectares) are designated as a SPA. The SPA status was awarded for a number of qualifying individual species that includes the Dartford Warbler and European Nightjar that the SPA supports during their breeding season. The conservation objectives for Ashdown Forest SPA are to ensure that the integrity of the site is maintained or restored as appropriate, so that it continues to support the population and distribution of its qualifying features. The main threats to those qualifying features includes the disturbance by humans and recreational activities, development pressure and the loss of nesting/feeding habitats.

44. The site is located around 25km from this designation at its nearest point and no functional habitat will be lost as a result of the proposals. No habitat loss or fragmentation will be caused by the proposals.

45. NE's supplementary advice on conserving and restoring site features for the Ashdown Forest SPA identifies recreational disturbance as one of the principle threats to ground nesting birds. Research and assessment undertaken by the Council supports this by demonstrating that increased recreation can result in damage to the bird's habitat through trampling and erosion. Moreover, the presence of people can disturb ground nesting birds during their breeding season (Feb - Aug). Dog walking can be particularly problematic in this regard, especially if dogs are let off their lead.

46. However, evidence in the form of visitor surveys carried out for the Council demonstrates that it is residents living within 7km of the Ashdown Forest that are likely to visit it. The appeal site is well beyond the 7km distance and as such, the evidence does not provide a pathway of effect for recreational disturbance. No impacts are anticipated with regards to hydrology and water quality, or in relation to air quality.

47. The appeal site is located a significant distance away from Ashdown Forest and therefore would not result in additional recreational impacts on the Ashdown Forest SPA. As such, an Appropriate Assessment, in accordance with Regulation 63 of the Habitats and Species Regulations, is not required to consider the implications of the proposals for the integrity of the SPA in view of the conservation objectives.

Pevensey Levels SAC/Ramsar/SSSI

48. The Pevensey Levels, between Eastbourne and Bexhill, is one of the largest and least fragmented lowland wet grassland systems in the southeast of England. The Pevensey Levels site is designated as a Ramsar site for the outstanding assemblage of ditch flora and fauna supporting wetland plants, invertebrates including the rare Fen Raft spider, aquatic beetles and dragonflies amongst others species. The Pevensey Levels is also designated as a SAC. The SAC status was awarded for the presence of the Ramshorn snail which can be found in both a wide spatial distribution and in good population densities.

49. The conservation objectives are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive by maintaining or restoring the habitats of the qualifying features.

50. The Pevensey Levels are required to be protected from any detrimental development impacts that may affect its environmental designations which include inappropriate water levels; invasive species (notably existing presence of Floating Pennywort and New Zealand Pigmyweed); and water pollution (principally discharged from sewage treatment plants).

51. The site is located around 2.35km from the designation at its nearest point. No functional habitat will be lost as a result of the proposals. No habitat loss or fragmentation will be caused by the development. The site is separated from the SAC/Ramsar/SSSI such that no urbanisation effects are anticipated. Recreational pressure was not identified as a threat to the SAC/Ramsar/SSSI

under the Wealden Local Plan HRA and it is not anticipated to be a threat now. Therefore, it is considered that a likely significant effect can be screened out.

52. The site is located within the catchment of the SAC/Ramsar with ditches in the wider locality forming part of the drainage network associated with the Pevensey Levels. Water quality and water resource issues, specifically foul and surface water drainage solutions represent the potential impact pathways which require specific consideration with regard to the Pevensey Levels SAC and Ramsar site, which are designated for plants and invertebrates dependent on appropriate water levels and sensitive to changes in water quality.

53. In the absence of a suitable drainage solution to convey foul water from the site for treatment, it is possible that foul water could be discharged to local watercourses and thereby potentially conveyed to Pevensey Levels, if connections exist. Should this occur, the nutrient enriched water would have a direct and adverse impact upon the aquatic ecosystem within the SAC and result in harm to flora and fauna.

54. The potential for surface water run-off and discharge into the local watercourses gives rise to the risk of soil/silt and other suspended matter impacting aquatic and emergent plants directly through deposition and smothering as well as by increasing the turbidity of the water. This can affect the ability of plants to photosynthesise, impact upon the assemblages of aquatic invertebrates and potentially affect flow rates. Untreated and unattenuated surface water flows from the operation of the development can have similar impacts with increased hard standing potentially increasing water discharge rates causing localised erosion and flushing sediment/silt further downstream.

55. Furthermore, there is the potential for pollutants such as hydrocarbons to be present within surface water run-off. There has potential for significant adverse impacts to the Pevensey Levels and associated flora and fauna given the sensitivity to water quality from the development.

56. The Pevensey Levels has a complex hydrology which is subject to a water level management plan. The development has the potential to result in rapid changes in water levels which would impact on the Pevensey Levels. As such, there is potential for a likely significant effect as a result of changes to hydrology or run-off of pollutants that cannot be screened out. As such, an Appropriate Assessment is required.

57. The proposed development is considered to result in a negligible increase in traffic flows along roads running through the SAC/Ramsar. Accordingly, potential for likely significant effects as a result of air quality from this development alone can be screened out. However, whilst predicted traffic flows from the proposed development alone are negligible, in combination increases in traffic flows have the potential to result in changes to air quality. As such, an Appropriate Assessment is required.

Pevensey Levels SAC/Ramsar/SSSI – Appropriate Assessment

58. Having regard to the consultation response from Southern Water, sufficient capacity can be created for foul water drainage where insufficient capacity currently exists. Conditions can be used to prevent occupation of the development until such time as appropriate capacity is available. Therefore,

there will be no negative impact on the Pevensey Levels as a result of the proposed development with regard to waste water disposal.

59. Whilst an increase in traffic flows could result in an increase in NOx and associated nitrogen deposition, atmospheric pollution is not identified as a particular sensitivity in relation to the Pevensey Levels SAC/Ramsar. NE's advice (set out in the consultation on the now withdrawn submission Local Plan), sets out that phosphates rather than nitrogen are a much more important factor in terms of water quality. As such, nitrogen deposition is not considered to be a threat to site condition in this case, particularly in the context of the formerly emerging Local Plan (and the associated assumptions about development expectations) having been withdrawn. Any new Local Plan contemplated will require a new Habitats Regulations Assessment based on its growth expectations and potential in combination effects.

60. Increased development causes two main indirect impacts with regard to hydrological issues – increased surface run off from an increase in areas of built development, hardstanding and infrastructure creating impermeable surfaces and increase in pollutants. If unmitigated this has the potential to change the hydrology of the Pevensey Levels and convey pollutants to its watercourse and drainage network and would have a likely significant effect on the designated site. However, there are many safeguards that can be put in place to mitigate or avoid such impacts.

61. During construction, the development will be subject to a range of protective measures to ensure that pollutants and silt are not allowed to reach any local watercourses. A detailed Code of Construction Practice will be secured by condition and will be required to follow industry best practice with regard to pollution and sedimentation control measures.

62. With regards to the potential effects via surface water drainage pathways from new development within or in close proximity to the Pevensey Levels, it is established that sites coming forward need to demonstrate that a suitable Surface Water Drainage Strategy can be implemented to control the quality and volume of surface water run-off to a level that avoids an adverse effect on the integrity of the Pevensey Levels SAC/Ramsar/SSSI, alone and in combination.

63. In this case, surface water flows will be limited to the greenfield run-off 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 (10%) will also be allowed for.

64. All surface water (including exceedance flows) will go through a minimum of two stage treatments with surface water drainage being constructed to ensure that all surface water is discharged through at least one swale and a dry detention basin. Permeable paving will be provided to all private parking areas, therefore surface water from these areas will pass through a minimum of three stages of treatment. Adopted highway and road drainage will use trapped gully pots for collection which provide both hydrocarbon and silt removal.

65. Consideration has been given to potential exceedance flows, which indicates that even if below ground drainage suffers a blockage that surface water flows are directed through a swale and a dry basin prior to discharge off-site. The drainage strategy is split into four sub catchments with each catchment area having a natural low point which provides the location for the dry detention basins.

66. With regard to groundwater, the development will be required to undertake ground water monitoring through the winter months (autumn to spring). East Sussex County Council has been monitoring ground water in two boreholes next to the site as part of its groundwater flooding project. The two boreholes recorded groundwater levels on the ground surface on several occasions between April 2018 and March 2020. The scheme will need to take into account the impacts of high groundwater in the detailed design of the proposed surface management system to ensure the hydraulic capacity and structural integrity of SUDS features is retained. The restriction on run-off rates, and detailed design will be controlled through conditions attached to any planning permission.

67. With regard to water quality issues and given the high sensitivity of the receiving water it is important to be certain that the SuDS proposed is capable of treating the surface water run-off to a high standard. Mitigation of the potential resultant pollution from the development has been assessed in line with the CIRIA document C753. Using the site pollution index analyses for water quality assessment the Flood Risk Assessment and Drainage Strategy demonstrates that the SUDS mitigation indices are far higher than the combined pollution hazard indices.

68. In order to be certain that adverse effects on the SAC/Ramsar/SSSI are avoided, the long-term operation and management of SUDs features will be managed in perpetuity in line with the requirements set out within the SUDs Manual (CIRIA C753) and shall be undertaken by the developers appointed contractor/management company. Details of the management and maintenance plan and in perpetuity provision can be secured by way of planning condition.

69. The implementation of mitigation including construction safeguards and provision of SUDS will ensure that water flows will be maintained and that run-off from the site is of an appropriate quality and would not degrade the downstream Pevensey Levels SAC/Ramsar/SSSI.

70. With regards to the potential for in combination effects via surface water drainage pathways, as a result of new development within proximity to/hydrological connectivity to Pevensey Levels, this site and all other sites coming forward will be required to demonstrate that a suitable Surface Water Drainage Strategy and Management Plan will be implemented to prevent potential adverse impacts to the Pevensey Levels. As this site will mitigate its own impacts, and the Council confirms that other developments in the area will similarly be required to do so, no significant in-combination effects are predicted.

71. Subject to appropriate conditions, the proposed development either alone or in-combination with other plans and projects, would not result in an adverse effect on the integrity of the Pevensey Levels SAC/Ramsar/SSSI.

Lewes Downs SAC

72. Lewes Downs has been designated as a SAC, SSSI and a National Nature Reserve (NNR), due to its orchid-rich chalk grassland and scrub vegetation, which contains numerous southern and oceanic-southern species. It also supports rich invertebrate fauna, including moths and a breeding community of downland birds. Its conservation objectives are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the favourable conservation status of its qualifying features. The main air pollutants of concern relate to traffic emissions and the impact of nitrogen deposition.

73. The site is located around 14.3km from the designation at its nearest point. There will be no habitat fragmentation or loss. The distance between the site and Lewes Downs is such that adverse impacts from public access and disturbance are unlikely. No impacts are expected in relation to hydrology and water quality. The development would likely result in a negligible increase in traffic flows along the A26 adjacent to the SAC.

