

SBCH Design Code

Permission in Principle for the provision of a minimum of 1 and a maximum of 3 serviced plots for self-build and custom housebuilding.

Land adjoining White House Farm, Workhouse Lane, Hinckley, LE10 3AS.

June 2026



Contents

1. Introduction
 - 1.1. Purpose of this Document
2. Background
 - 2.1. Outline Planning Permission (in Conservation Areas and/or where Heritage Assets are impacted)
 - 2.2. NPPF Paragraph 139
3. Design Overview
 - 3.1. Design Guidelines
 - 3.2. Building Materials
4. Design Parameters
 - 4.1. Roofs and Chimneys
 - 4.2. Rainwater Features
 - 4.3. Windows
 - 4.4. Dormer Windows
 - 4.5. Doors and Porches
 - 4.6. Sustainability & Drainage

1. Introduction

1.1 Purpose of this Document

New development proposals should be designed sensitively to ensure that the high-quality built environment in the Parish and immediate locality is maintained and enhanced.

New designs should respond in a positive way to the local character through careful and appropriate use of high-quality materials and detail. Materials should be selected to compliment the design solution; however, they must be durable to maintain a consistent finish and longevity of the built form.

These aspects of design, and the construction materials used, are to be encouraged in any future development within or around villages. Examples of these preferred design features are qualified and illustrated in the following pages that highlight the recurring design themes that emerge from the Parish and surrounding area.

All new housing should reflect the character and historic context of existing developments within the Parish and incorporate a diversity of materials. Contemporary and innovative materials and design will be supported where positive improvement can be robustly demonstrated without detracting from the historic context



2. Background

2.1 Outline Planning Permission (in Conservation Areas and/or where Heritage Assets are impacted)

Acknowledging that the proposed development area is not in a Conservation Area but adjoining, with heritage assets nearby, the purpose of this section is to encompass and qualify matters relating to design of the outline planning proposal elements of this hybrid application.

It is our assertion that the comprehensive qualitative and quantitative parameters relating to design, form, massing, and scale in the documents listed below robustly empower the Council to make a suitably informed decision at technical details consent stage. The documents include but are not limited to:

1. Illustrative Site Plan.
2. Plot Passport.
3. Design Code.

Below are some examples of where Appeals for outline applications for self-build and custom housebuilding have been proposed in Conservation Areas with heritage assets in close proximity, and subsequently allowed at Appeal. Three distinct