74. Therefore, the potential for a likely significant adverse effect on air quality from the development alone can be screened out however the potential for a likely significant effect as a result of changes to air quality in combination with other plans or projects cannot be screened out and an Appropriate Assessment is required.

Lewes Downs SAC – Appropriate Assessment

75. Air quality impacts are identified as one of the risks on the site improvement plan for Lewes Downs SAC. Grazing is an integral part of the management of Lewes Downs to manage tor grass and scrub cover so that the orchid rich grasslands can flourish. The western edge of Lewes Downs SAC closest to the A26 and the area that could be impacted by air quality impacts has a thick belt of woodland cover. The topography of this area of Lewes Downs rises very steeply from the road. The woodland belt currently functions as a buffer against air quality impacts onto the calcareous grassland and is also an important component of soil stability of the steep gradient. It is therefore not within the conservation objectives to remove this feature with any intention to restore to calcareous grassland.

76. Calcareous grassland as the qualifying feature is not present within the area to be affected by emissions. NE has advised the Council that there is no conservation objective to restore the feature to that area and that air quality impacts will not have a likely significant effect on Lewes Downs SAC alone or in combination with other plans and projects. There is no requirement for mitigation or avoidance measures. This advice is based on NE's knowledge of the topography of Lewes Downs SAC and the interest features for which it is designated. The only habitat likely to be impacted by air quality deterioration is woodland which is not a qualifying feature of the designated site, so the development poses no air quality risk to Lewes Downs SAC.

77. NE has also advised that where an existing national, regional or local initiative can be relied upon to lead to the reduction in background levels of pollution at a site, the competent authority should assess the implications of a plan or project against an improving background trend. Air quality monitoring

indicates improvements in vehicle technology will come forward and this is a further material consideration.

78. Accordingly, the proposed development alone and in-combination with other plans and projects will not result in an adverse effect on the integrity of the Lewes Downs SAC as a result of air quality.

Character and appearance

79. The proposed development would change the landscape and visual character of the appeal site, as is inevitable when a greenfield site is developed. This change is long anticipated, the area having been identified as a Strategic Development Area as far back as 2013, when the council adopted the CS.

80. Whilst this change may not be welcomed by all, the indicative masterplan and parameters plan demonstrate how the detailed design of the development seeks to minimise the impacts on the landscape, retaining existing natural features including mature trees and landscaping. This would ensure that the landscape impacts of the development are minimised, and that new development will integrate and work with the existing landscape, rather than simply imposing itself onto it.

81. Visually, the site is relatively well contained with a narrow frontage to Eastbourne Road where landscaping and tree planting is to be incorporated. Sensitive views will be significantly affected along the route of the two footpaths running across the site, which are used by local people for recreation and to access the wider countryside. Again, however, the proposed development would retain and incorporate these routes, along with the existing trees and landscaping, creating green corridors. This would be particularly effective along the route of the 1066 footpath, where areas of open space would be located alongside, maintaining open views towards the distant South Downs escarpment. The experience for users of the footpath would be somewhat different to at present, given the introduction of a large built development, but pleasant recreational walks would nonetheless be maintained. Furthermore, as new landscaping matures, it would further soften the appearance of the new development.

82. Views of the site would also be clearly visible from high ground within the South Downs National Park, where great weight should be given to conserving and enhancing landscape and scenic beauty. The submitted Landscape and Visual Impact Assessment identifies a range of viewpoints from this location, from which the site is currently seen as undeveloped agricultural land with urban development largely surrounding it. There is little doubt, notwithstanding the sensitive and considered design approach adopted, that the development would be a noticeable change in views from the National Park, but considered in context, this would not be a harmful change.

83. The development would be seen as part of the existing urban settlements, as a small component in wide panoramic and long reaching views as far as the coast. The site is a pleasant part of the existing views but it is nevertheless a component of an urban view, dominated by built development, in stark contrast to the land beyond Polegate and Wannock, and of course the National Park itself. The development would not appear out of context or at odds with its surroundings, urban areas already making up a large part of the spectacular views available. An area of open space would be maintained along the south-

eastern edge of the development, adjoining open space proposed within the Brodericklands and Hamlands Farm development and maintaining visual separation between settlements. Green agricultural land would also remain beyond the railway line, maintaining a degree of rurality.

84. The South Downs National Park is a designated International Dark Sky Reserve (IDSR), but the proposed development will be located in an existing urban context where lighting is already a feature, and some distance from the National Park boundary. The proposed development is unlikely to have any effect on the IDSR, but a condition could be used to ensure that a sensitive lighting scheme is designed, which minimises the potential for light spill and avoids any potential for harmful impacts.

85. In light of my conclusions, it is clear that the development, which is much needed in the area, has been sensitively located and designed to avoid adverse impacts on the National Park and would not harm its setting.

86. More generally, the landscape and visual impacts of the development would be minimised as far as possible through good design so that, whilst the effect of the development could not be described as positive in landscape and visual terms, the harm arising would be limited. These effects would be very localised and so the wider landscape character of the area will not be adversely affected. With this in mind, I find no conflict with Core Objective SPO13 and Policy WCS14 of the CS; saved policies EN1, EN8 and EN27 of the LP; or the Wealden Design Guide (2008), much of which will be for consideration at the detailed design stage.

Other Matters

87. Local people raise a range of issues, many of which have been discussed above. The Council and the appellant have entered into a statement of common ground and there is no dispute surrounding the acceptability of the proposal in terms of land uses, layout and design (so far as it currently known), operation of the road network, flood risk and drainage matters, highway land ownership, loss of agricultural land, cultural heritage, impact on neighbours, ecology, noise, air quality or contaminated land. There is no evidence before me that leads me to consider that any of these matters, or other matters raised should materially indicate against the grant of planning permission.

88. I have had particular regard to concerns about the impact on ecology, including concerns about protected species such as bats. Reference was also made to eels. Protected species are afforded protection under legislation independent of the planning system and so there can be comfort that they will be duly considered as part of any development proposals. Ecological surveys have been undertaken in support of the appeal proposal and mitigation measures proposed where necessary. Subject to suitable planning conditions to secure such measures, there is no reason to expect that the impacts of the development cannot be satisfactorily mitigated.

89. The effect of the development on air quality has been considered in the ES and a Technical Note accompanying the appellant's planning evidence. The site is not located in an Air Quality Management Area and the effects of the development are not expected to be significant. During operation, the impact of the scheme is assessed as negligible at all modelled receptors and air quality objectives are expected to be comfortably achieved.

90. There is an established need for a new medical centre in the locality and the proposed development makes provision. Although reference was made to an adjacent site (Hindsland) also proposing a medical centre, this scheme is also subject of an appeal which is yet to be determined. As such, there is no certainty that alternative provision will be made and it is important that the current scheme provides an opportunity to meet the established need.

91. Specific concerns are raised that the area suffers from a deficit of open space, sports pitches and amenity areas. The proposed development would deliver such spaces in excess of the Council's policy requirements and these facilities would be available to both new residents within the scheme and the wider population.

Planning Obligations

92. The appellant has submitted a Unilateral Undertaking (UU) to secure relevant planning obligations. 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.

93. There is no dispute between the appellant and the Council that the majority of the obligations contained in the undertaking are necessary and would otherwise meet the tests contained at Regulation 122.

94. There is dispute, however, in relation to the Polegate High Street Contribution which amounts to £1,383,000. The sum is sought as a contribution towards planned traffic calming measures and public realm improvements necessitated by this and other local developments, which are expected to fund it.

95. It is of some concern that little information is before me about how the sum sought has been calculated but it is clear from the CIL Compliance Statement that the works are part of an existing strategy being implemented by East Sussex County Council. The scheme would involve improvements to the usability and safety of the town centre, importantly including highway safety improvements and sustainable transport enhancements.

96. The appeal scheme would undoubtedly lead to an increase in the number of people seeking to utilise the town's facilities and actively seeks to encourage use of the bus stops, cycleways and footpaths which the proposed enhancements would support. In addition, the scheme would further deter the likelihood of 'rat-running' through the High Street, addressing a significant concern of local residents.

97. For all of these reasons, I consider that the sum sought is proportionate and necessary in the context of this appeal, bearing in mind the extent of the works outlined. The obligation accords with the CIL Regulations and I have taken it into account in reaching my decision. If it transpires that the money is not spent by the Council for the intended purpose, then the appellant could expect to have it repaid.

98. The only other area of dispute relates to the definition of affordable housing within the undertaking, specifically, whether there should an absolute requirement for 35% affordance housing, or whether the definition should be expressed as a minimum of 35%, allowing for a greater percentage to ultimately be provided.

99. There is an acute unmet need for affordable housing in Wealden and so allowing the potential for a greater provision seems beneficial on the face of it. However, I have carefully considered the Council's position that the wider funding of local infrastructure relies on contributions from the CIL Levy, payable in relation to market housing. If larger proportions of affordable housing are allowed, that reduces the amount of funding available for important local infrastructure improvements needed to support development in the area, including planned highway works to be funded in this way.

100. There will no doubt be scenarios where a greater proportion of affordable housing could be supported, in order to assist in meet that pressing need. However, on a sizeable scheme like the appeal proposal, it is important that necessary infrastructure funding is available to support new development in the area without resulting in undue strain.

101. In this case, the policy requirement is for 35% affordable housing. There is no policy support or justification for requiring a greater proportion. 35% provision is also the figure contained within the appellant's ES and apparently the basis for assessment of the scheme. With all this in mind, I consider that the definition should, in this case, be an absolute requirement for 35% provision. This is the policy compliant figure and accords with the CIL Regulations. I have considered the appeal on this basis.

102. Amongst the obligations contained in the UU, provision is made for open space and play facilities, a community hall, education provision, a medical centre, self-build and custom-build plots, a bus service contribution and highway improvements. Having regard to the Council's policies and the need to mitigate the impacts of the development, all obligations contained in the UU are considered to accord with CIL Regulation 122 and have been taken into account.

103. Many interested parties have raised concerns that the development cannot be accommodated by local infrastructure, services and facilities. The obligations sought seek to mitigate the impacts of the development and are secured based on evidence provided by the various authorities and service providers. There is no detailed evidence before me to justify further obligations or to suggest that other services and infrastructure could not accommodate the development.

Planning Balance

104. The proposed development is in accordance with Policy WCS4 of the CS, which specifically seeks the type and amount of development proposed. Although there is a conflict with policies GD2 and DC17 of the LP, these policies are out of date for the reasons that I have set out above and so I attach the conflict only very limited weight. I have found no conflict with any other development plan policy.

105. The proposal would deliver a number of benefits, including a significant number of much needed market and affordable houses, economic benefits through job creation during construction and operation of the development, delivery of open space and sports facilities and a biodiversity net gain, amongst other things. Taken together, the benefits of the scheme attract substantial weight.

106. On the other hand, the identified harms are relatively few, including a conflict with two out of date policies from the LP and localised landscape and visual impacts.

107. The proposal is in accordance with the development plan, taken as a whole. The benefits arising from the proposed development would be substantial. I have identified no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Having regard to the provisions of the development plan and all material considerations, planning permission should clearly be granted.

Conditions

108. The Council and the appellant have agreed a range of planning conditions that should be attached to any planning permission granted. I have largely attached these as suggested, the parties having amended the wording to reflect discussions during the Inquiry. I have further amended the wording as necessary to improve their precision and otherwise ensure compliance with the relevant tests contained within the Framework and Planning Practice Guidance. The reasons for each condition are stated along with the relevant condition in the attached Schedule.

109. There is only one condition proposed by the Council which the appellant objects to, that requiring details of the location of market dwellings within each phase of the development. The purpose of the suggested condition, as explained during the Inquiry, is to ensure the provision of 65% market housing. I have not attached this condition because it is not necessary to make the development acceptable, 35% affordable housing having been secured as a planning obligation, with the remainder constituting market housing.

110. I have not attached the suggested condition requiring a survey of the surrounding highway network and rectification of any damage caused by construction traffic because the condition is imprecise and unenforceable. The area subject to the condition is not defined and it would be impossible to attribute damage in the public highway to the development with any certainty.

111. Further conditions were proposed by interested parties but these largely repeated matters that were already dealt with in the conditions agreed between the Council and the appellant, or sought to introduce requirements that would not accord with the relevant tests for conditions.

112. The Council, as the Local Planning Authority, is the only body that can properly approve details required pursuant to a planning condition and so reference to other bodies is both unnecessary and unreasonable.

113. A requirement for a 100m wide landscaped buffer zone on Eastbourne Road would be fundamentally at odds with the submitted parameter plan and indicative masterplan. It would be likely to adversely impact on the deliverability of the scheme and is therefore unreasonable. It is also unnecessary, bearing in mind my conclusions.

114. The appearance of the proposed materials is for consideration at the reserved matters stage. The objectives of a Construction Environmental Management Plan are satisfactorily dealt with through the Code of Construction Practice required. There is no policy basis for seeking a BREEAM Excellent

rating, Green Procurement Plan, rainwater/greywater harvesting, or green/brown roofs and these matters are not necessary to make the development acceptable. SUDS, nesting boxes and archaeology are all subject of conditions agreed between the main parties.

115. A new signal-controlled crossing is to be delivered on Eastbourne Road as part of the proposed highway works. A condition will require safety improvements to the railway pedestrian crossing to mitigate safety concerns arising from any increased usage. I have used the alternative wording agreed between the parties, albeit with some alteration to avoid the suggestion of a required financial contribution, to secure this requirement, given its greater precision and certainty.

116. Any fencing to be installed in the areas of open space in the vicinity of the water attenuation basins is for consideration at the reserved matters stage. Such a requirement is not necessary to grant planning permission.

Conclusion

117. In light of the above, the appeal is allowed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Sam Batchelor	Wealden District Council
Caitlin Boddy	Wealden District Council

FOR THE APPELLANT:

John Litton KC

He called:

Mark Bradbury BSc CEng MICE	Strategic Development Manager, IDOM
Stephen Kirkpatrick BSc BLD CMLI	SCARP
Katy Read CIEEM CEcol	Director, Biodiversity Advanced Ltd
Justin Bass MSc CMILT MCIHT	Director, Intermodal Transportation Ltd
Mark Bewsey BA(Hons) PGDipPlan MRTPI	Director, DHA Planning

INTERESTED PERSONS:

Caroline Ansell	Member of Parliament
Ruth Sheppard	Local resident
Mike Gadd	Local resident
Mary Taylor	Local resident
John Pritchett	Councillor
Ian Nisbet	Local resident
Paul Humphreys	Local resident
Robert Smart	Councillor
Stephen Shing	Councillor
Daniel Shing	Councillor
Kimberlee Cole	Local resident
David White	Councillor
Douglas Murray	Councillor
Nick Daines	Local resident
Kevin Lock	Local resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

1 Appellant's Opening Statement and attachments
2 Draft site visit itinerary
3 Speaking notes of Ruth Sheppard
4 Speaking notes of Cllr John Pritchett
5 Speaking notes of Ian Nisbet
6 Speaking notes of Nick Daines
7 Speaking notes of Cllr Robert Smart
8 Speaking notes (unnamed)
9 Speaking notes of Kimberlee Cole
10 Suggested conditions from Kevin Lock
11 Planning application consultation response from the Pevensey & Cuckmere Water Level Management Board, dated 18 March 2021
12 Flooding and Drainage Note prepared by Mark Bradbury, dated 7 September 2022
13 Suggested conditions from Willingdon Parish Council
14 Suggested conditions from Cllr Douglas Murray
15 Updated site visit itinerary
16 E-mail from Mark Bewsey suggesting amended wording for condition 30, including reference to biodiversity net gain, dated 8 September 2022
17 Appellant's Closing Submissions and attachments
18 Appellant's final comments on costs

DOCUMENTS SUBMITTED AFTER THE INQUIRY

1 Completed Unilateral Undertaking
2 Amended conditions – final version
3 E-mail from Mark Bewsey (copied to Council) responding to Inspector's query on conditions, dated 21 September 2022

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.

   REASON: In accordance with Section 92 of the Town and Country Planning Act 1990.

2) Application for approval of the reserved matters for the first phase of development shall be made to the Local Planning Authority not later than two years from the date of this permission and application for approval of reserved matters for the whole site shall be made within seven years from the date of this permission.

   REASON: In accordance with Section 92 of the Town and Country Planning Act 1990.

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.

   REASON: In accordance with Section 92 of the Town and Country Planning Act 1990.

4) Prior to commencement of development a phasing plan shall be submitted to and approved in writing by 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.

   REASON: To enable the Local Planning Authority to regulate and control the development of land having regard to SPO15 and Policy WCS7 of the CS and Policy CS1 of the LP.

5) No development shall take place until a scheme for archaeological investigation of the site has been submitted to and approved in writing by the Local Planning Authority, such scheme to include a timetable for investigation. Thereafter, the archaeological works shall be carried out in accordance with the approved scheme unless the Local Planning Authority otherwise agrees in writing.

   REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and Policy WCS14 to the CS.

6) No phase of the development hereby permitted shall be occupied 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 scheme approved under condition 5.

   REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of SPO2, SPO13 and Policy WCS14 to the CS.

7) The reserved matters application(s) for each phase of development shall be accompanied by a scheme identifying the specific measures, along with site locations, to be incorporated for the protection of future occupants of the dwellings from the effects of noise from rail and road traffic. The scheme shall achieve internal noise levels of no more than 30dB LAeq in bedrooms, 35dB LAeq in living rooms and external levels of 55dB LAeq in gardens.

   The design and construction criteria for the residential element shall have regard to BS 8233:2014 – Sound insulation and noise reduction for buildings, or where superseded, the most up-to-date guidance.

   The noise mitigation measures shall be implemented in accordance with the approved scheme before occupation of those dwellings identified as requiring the noise mitigation measures.

   REASON: To protect residential living conditions, having regard to Policy EN27 of the LP.

8) The rating level of sound emitted from any fixed plant and/or machinery associated with the development shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300- 0700 (taken as a 15 minute LA90 at the nearest/any sound sensitive premises).

   All measurements shall be made in accordance with the methodology of BS4142 (2014) (Method for rating and assessing industrial and commercial sound) and/or any subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

   Any deviations from the LA90 time interval stipulated above shall be agreed in writing by the Local Planning Authority.

   REASON: To protect residential living conditions, having regard to Policy EN27 of the LP.

9) The development hereby permitted shall not begin until a scheme to deal with contamination of land and/or ground gas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:

   i) A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175:2011, Investigation of Potentially Contaminated Sites - Code of Practice, or where superseded the most up to date standards/guidance.

   ii) A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011, Investigation of Potentially Contaminated Sites - Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.

iii) A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.

iv) If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme shall be submitted to and approved in writing by the Local Planning Authority.

v) A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development/the development being brought into use. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

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 Policy EN1 of the LP and Policy WCS14 to the CS.

10) For each phase of development, no enabling work (including vegetation clearance, demolition or below ground level work) shall be carried out on site until full written details of a Code of Construction Practice [Construction Management Plan] has been submitted to and approved in writing by the Local Planning Authority. The Code of Construction Practice [Construction Management Plan] shall provide for:

i) An indicative programme for carrying out the works;

ii) Measures for the protection of protected and notable species and retained habitat 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 routing 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) Details of control measures to prevent the spread of invasive non-native species (e.g. Japanese knotweed).

The approved Code of Construction Practice [Construction Management Plan] shall be adhered to in full throughout the construction period. No bonfires are permitted during site clearance or construction.

REASON: In the interests of safety for persons and vehicles on the site and/or adjoining road, to minimise loss of amenity to adjoining residents and to minimise potential for environmental impact having regard to Policy WCS14 of the CS and Policies EN27 and TR3 of the LP.

11) 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.

REASON: To protect residential living conditions, having regard to Policy WCS14 of the CS and Policy EN27 of the LP.

12) The new vehicular accesses shall be in the positions shown on the approved plan, Drawing No. IT432/RTA/03E, and laid out and constructed in accordance with technical details to be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of safety for persons and vehicles using the site and/or the adjoining road, having regard to Policies WCS7 and WCS14 of the CS and Policy TR3 of the LP.

13) No part of the development shall commence until a technically accepted highway scheme including construction details and specifications for the priority junction (northern access); southbound bus lane and footway/cycle lane; bus stop lay-by; and signalised junction (southern access) as shown on the approved plan, Drawing No. IT432/RTA/03E, has been submitted to and approved in writing by the Local Planning Authority. The approved highway scheme/s shall be completed prior to first occupation of the respective development phases using the approved junctions or as otherwise agreed with the Local Planning Authority.

REASON: In the interests of safety for persons and vehicles using the site and/or the adjoining road, having regard to Policies WCS7 and WCS14 of the CS and Policy TR3 of the LP.

14) 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 (with a view to subsequent adoption as a maintainable

highway), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

REASON: In the interests of safety for persons and vehicles using the site and/or the adjoining road, having regard to Policy TR3 of the LP.

15) The new estate roads shall be constructed in accordance with a specification submitted to and approved in writing by the Local Planning Authority. All roads shall be constructed to an adoptable standard.

REASON: In the interests of safety for persons and vehicles using the site and/or the adjoining road, having regard to SPO2, SPO12, SPO13 and WCS14 to the CS and Policy TR3 of the LP.

16) For each phase of development, no part of the development shall commence until such time as a technically accepted highway scheme to support the approved pedestrian/cycle links has been submitted to and approved in writing by the Local Planning Authority. The approved highway scheme shall be completed prior to first occupation of the associated phase of development.

REASON: To encourage and promote sustainable transport and in the interests of highway safety, having regard to Policy WCS14 of the CS and Policy TR3 of the LP.

17) No part of the development shall commence until such time as plans, details and construction specification showing the proposed upgrade works for Right of Way 5 [Willingdon and Jevington], along with a timetable for implementation, 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.

REASON: To ensure that suitable improvements are made and to safeguard users having regard to Policy WCS14 of the CS.

18) None of the dwellings hereby permitted shall be occupied until a scheme for the provision of safety measures at the Vine No.2 footpath level crossing and the stopping up of level crossings where required has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the timing of works relative to the phasing of the housing development and the works shall be carried out in accordance with the approved details.

REASON: To ensure that suitable improvements are made and to safeguard users having regard to Policy WCS14 of the CS.

19) For each phase of development, no part of that phase shall be occupied until a Sustainable Transport Strategy has been submitted to and approved in writing by the Local Planning Authority. The Sustainable Transport Strategy shall set out:

i) The Travel Plan objectives, incentives and measures for all land uses within each phase of development;

ii) A car parking strategy indicating allocated, unallocated and car club spaces for each phase of development;

iii) A cycle parking strategy for each phase and all uses within a phase;

iv) Details of the provision of electric vehicle charging points within each phase.

The Sustainable Transport Strategy shall be delivered in accordance with the approved details.

REASON: To ensure suitable car-parking space for the development and to accord with sustainable transport objectives having regard to Policy WCS14 of the CS and Policies EN1, EN2 and TR16 of the LP.

20) For each phase of development:

No development shall commence until a scheme for the provision and implementation of foul drainage works for that phase 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.

There shall be no occupation of that phase of development until it has either been confirmed by Southern Water that there is capacity for that phase of the development, or where an upgrade to the infrastructure is required that the necessary upgrades have been implemented and confirmed by Southern Water to the Local Planning Authority.

REASON: To protect water quality and to secure a satisfactory standard of development, having regard to Policy WCS14 to the CS.

21) The development shall be carried out in accordance with the submitted flood risk assessment (dated January 2021). The mitigation measures it details within section 14.1.5 of the submitted FRA shall be included within the detailed design of the site. These mitigation measures shall be fully implemented in accordance with a phasing programme to be submitted to and approved in writing by the Local Planning Authority. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

REASON: To reduce the risk of flooding to the proposed development and future occupants and secure a satisfactory standard of development, having regard to Policy WCS14 to the CS and Policy CS2 of the LP.

22) For each phase of development, no part of the development shall commence until a detailed surface water drainage scheme 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, which 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.

ii) The details of the outfalls of the proposed attenuation ponds and how they connect into the watercourses, including cross sections and invert levels.

iii) 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.

iv) Details of the measures proposed to manage exceedance flows and measures to prevent surface water run-off onto the A2270 Eastbourne Road. This should 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 shall be provided.

The surface water drainage scheme 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.

REASON: In order to secure a satisfactory standard of development, having regard to Policy WCS14 of the CS and Saved Policy CS2 of the LP.

23) Prior to the construction of any 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 a programme for implementation shall also be included and, if approved by the Local Planning Authority, implemented in accordance with the approved details and timetable.

REASON: In order to secure a satisfactory standard of development, having regard to Policy WCS14 of the CS and Policy CS2 of the LP.

24) A maintenance and management plan for the entire drainage system shall be submitted to and approved in writing 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:

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 approved plan shall thereafter remain in place for the lifetime of the development.

REASON: In order to secure a satisfactory standard of development, having regard to Policy WCS14 of the CS and Policy CS2 of the LP.

25) 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 hard standings 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 Policy WCS14 of the CS and Saved Policy CS2 of the LP.

26) 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 to be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall provide for lighting that is low level and directional and show the 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 lighting shall be implemented in accordance with the approved scheme and retained thereafter.

REASON: To protect dark night skies and preserve living conditions in the locality having regard to Policies EN27 and EN29 of the LP, and the Wealden Design Guide (Chapter 3, Section 18 and Chapter 8, Section 7).

27) No development shall take place until a plan for the protection of the Mornings Mill Stream, both during construction works and once the development is complete, has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include the following elements:

i) timing of the works;
ii) the measures to be used during the development in order to minimise environmental impact of the works (considering both potential disturbance and pollution);
iii) a map or plan showing river habitat to be specifically protected during the works;
iv) any necessary mitigation for protected species using the watercourse or the watercourse corridor;
v) construction methods;
vi) any necessary pollution protection methods;
vii) information on the persons/bodies responsible for particular activities associated with the method statement that demonstrate they are qualified for the activity they are undertaking.

The rivers priority habitat protection plan shall be carried out in accordance with a timetable for implementation which has first been approved by the Local Planning Authority.

REASON: To protect the rivers priority habitat within the development site and avoid damaging the site's nature conservation value, having regard to Policies WCS12 and WCS14 to the CS.

28) No development shall take place until a scheme for the provision and management of an 8 metre wide buffer zone alongside both banks of the Mornings Mill Stream has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority. The buffer zone shall remain free from built development including lighting, domestic gardens and formal landscaping.

The scheme shall include:

i) plans showing the extent and layout of the buffer zone.

ii) details of any proposed planting scheme which should be of native species and, if including riparian tree planting, should take account of access, maintenance and flood risk.

iii) details demonstrating how the buffer zone will be protected during development and managed over the longer term, including adequate financial provision and named body responsible for management plus production of detailed management plan.

iv) details of any proposed footpaths, fencing, lighting, etc. Lighting should be minimal and/or low level to avoid disrupting the natural diurnal rhythms of a range of wildlife using and inhabiting the river and its corridor habitat.

REASON: The Mornings Mill Stream provides a valuable ecological corridor and any enhancements should be in keeping with the existing wetland habitats having regard to Policies WCS12 and WCS14 of the CS.

29) For each phase of development, a landscape and ecological management plan, including details of ecological mitigation, compensation and enhancement proposals, 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 unless otherwise agreed in writing by the Local Planning Authority.

The landscape and ecological management plan shall include the following elements:

i) detailed proposals for the protection of bats, birds, reptiles, great crested newts, hedgehog, black poplar trees and badgers, and measures for the mitigation of any harm to them likely to be caused by the development;

ii) details of Biodiversity Net Gain using an appropriate metric;

iii) details of maintenance regimes and management responsibilities;

iv) 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;

v) 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 Mornings Mill Stream; and

vi) 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.

REASON: To ensure the protection of wildlife and supporting habitat and to secure opportunities for enhancing the site's nature conservation value (net gain) in line with national planning policy, adopted policies WCS12 and WCS14 of the CS and the South East River Basin Management Plan.

30) 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'.

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to Policies WCS13 and WCS14 of the CS and Policies EN12 and EN14 of the LP.

31) For each phase of development, a full Arboricultural Impact Assessment and Method Statement shall be submitted with the reserved matters application and shall include numbering and detailing of 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.

REASON: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area, having regard to WCS13 and WCS14 of the CS and Policies EN12 and EN14 of the LP.

32) No development shall take place unless and until:

A detailed assessment of ground conditions of the land proposed for the new/retained/replacement playing field land as shown on the illustrative masterplan has been undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and

Based on the results of this assessment, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority.

The works shall be carried out in accordance with the approved scheme and a timetable approved in writing by the Local Planning Authority.

REASON: To ensure that site surveys are undertaken for new playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with Policy LR3 of the LP.

33) Prior to the grass playing pitches being brought into use a Management and Maintenance Scheme for the facility, including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority. The measures set out in the approved scheme shall be complied with in full, on completion of the playing pitches.

REASON: To ensure that new facility is capable of being managed and maintained to deliver a facility which is fit for purpose, sustainable and to ensure that the development benefits sports provision in accordance with the Framework and Policy LR3 of the LP.

34) Prior to bringing into use the sports pitches and sports pavilion, a community use scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall apply to the grass pitches and the ancillary facilities comprising the changing/clubroom pavilion and parking and shall include details of pricing policy, hours of use, access by non-educational establishment users/non-members, management responsibilities, a mechanism for review and a programme for implementation. The approved scheme shall be implemented upon the start of use of the sports pitches and sports pavilion [or other agreed timescale] and shall be complied with for the duration of the use of the development.

REASON: To secure well managed safe community access to the sports facility, to ensure the development benefits sports provision and to accord with Policy LR3 of the LP.

35) 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, and the promotion of renewable energy and sustainable construction within the development shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation of the associated phase and thereafter so retained.

REASON: To promote sustainable building design, having regard to SPO9 and SPO13 and Policy WCS14 of the CS and Policy EN1 of the LP.

36) The development shall be carried out in accordance with the design principles and development objectives set out in the Design Framework Parameter Plan, Drawing No. 2.106A.

REASON: In the interests of certainty, having regard to the development proposed and assessed within the Environmental Statement.

37) No development shall take place, including demolition, ground works and vegetation clearance, until a biodiversity monitoring strategy has been submitted to and approved in writing by the Local Planning Authority. The purpose of this strategy shall be to ensure that the proposed ecological avoidance, mitigation, compensation and enhancement measures for the site are successfully delivered and managed. The content of the strategy shall include the following:

i) Aims and objectives of monitoring to match the stated purpose.
ii) Identification of adequate baseline conditions prior to the start of development.
iii) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
iv) Methods for data gathering and analysis.
v) Location of monitoring.
vi) Timing and duration of monitoring.
vii) Responsible persons and lines of communication.
viii) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority at agreed intervals identified in the strategy. The report shall also set out (where the results of the monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy shall be implemented in accordance with the approved details.

REASON: To ensure the protection of wildlife and supporting habitat and to secure opportunities for enhancing the site's nature conservation value (net gain) in line with national planning policy, policies WCS12 and WCS14 of the CS and the South East River Basin Management Plan.

38) Where the approved development is to proceed in a series of phases, further surveys for roosting bats shall be undertaken to inform the preparation and implementation of bat roost mitigation strategies for each phase of development. The surveys shall be of an appropriate type for the species and survey methods shall follow national good practice guidelines. The loss of any bat roosts (in buildings or trees) shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

A licence issued by Natural England pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity / development to go ahead; or

A statement in writing from the relevant licencing body to the effect that it does not consider that the specific activity/development will require a licence.

REASON: To ensure the protection of wildlife and supporting habitat and to secure opportunities for enhancing the site's nature conservation value (net gain) in line with national planning policy, policies WCS12 and WCS14 of the CS and the South East River Basin Management Plan.

39) The development shall not be occupied until the following highway mitigation works for the East Sussex highway network have been completed:

The A2270, Wannock Road and Polegate High Street signalised junction works (which shall have been opened to all traffic); and Stage 1 of the Hailsham, Polegate & Eastbourne Movement & Access Corridor (HPEMAC).

REASON: To ensure the impact of traffic generated by this development is mitigated, having regard to Policy TR3 of the LP and Policies WCS7 and WCS14 of the CS.

40) Not more than 150 dwellings shall be occupied until:

The highway improvements to the A27 Cophall roundabout have been constructed and opened to traffic in accordance with Intermodal Transportation Ltd's Dwg No. IT432/SK/13 "Possible capacity improvement on Cophall roundabout" or other such scheme of works agreed by the Local Planning Authority to provide substantially similar effect; and the improvement works to the A27 and A22 Golden Jubilee Roundabout and the A22 Golden Jubilee Way and Dittons Road Roundabout have been completed and both roundabouts are open to all traffic.

REASON: To ensure the impact of traffic generated by this development is mitigated, having regard to Policy TR3 of the LP and Policies WCS7 and WCS14 of the CS.

APPENDIX 4

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:

Kimberley Parry PhD MRTPI – Senior Planner

Neame Sutton Limited

They Called:

Clare Brockhurst, FLI, BSc (Hons), Dip LA Leyton Place Landscape Planning

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

APPENDIX 5

The Planning Inspectorate

Appeal Decision

Hearing held on 16 August 2022

Site visit made on 17 August 2022

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2022

Appeal Ref: APP/C1435/W/22/3296579
Land west of Station Road, Hailsham

- 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 Gleeson Strategic Land Limited & Rydon Homes Limited against the decision of Wealden District Council.
- The application Ref WD/2020/2509/MAO, dated 30 November 2020, was refused by notice dated 28 February 2022.
- The development proposed is outline planning application (with all matters reserved except for access) for the erection of up to 200 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

1. The appeal is allowed and planning permission is granted for outline planning application (with all matters reserved except for access) for the erection of up to 200 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 at land west of Station Road, Hailsham in accordance with the terms of the application, Ref WD/2020/2509/MAO, dated 30 November 2020, subject to the conditions in the attached Schedule.

Procedural Matters

2. Prior to the hearing the Council confirmed that they would not offer evidence in relation to their single reason for refusal relating to highways matters. Therefore, the hearing proceeded without the Council defending their decision to refuse planning permission.
3. Various iterations of an illustrative masterplan were submitted with the appeal which show how the site might be developed in the event the appeal was allowed. A parameters plan was also submitted for approval which shows the broad locations of proposed housing, open space and the retention of a public footpath. The Council have had the opportunity to comment on these plans as part of the appeal and raise no objections. I am satisfied that these plans do not materially alter the substance of the application the Council originally considered and interested parties would not be unduly prejudiced. Therefore, I have accepted these plans as part of this appeal, but I have treated the masterplan as illustrative only.

4. A range of other technical documents were also submitted with the appeal[1]. Again, they do not alter the nature of the proposal originally considered and I have accepted them.

5. A draft Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted by the appellants prior to the hearing and was subsequently signed shortly after. I deal with this in my reasoning below.

Application for costs

6. An application for a full award of costs was made by Gleeson Strategic Land Limited and Rydon Homes Limited against Wealden District Council. This application is the subject of a separate decision.

Main Issues

7. The main issues in this case are:

- Whether the proposal would promote sustainable transport having regard to a) the effect of traffic on the local highway network with particular regard to the Station Road/South Road junction; b) measures to promote sustainable modes of travel.

- The effect of the proposal on the integrity of Pevensey Levels habitats site, including mitigation.

Reasons

Background

8. The appeal site is located outside the settlement boundary and for the purposes of planning policy lies in the countryside. The scheme is referred to by the appellants and Council as 'phase 3'. Phase 1, known as *Cuckoo Fields and Ersham Park*, relates to planning permission for up to 400 dwellings. Phase 2, known as *land adjacent to Cuckoo Trail*, relates to planning permission for up to 100 dwellings[2]. Therefore, notwithstanding the appeal proposal, up to 500 dwellings have been granted planning permission on land close to the appeal site, which lies generally to the south and east of these two phases. The illustrative masterplan demonstrates that the proposal could be linked to phases 1 and 2 by a series of footpaths.

Highway capacity

9. Station Road is the main road linking the appeal site with the town centre, forming a priority junction with South Road (A295) at its northern extent. The layout of the Station Road/South Road junction (the junction) as it currently exists is deficient in a number of areas. This was apparent on my site visit, and is supported by the evidence and anecdotal accounts I heard during the hearing. Notably, drivers turning right out of Station Road onto South Road are required to cross to the opposing side of the carriageway[3]. The difficulty of this manoeuvre being exacerbated often by the weight of traffic in both directions along South Road, and the proximity of traffic signals which control

[1] Core documents CD2/22 – CD2/36, with CD2/23, CD2/25, CD2/26, CD2/27 relating to illustrative masterplans and parameters plan referred to above.
[2] Phase 1 planning permission ref - WD/2018/0475/MAO. Phase 2 planning permission ref - WD/2019/1864/MAO.
[3] Baseline data included in TA suggests approximately 1/3 of vehicles turn right out of Station Road.

traffic flows from George Street and North Street, often resulting in platoons of vehicles heading west along South Road past the junction. Moreover, drivers wishing to turn right into Station Road from South Road often block part of the carriageway, further restricting the operational efficiency of the junction.

10. As a result of the above, and despite the width of the bellmouth which allows several left and right turners to exit from Station Road onto South Road at the same time, it does not take long for vehicles wishing to turn right to clog the junction. The result is frequent delays in being able to turn out of the junction onto South Road safely, often resulting in queues along Station Road, particularly at peak times.
11. None of this is disputed. In short, the priority junction control currently in place exhibits capacity issues. Indeed, it was recognised in the proposals for phases 1 and 2 that, the ratio of traffic flow in relation to capacity would be high based on modelled future growth, resulting in significant exceedance of the junction's operational capacity during the PM peak[4]. To mitigate the effects of the additional traffic arising from the respective approved developments, phase 1 proposed a right turn filter along South Road to aid vehicles turning right into Station Road, with phase 2 proposing a comprehensive scheme involving the provision of traffic signals as a means of controlling traffic flows.
12. In this regard, a planning condition was imposed on the phase 2 planning permission requiring that the principal traffic signalisation and junction alteration works were implemented in accordance with the approved plan[5]. Therefore, it is clear that the Council have previously accepted that the additional traffic associated with phases 1 and 2 could be accommodated at the junction subject to the approved junction alteration and signalisation scheme (junction signalisation works). The same approved junction signalisation works are proposed as part of this appeal[6].
13. Turning to the effects of the traffic likely to be generated by the proposal. I note that the East Sussex County Council (Highway Authority) were initially concerned with the traffic survey data obtained in 2020 due to COVID-19 restrictions in place at that time. However, further surveys were completed by the appellants during November 2021 and subsequently, the Highway Authority raises no objection to the traffic data underpinning subsequent junction capacity assessments.
14. The appellants have provided an assessment of the likely traffic impacts on the junction. This is based on the proposal in combination with committed developments and anticipated traffic growth in the year 2028, which includes the implementation of the junction signalisation works[7]. The assessment demonstrates that during the AM and PM peak, no arms of the junction would be over capacity[8], with a practical reserve capacity of 6.6% in the AM peak and 8.6% in the PM peak[9]. This demonstrates ample spare capacity within the junction for it to operate effectively.
15. Moreover, I was told during the hearing that drivers would be able to navigate the signals at the junction within one complete traffic signal cycle. This is backed up by the data which also suggests delays of less than 1 minute on all arms of the junction during both the AM and PM peak. Even allowing for the

[4] See table 3.4 of Appeal Rebuttal Statement – ref - ITB15695-013a
[5] Condition no 18 of planning permission WD/2019/1864
[6] See Agreed Statement on Transport Matters drawing ref - ITB15002-GA-001A
[7] Traffic modelling of signalised junction using industry standard LinSig software
[8] An arm is generally considered over capacity when degree of saturation exceeds 90%
[9] Table 3.5 of Appeal Rebuttal Statement by i-Transport – ref ITB15695-013a

limitations associated with junction modelling and forecasting future scenarios with such precision, I am satisfied that the impacts of the proposal, in combination with other committed developments, would fall well short of 'severe', that being the relevant test as set out in paragraph 111 of the National Planning Policy Framework (the Framework). I also note that the Highway Authority raises no objection to the methodology, nor do they question the figures.

16. Furthermore, concerns relating to the effectiveness of the junction signalisation works in improving the junction's capacity and efficiency are not supported by the evidence. Firstly, the works were considered as part of phase 2 and have been approved by the Council demonstrating their acceptance of this form of mitigation. Secondly, the appellants' assessment of the signal controls proposed at the junction and the impacts on traffic flows are comprehensive, and no objections are raised by the Highway Authority, nor do they contest that the works necessary to carry out the junction mitigation are not deliverable.
17. Concerns have also been raised by interested parties regarding the capacity of other junctions in the area to accommodate an increase in vehicular movements associated with this proposal. However, no detailed evidence has been submitted which leads me to conclude that the submitted Transport Assessment (TA) is not robust, and the conclusions drawn, which find the impact on other local roads and junctions in the area would not be significant, do not appear unsound.
18. The Council's reason for refusal raises concerns that the measures set out in the submitted Sustainable Transport Strategy (STS) would not be deliverable. It also states that such measures would be necessary to mitigate the impact on the junction. However, I fundamentally disagree. So too, as part of the agreed Statement of Common Ground, do the Highway Authority.
19. To clarify, it is important to note that the above reasoning does not take into account the effects of the STS in reducing traffic flows at the junction. This is because I find that the approved junction signalisation works alone would provide the mitigation necessary to ensure sufficient capacity and the effective operation of the junction.
20. Nevertheless, given that the Framework also requires that developments promote sustainable modes of travel, I will move on to assess the effectiveness of the proposed STS in achieving this.

Travel Plan

21. The planning application was accompanied by a Framework Travel Plan[10]. An enhanced travel plan was then submitted in the form of the STS[11]. Aside from the concerns over the junction's operation, interested parties raise concerns over the deliverability of the measures proposed in the STS.
22. In this regard, despite the site's countryside location, a wide range of services and facilities exist within a reasonable walking distance of the appeal site[12]. This includes Hailsham town centre. In addition, the Cuckoo Trail[13], which passes through Hailsham, lies adjacent to phases 1 and 2. The submitted

[10] Ref: TW/SJH/PS/ITB15695-003A
[11] Ref: TW/SJH/ITB15695-007a R
[12] Table 6.2 of Transport Assessment. Many services and facilities within 2km. Manual for Streets (referring to the now defunct PPG13) states that walking offers the greatest potential to replace short car trips, particularly those under 2km.
[13] National Cycle Network – route 21

illustrative masterplan demonstrates that connections to the Trail, along with generally improved pedestrian connectivity, could be achieved to be secured as part of subsequent reserved matters. Fundamentally, the site is within proximity of a range of services and facilities and potentially accessible by non-car modes of travel.

23. The STS includes measures to improve pedestrian crossings and the footpath network in the local area. It also commits to providing Personalised Travel Planning (PTP) to all new residents of the proposal, phases 1 and 2, and some existing households in the local area. The PTP would provide details of available travel options which form part of the STS, including detailed walking and cycle maps. It would also include vouchers towards the purchase of cycle equipment or bus tickets, along with information to promote car sharing and details of a car club.

24. On the latter, it is anticipated that a new car club would be created, with residents offered free membership and initial driving credit. Despite concerns over the effectiveness of such a scheme in this location, the appellants confirm that engagement with car club operators has clarified that a scheme in this area would be viable and deliverable. I have no reason to disagree with this statement. To my mind the car club would at the very least offer alternatives for residents, potentially reducing the need for residents to own one or more cars.

25. Finally, the STS proposes bus service enhancements. The Highway Authority's consultation response on the planning application confirms that the existing bus service 'H1' stops approximately 1km away from the furthest part of the appeal site. Therefore, bus service enhancements would likely consist of a new service running along Station Road and other local roads, thus linking the appeal site with Hailsham and Eastbourne, as well as serving existing residents and phases 1 and 2 which lie in proximity of the proposed route.

26. In order to provide the new service, the Highway Authority have confirmed that parking restrictions (including double yellow lines) would be required along a number of local roads and junctions[14] in order to allow access for a 'full size' bus. No parking restrictions would be necessary along Station Road. After walking the suggested bus route on my site visit[15], I did not see any evidence of vehicles being double-parked in a manner which would prevent a bus from safely navigating the route. As such, given that parking restrictions are mostly proposed on only one side of streets along the proposed route, they appear to reinforce the prevailing parking situation, thus significant displacement of vehicles appears unlikely.

27. Even if the parking situation is different during evenings and weekends, when local residents are more likely to be at home, the parking restrictions necessary to secure the new bus route and service would require a Traffic Regulation Order (TRO). I appreciate that, as the TRO process falls under separate non-planning legislation, there is no certainty that the outcome would be successful, and that the TRO could be implemented in accordance with the submitted scheme. However, even if the TRO was not made, the appellants state that alternatives measures would be considered as part of the STS in order to achieve bus service enhancement.

[14] As detailed in the East Sussex County Council (Highway Authority) consultation response on the planning application dated 15th February 2022.
[15] Which took place at approximately 10am

28. In addition to this, the appellants have committed to providing £250,000 to deliver bus service enhancement (see planning obligations) at the request of the Highway Authority. This, when coupled with the aforementioned measures which would promote bus services, means that bus travel would represent a genuine alternative to travel by car.
29. It is put to me by interested parties that the aim of the STS, to facilitate a 5% shift in travel behaviour, would be unachievable, and that residents of the proposal would be largely reliant on the private car. However, I have not been presented with evidence of a planning policy requiring a 5% shift in travel behaviour, thus it does not appear to be necessary to make the development acceptable in planning terms. Rather than requiring a quantitive measure of travel behaviour changes, paragraph 110(a) of the Framework requires that appropriate opportunities to *promote* sustainable transport modes are taken up, having regard to development type and location. I consider that the STS would achieve these requirements.
30. Notwithstanding this, the appellants confirm that travel behaviour measures would be reviewed and monitored over a period of 5 years from occupation, with further measures incorporated as necessary in consultation with the Highway Authority. I also note that the Highway Authority raises no objections to either the 5% target, or the measures contained within the STS.
31. I also note that some of the measures proposed require further detail. Therefore, it would be appropriate in this case to impose a planning condition requiring the submission of a final STS to be agreed with the Council prior to the occupation of the development. Overall, the STS constitutes a comprehensive package of measures, and I am satisfied that the proposal would provide a realistic prospect of delivering a modal shift by promoting sustainable transport modes.

Conclusion on sustainable transport

32. The proposal would have a less than severe impact on the performance of the highway network. This relies on a condition requiring agreed junction signalisation works to be delivered. Therefore, the proposal would not conflict with policy TR3 of the Wealden Local Plan 1998 (Local Plan) and paragraph 111 of the Framework which require, amongst other matters, that development does not create or perpetuate unacceptable traffic conditions or result in severe impacts on the road network.
33. Even though the STS would likely reduce the traffic impact on the junction, it is not necessary for that purpose. However, the STS would offer a genuine choice of transport modes, giving opportunities to reduce reliance on the private car. Therefore, it would comply with policies EN2 of the Local Plan and SP07 of the Wealden District Core Strategy Local Plan 2013 (Core Strategy, and policy HAIL AT1 of the Hailsham Neighbourhood Plan 2021 (Neighbourhood Plan) which promotes active travel and a reduction in the reliance on the car. The proposal would also comply with paragraph 110(a) of the Framework which seeks to promote sustainable travel.

Habitats Site

34. The Pevensey Levels[16] (the Levels) comprises a habitats site, protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Its national and international importance relates mainly to the

[16] Special Area of Conservation, Ramsar Site and Site of Special Scientific Interest

areas of wetland within it. They support an assemblage of wetland plants and invertebrates, and are notable for species including freshwater molluscs, aquatic beetles and dragonflies. A number of bird species are also found on the Levels. The integrity of these wetlands relies on both a high quality of water and stable water levels.

35. The appeal site lies within 500m of the Levels and within their hydrological catchment area. The proposal would involve urbanisation of the appeal site and any surface and ground water discharging from the site has the potential to increase the nutrient levels in watercourses feeding the Levels, increase pollution, and to alter the flow and temperature of those watercourses. These effects have the potential to creating eutrophic conditions and/or introduce silt and sediments. It is also possible that foul water from the proposal could be discharged to watercourses which could affect the Levels through an increase in pollution, if connections exist. Consequently, there would be a potential pathway to the Levels which could be detrimental to the important interest features of the site, and likely significant effects cannot be screened out. As a result of this, I am obliged under the Habitats Regulations as the competent authority to carry out an Appropriate Assessment.

36. As stated above, it is the quality of the water environment within the Levels, affected by water which flows into it from the wider catchment, which is the key consideration. In this case, the primary strategy proposed would be to drain surface water through the site through a series of filtration measures, followed by the restriction of the run-off rate into the off-site local watercourse. As well as a flood risk assessment and surface water drainage strategy, an outline drainage strategy plan has also been submitted. All of which I have used to inform my assessment[17].

37. The proposed surface water drainage strategy would involve a two-stage treatment process. The built development would incorporate permeable paving to allow infiltration of water to take place, along with channels to capture water from permeable surfaces such as roads into swales where pollutants would be filtered. Run-off from the areas of permeable paving and swales would then drain into attenuation basins, allowing remaining sediment to settle, providing additional filtration.

38. Natural England have commented on the proposal as part of this appeal and consider that the two-stage process proposed demonstrates suitable surface water mitigation to address potential contamination and other potential adverse effects. The appellants also propose a third stage as part of their drainage strategy, involving the provision of reedbeds which would provide further filtration of water before off-site discharge. I note that Natural England have raised concerns over the suitability of reedbeds in this location, although they go on to confirm that this third stage would not be necessary in any event, and the two-stage process referred to above would be adequate.

39. It is acknowledged that construction impacts could also affect the Levels indirectly. However, like Natural England, I am satisfied that the imposition of a planning condition, requiring the submission of a construction management plan, based on the appellant's habitats assessment, to address the potential for contaminated surface water to discharge into the catchment, would ensure no adverse effects on the habitats site.

40. In terms of foul water, it has been confirmed that it would not be treated on site, rather it would be connected to the sewage network under the control of

[17] Drawing ref - 17627ag-301-301 Rev P04

Southern Water. A pumping station would be provided on site. The Council confirms that Hailsham Water Water Treatment Works would have the capacity to accept foul drainage, and I have no reason to reach a different conclusion. Southern Water raises no objection to this aspect.

41. I appreciate that ongoing management and maintenance of the drainage scheme and foul water pumping station would be necessary, and the appellants have committed to this. A maintenance schedule for the drainage strategy could be secured by planning condition, and safeguards such as a backup pump could be incorporated into the pumping station to ensure continuous operation in the event of failure. Further details could be secured by planning conditions.
42. In respect of in-combination effects, the Council confirms that any new development within the Levels catchment will be required to demonstrate that a suitable surface water drainage strategy and management arrangements will be implemented to prevent potential adverse impacts on the Levels. In this case, the proposal has been designed to deal with surface water discharging from the site, as well as foul water treatment. I have not been provided with any evidence to suggest that other developments, including phases 1 and 2, would result in adverse effects. For this reason, and given the safeguards detailed above relating to this proposal, I am satisfied that there would be no in combination adverse impacts on the qualifying features of the habitats site.
43. Regulation 70 of the Regulations has the effect of requiring that outline planning permission can only be granted if it can be demonstrated that there would be no adverse effects on the integrity of a habitats site. Conditions and planning obligations can be used to avoid adverse effects, but they must have the effect of preventing development taking place which would otherwise have an adverse effect on the habitat site's integrity.
44. In this regard, I have treated the layout as indicative only at this stage and I am aware that the layout submitted at reserved matters may affect some of the details contained in the outline drainage strategy. To address this, conditions are listed in this decision which reflect the extent of detail which is still required to be considered and would provide further safeguards for the protection of the Levels, bearing in mind the outline nature of the proposal.
45. In making an Appropriate Assessment, overall, I am satisfied that the proposal would not lead to adverse effects on the integrity of the Levels habitats site either alone or in-combination with other plans and projects.

Other Matters

46. In assessing committed developments to forecast traffic growth, the TA does not appear to have included a number of recent housing schemes. However, they were already occupied at the time of the most recent traffic surveys. Therefore, movements associated with these developments have been recorded as part of the traffic survey work and the traffic impacts of those along with the proposal have been considered. Other sites, referred to by interested parties, had in fact already been included in the TA, or were considered by the TA to generate minimal traffic movements through the junction and did not require further analysis. As a result, I am satisfied that the TA is robust in this respect.
47. Concerns have been raised relating to highway safety. However, there is no evidence that the existing junction is unsafe (rather, it is forecast to be over capacity without mitigation). Indeed, the signalisation works proposed would likely improve its safety. In terms of Station Road, whilst I acknowledge it is narrow in places and parked cars often inhibit the free flow of traffic along the

route, there is no evidence before me to suggest that the movements associated with the proposal would significantly exacerbate any issues or lead to unacceptable highway safety effects. The Council raises no objection on these grounds and the Highway Authority do not identify any safety issues in relation to the proposal's effect on the local highway network.

48. Flood risk has been raised as a concern, but the Council and East Sussex County Council are satisfied with the proposal in principle. Planning conditions are recommended requiring full drainage details which would mitigate flood risk.

49. The proposal has been assessed considering the traffic impacts within proximity of Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA)[18]. The SAC is designated on the basis of its heathland and the habitats it supports, with air pollution deemed a significant threat to its integrity. The SPA designation is due to its assembly of birds, including Nightjar. In summary, the TA anticipates a traffic flow substantially less than the threshold where a significant effect would be likely. As such, it is considered that any increase in nitrogen levels and pollution arising from traffic associated with the proposal would be limited. Due to the distance from the SPA, impacts on bird species and associated habitats due to recreational pressures would be limited. As such, likely significant effects can be screened out as there would be no adverse effect on the integrity of Ashdown Forest SAC and SPA either alone, or in combination with other plans or projects.

Planning Balance

50. The Council's housing land supply position stands at not more than 3.66 years[19]. As such, they are unable to demonstrate a five-year supply of deliverable housing sites. Therefore, in accordance with the Framework, the policies which are the most important for determining the application are considered out of date. In such circumstances, paragraph 11d)(ii) of the Framework indicates that permission should be granted 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.

51. In respect of the main issues, the proposal would promote a choice of sustainable travel modes and would not result in unacceptable traffic conditions on the local road network, in compliance with the identified development plan policies and the Framework. Furthermore, I find no adverse effects on the integrity of the Pevensey Levels.

52. The proposal would be outside an area which is the focus of future housing growth in the Local Plan. However, the effect of related policies GD2 and DC17 of the Local Plan would be to restrict housing development such as this which lies outside the settlement boundary[20]. Given the Council's housing land supply shortfall, the need to remedy this may require the provision of other sites and locations not envisaged by those policies at that time. I therefore give conflict with these policies only limited weight.

53. The proposal would also diminish the openness of, and encroach into, the countryside. However, it would be seen in the context of phases 1 and 2 and opportunities for significant landscaping could be pursued at reserved matters

[18] This is a habitats site – see Framework definition
[19] As per Statement of Common Ground between appellants and Wealden District Council
[20] Referred to as 'development boundary' in the Local Plan

stage. As such, I also attribute limited weight to the harm to the character and appearance of the area.

54. In terms of benefits, the proposal would provide a significant number of market and affordable houses. The scheme would also provide over 4 hectares of public open space and sports pitches. Even though a proportion of the provision would be necessary to make the development acceptable in planning policy terms, the total open space and sports pitch provision would be significantly in excess of planning policy requirements. Moreover, there would be ecological enhancements, including the provision of a non-publicly accessible area of land specifically for biodiversity enhancement. Each of these benefits carries significant weight in favour of the appeal.
55. There would also be moderate benefits to the local economy both during construction and indirectly through a likely increase in local spending by future residents.
56. The proposal would address strategic and local infrastructure requirements as a result of the junction signalisation works and planning obligations proposed, in accordance with WCS7 and SPO15 of the Core Strategy. This mitigation is necessary to make the development acceptable in planning terms and attracts neutral weight.
57. In conclusion, the proposal would result in limited harm and conflict with the development plan. However, these adverse impacts would not significantly and demonstrably outweigh the identified benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal benefits from the presumption in favour of sustainable development[21] and this is a material consideration of sufficient weight, clearly indicating that planning permission should be granted in this case, notwithstanding identified conflict with the development plan.
58. As a result, the appeal should be allowed.

[21] In accordance with EN1 of the Local Plan and WCS14 of the Core Strategy

Planning Obligation

59. A signed S106 Unilateral Undertaking (UU) is included with this appeal. It includes several obligations including the provision of 35% affordable housing and 5% of plots within the development to be marketed as self-build or custom-build plots. Both these provisions meet the requirements of the development plan.
60. The UU provides for public open space on the areas marked on the parameters plan, with details of play equipment, landscaping, management and maintenance to be subsequently detailed and agreed. The UU also provides for the extension and enhancement of bus services serving the development, costs associated with the Highway Authority pursuing a TRO to restrict parking along the bus route, a TRO in order to extent the speed limit near the site, and costs associated with travel plan monitoring. All of these elements involve the promotion of sustainable travel options.
61. The UU contains provisions to ensure that Highway Agreement(s) are entered into to secure the carrying out of the works to facilitate the accesses. Whilst such agreements typically fall under highway legislation and not planning, the accesses as proposed are needed in the interests of highway safety, and I note that the Council raise no objections to its inclusion.
62. Overall, I find that the planning obligations would be directly related to the development proposed, are fairly and reasonably related in scale and kind, and are necessary to make the development acceptable. The proposal would therefore comply with the requirements of Regulation 122 of the CIL Regulations[22] and the tests set out in paragraph 57 of the Framework.

Conditions

63. I have considered the Council's suggested planning conditions against the relevant guidance contained within Planning Practice Guidance (PPG) and the Framework which requires 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. I have amended some of them and consolidated several of them in the interests of clarity and in order to meet PPG, and to avoid repetition.
64. I have applied shorter time limit conditions relating to the submission of reserved matters[23]. This is due to the Council's pressing need for housing and would assist with the delivery of development in the area. The appellants raise no objection to this. A condition is also necessary setting out the plans subject to approval as part of this permission, in order to provide certainty. For the avoidance of doubt, this includes a 'parameters plan' which, amongst other things, approves areas of the site for housing and associated infrastructure, formal recreation/sports pitches, green infrastructure and shows the retention of the existing footpath. This is necessary as my decision is based on these parameters.
65. Air quality assessment is necessary in the interests of the health of future occupiers of the development, and such mitigation may affect the layout of the development. Condition no 5 reflects this. An arboricultural impact assessment is also required with the reserved matters 'layout', as the layout

[22] Community Infrastructure Levy Regulations 2010 (as amended)
[23] In comparison with the time limits set out in section 92 of the TCPA 1990.

may impact on the tree protection works required, and the retention of trees is supported by the Framework.

66. The Council suggests a condition in order to ensure that street trees are provided in a suitable manner throughout the development. However, I am satisfied that these elements could form part of layout and/or landscaping reserved matters and a condition is not necessary at outline stage.

67. Several conditions have been recommended by Sport England and the Council in relation to the proposed playing pitches and associated facilities. I have altered the conditions so that they meet the relevant tests set out in the Framework, but they are necessary to ensure the suitable provision of sports facilities in line with the requirements of the development plan and Framework.

68. Conditions relating to archaeology are necessary based on the findings of the submitted archaeology desk-based assessment, which shows low to moderate archaeological potential.

69. A construction management plan condition is required in the interests of the amenity of occupants of properties nearby, and is required pre-commencement as it would cover the construction phase of the development. It also addresses mitigation necessary to prevent harm to the integrity of the habitats site.

70. The Council suggests a condition requiring a 'pre' and 'post' condition survey of the surrounding highway network. However, the Highway Authority have not recommended such a condition. In addition, I note that there is other highway related legislation covering damage to the road network such that I do not think the condition is necessary.

71. Foul water drainage details are required prior to the commencement of development as infrastructure may be required below ground and at an early stage of the development. Management and maintenance of foul drainage is required to protect the integrity of the habitats site.

72. It is not necessary to impose a condition requiring the location of market housing to be provided, as the Council would retain control over this element as part of their consideration of layout at reserved matters. However, I have imposed a condition requiring that 65% of the development constitutes market housing. As the proposal would increase the burden on infrastructure, the market housing would be required to make a contribution via CIL. The proposal has been assessed on this basis and local finance is material to the determination of the proposal. The appellants agree that such a condition is necessary.

73. Drainage details are required pre-commencement as the approval of such details could fundamentally affect the layout of the development. This includes further details of the watercourse which the surface water received on the development site is proposed to drain into. These conditions are necessary in the interests of flood risk management and sustainable drainage, as well as to protect the habitats site. Details of management and maintenance of drainage features is also necessary for the same reasons. The condition recommended by the Council relating to there being no discharge of foul or contaminated drainage is not necessary as it is covered by the foul and surface water drainage conditions imposed, where measures to prevent contamination would be approved.

74. For the reasons set out in my decision, highway improvements to the South Road and Station Road junction are necessary to make the development acceptable. A condition reflecting this is necessary because the implementation of phase 2 where the same junction works are proposed cannot be guaranteed.

75. Further details of the Sustainable Transport Strategy are necessary to ensure sustainable transport modes are promoted in accordance with paragraph 110 of the Framework. Conditions are also necessary relating to the provision of the approved accesses, and full details of the highway works including construction details relating to the proposed internal roads. This is in the interest of highway safety.
76. However, it is not necessary to impose a condition requiring roads to be offered for adoption as this is not reasonable as it would be determined through separate legislation. Details of car parking spaces and cycle stands are not necessary as these elements would be assessed as part of the reserved matters.
77. Conditions are necessary to ensure ecological mitigation is provided, and any further survey work recommended in the submitted reports is carried out. Biodiversity enhancement is necessary in accordance with the Framework. I have altered the wording suggested by the Council so that it is clear what is required both in terms of mitigation and enhancement.
78. A condition recommended relating to landscape management is not necessary as this could be dealt with at reserved matters stage. An additional condition relating to tree protection is not necessary as I have dealt with the requirements in condition no 6. A condition relating to artificial lighting is necessary to ensure biodiversity is not unduly harmed. A condition requiring energy efficiency measures is necessary in accordance with the development plan and Framework.
79. Finally, during the hearing I was presented with a late representation from Southern Water objecting to the development. Their concerns relate to the site's proximity to the Waste Water Treatment Works and the potential for odour. The planning application was accompanied by an odour assessment which neither Southern Water nor the Council's Environmental Health raised any objection to at that time. I note, however, that the previous odour assessment is now of some age and Southern Water considers it out-of-date. Nevertheless, there is no evidence before me to indicate that the site cannot be developed for housing based on the submitted parameters plan and potential odour impacts. As discussed during the hearing, the layout proposed at reserved matters could address any issues relating to odour, and there is the potential for further mitigation as necessary. Consequently, a condition would be appropriate in this case requiring a further odour assessment and any mitigation necessary.

Conclusion

80. For the reasons above, the appeal is allowed, subject to the following conditions.

M Woodward

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

John Litton KC	Landmark Chambers (advocate)
Joshua Mellor BSc (Hons) MSc MRTPI	Barton Willmore, now Stantec
Amy Woodward BA (Hons) MA	Barton Willmore, now Stantec
Tim Wall BA (Hons) MSc MCIHT CMILT	i-Transport

FOR THE LOCAL PLANNING AUTHORITY:

Claire Turner	Wealden Council
Rebecca Blundell	Wealden Council
Matt Taylor	Wealden Council

INTERESTED PARTIES:

Rachel Scott	MJ Gleeson
Kevin Willcox	Rydon Homes
Michael Gadd	Resident
David White	Ward councillor and resident
Cllr Susan Stedman	Ward councillor and resident
Cllr Bob Bowdler	Ward councillor and resident
Neil Cleaver	Ward councillor and resident
David Watts	Ward councillor and resident
Pam Cunningham	Resident
David Dyer	Resident
W Barnes	Resident

Other local residents in attendance did not complete attendance sheet.

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 1 year 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: 1304.01A, 1304.04A, ITB15695-GA-001A, ITB15695-GA-007B.

5) The submission of the reserved matters 'layout' shall include an Air Quality Emissions Mitigation Assessment Report (AQR). The AQR 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 AQR shall include details of the proposed mitigation measures and shall include a timetable for the completion of a subsequent verification report confirming that the air quality mitigation measures have been installed as approved. The approved mitigation measures shall be implemented prior to occupation of the associated dwellings.

6) The submission of reserved matters 'layout' shall include an Arboricultural Impact Assessment and Method Statement which shall include the numbering and detailing of all trees within the appeal site and those outside the appeal site likely to be affected. The submission shall provide 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 soils. The report shall also include a timetable for the implementation of the required works and shall be carried out in accordance with the approved scheme.

7) The submission of the reserved matters 'layout', 'appearance' and 'landscaping' shall include details of the changing facilities and associated car parking for the playing fields, and the means of access thereto. The approved details shall be implemented in accordance with a delivery programme which shall accompany the submission(s).

8) The submission of the reserved matters 'layout' shall include details of the playing pitch sizes, including a justification for the pitch sizes based on an up to date assessment of local need. An assessment of ground conditions of the land proposed for the new playing fields shall also be provided (including drainage and topography) by a RIPTA registered agronomist to identify constraints which could affect playing field quality.

9) No development shall commence until a detailed scheme for the Natural Turf Pitches, designed by a RIPTA registered agronomist to meet the Performance Quality Standard of the Football Association and based on the results of the assessment carried out pursuant to condition 8, has been submitted to and

approved in writing by the local planning authority. The works shall be carried out in accordance with the approved scheme within a timescale to be approved in writing by the local planning authority. The construction of the Natural Turf Pitches shall be project managed or signed off by an RIPTA registered agronomist and evidence shall be submitted that the two sports pitches pass a Performance Quality Standard test, arranged via the FA Pitch Improvement Programme, to a 'good' standard before the pitches are used.

10) Prior to the bringing into use of the grass playing pitches, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the local planning authority. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the playing pitches and for the lifetime of the development.

11) Prior to the bringing into use of the sports pitches and associated changing facilities and parking provision, a community use scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall apply to the grass pitches and the ancillary facilities comprising the changing facilities and parking and shall include details of pricing policy, hours of use, access by non-educational establishment users/non-members, management responsibilities, a mechanism for review and a programme for implementation. The approved scheme shall be implemented upon the start of use of the sports pitches and associated facilities [or other agreed timescale] and shall be complied with for the duration of the use of the development.

12) No development shall take place until a Written Scheme of Investigation and programme of archaeological works have been submitted to and approved in writing by the local planning authority. This shall include a construction method statement to show how significant archaeological remains will be preserved in-situ.

13) No part of the development shall be brought into use until an archaeological site investigation and a 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 12. The post investigation assessment shall be submitted to and approved in writing by the local planning authority.

14) Prior to any construction works being carried out, and subsequent to archaeological site investigation details approved under conditions 12 and 13, a construction method statement to show the preservation in-situ of significant archaeological remains, shall be submitted to and approved in writing by the local planning authority. The construction of the development shall be carried out in accordance with the approved details.

15) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- the relevant mitigation measures contained in the submitted 'Information to inform an Appropriate Assessment under the Habitat Regulations' document ref - 1004079-06-AA HRA.dv2 AH

- the parking of vehicles of site operatives and visitors;
- the management of vehicles carrying abnormal loads;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- measures to control the emission of dust and dirt during construction;
- measures to minimise the potential for pollution of groundwater and surface water;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- noise and vibration attenuation from construction and a scheme to ensure compliance; and
- delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

16) No development shall take place until details of a scheme for foul water drainage have been submitted to and approved in writing by the local planning authority. Such details shall include arrangements for subsequent ongoing management in accordance with the relevant mitigation measures contained in the submitted 'Information to inform an Appropriate Assessment under the Habitat Regulations' document ref - 1004079-06-AA HRA.dv2 AH, along with a timetable for implementation. The development shall be carried out in accordance with the approved details

17) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

18) The development shall include 65% of dwellings as market dwellings [this figure includes self-build and custom-build housing].

19) Prior to the construction of the superstructure of any buildings, details of water and energy efficiency measures and renewable energy and sustainable construction measures within the development 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 thereafter so retained.

20) Prior to the commencement of development, a detailed surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall incorporate the following:

- 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.

- 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.

- The detailed design of the surface water features (swales, attenuation ponds and reed beds).

- The detailed design of the surface water features (swales and attenuation ponds) shall be informed by findings of groundwater monitoring between autumn and spring. The design shall 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.

- Details of the measures to manage exceedance flows and measures to prevent surface water run-off onto Station Road.

- Details of the relevant mitigation measures contained in the submitted 'Information to inform an Appropriate Assessment under the Habitat Regulations' document ref - 1004079-06-AA HRA.dv2 AH.

The surface water drainage shall be implemented in accordance with the approved details before first occupation of any dwelling in any phase of development. 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.

21) Prior to the commencement of development, a survey of the condition of the watercourse which the outfall will discharge directly into 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 identified by the survey, along with a programme for implementation, 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.

22) Prior to the occupation of any dwelling, a maintenance and management plan in relation to the details approved under condition 20 shall be submitted to and approved in writing by the local planning authority. The management plan shall cover the following:

- This plan should clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains.

- Details as to how these responsibility arrangements will remain in place throughout the lifetime of the development.

The approved details shall include a timetable for implementation and shall be retained for the lifetime of the development.

23) The development shall not be occupied until the highway improvements to South Road and Station Road as shown in principle on drawing no ITB15002-GA-001 Rev A have been completed and opened to traffic.

24) Prior to the occupation of any dwelling, a Sustainable Transport Strategy (STS) and Delivery Action Plan shall be submitted to and approved in writing by the local planning authority. The STS shall include the following measures:

- A targeted Personalised Journey Planning Campaign in southern Hailsham;
- Provision of Residents Travel Information Packs and Marketing Measures;
- Details of a Car Club;
- Promotion of Car Sharing measures;
- Provision of travel incentives to residents, including the offer of sustainable travel vouchers for cycle equipment or bus tickets;
- Management and Monitoring of the STS;
- Improvement to the local walking network to improve pedestrian crossings in the local area;
- Measures to improve access by bus in southern Hailsham, which shall include promotion of alterations to parking restrictions on local roads to enable a full-size bus to pass through the area and the alteration of existing traffic calming measures; and
- Delivery of a Travel Plan based on the Framework Travel Plan.
- A timetable and programme for the implementation of all of the above measures.

The STS shall be implemented in accordance with the approved details, programme and timetable.

25) The accesses detailed on approved plans refs: ITB15695-GA-001A and ITB15695-GA-007B shall be laid out and constructed in their entirety prior to the occupation of any dwelling.

26) No works below ground level shall take place until highway works details which shall include 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. The development shall be carried out in accordance with the approved details in accordance with a timetable to be agreed with the local planning authority.

27) No development shall take place until a biodiversity enhancement plan has been submitted to and approved in writing by the local planning authority. The plan shall be based on chapter 6 of the submitted *Ecological Appraisal – Prepared by Aspect Ecology*, dated November 2020, and the conclusions of the submitted *Technical note – Survey results* and *Mitigation Measures in respect of Dormice – Prepared by Aspect Ecology,* dated February 2022. It shall include timescales for implementation and details of future management of the

enhancement features. The development shall be carried out in accordance with the approved timetable and details.

28) No development shall take place until a wildlife management report has been submitted to and approved in writing by the local planning authority. The report shall include:

- Updated ecological surveys carried out by a suitably qualified ecologist, as necessary and in accordance with the recommendations set out in *Ecological Appraisal – Prepared by Aspect Ecology, dated November 2020*, and the *Technical note – Survey results and Mitigation Measures in respect of Dormice – Prepared by Aspect Ecology*, dated February 2022. The updated surveys shall include details of any mitigation necessary including:

- Detailed proposals for the protection of bats, birds, reptiles, great crested newts, dormouse and badgers, and measures for the mitigation of any harm.

The development shall be carried out in accordance with the approved wildlife management report in accordance with an agreed programme of implementation.

29) 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 (or updated guidance). The scheme shall be implemented in accordance with the approved details and thereafter retained.

30) The submission of the reserved matters 'layout' shall include an odour impact assessment and any mitigation or remedial measures necessary, along with a timetable for implementation of any mitigation or remedial measures. The development shall be carried out in accordance with the approved details.

End of conditions schedule

APPENDIX 6

Table of Statutory and Non-Statutory Consultee Responses

Statutory Consultee	Objection/No Objection	Other
ESCC Highways	No objection subject to the imposition of conditions	The application was received as a formal consultation in May 2022 and attracted a number of highway objections. The highway representation remained as a draft response which was shared with the applicant and planning case officer and was not submitted as a formal objection. The summary of the objections originally made are: i) Access suitability – gradient ii) Lack of measures to support active travel accessibility. iii) Site within a 60mph limit not conducive to reaching footway on west side of London Road or for cyclists. iv) Lack of suitable footway between Ringles Cross/Ringles Place and Snatts Road v) Lack of information to support the application – non motorised user audit vi) Location reliant on private car due to active travel constraints on the network. ESCC Highways formal and latest comments dated 17th February 2023 confirm No objection subject to the imposition of conditions and s106 agreement.
ESCC Archaeology	No objection subject to imposition of conditions	Dated 6th June 2022
East Sussex Police	Comments provided – no immediate concerns – relating to the detail which would be considered at the reserved matters stage.	Dated 25th May 2022
Southern Water	No objection	Standard response: Dated 27th May 2022 Second response: Dated 1st November 2022. Third response: Dated 7th November 2022.
Local Lead Flood Authority	No objection subject to imposition of conditions.	Dated 23rd May 2022
East Sussex Fire and Rescue Service	No objection	Dated 6th May 2022
Buxted Parish Council	First response: requested an extension on decision. Second response: Objection. Third response: Objection.	First response: Dated 10th May 2022. Second response: Dated 17th June 2022. Third response: Dated 12th April 2023.
NatureSpace	No objection subject to imposition of conditions.	Received on 24th May 2022

Waste Management	No objection subject to imposition of conditions.	Received on 17th May 2022.
WDC Ecology	No objection subject to imposition of conditions.	First response: Received 30th January 2023 Second response: Received on 25th May 2023
Non-Statutory Consultees		
WDC Housing	No objection subject to imposition of conditions.	Received on 27th May 2022
WDC Drainage	No objection subject to imposition of conditions.	Received on 16th May 2022
WDC/Rother Pollution Control	No objection subject to imposition of conditions.	Received on 12th August 2022
WDC Conservation and Design	No objection	Received on 31st May 2022
Uckfield Town Council	Objection	Received on 8th June 2022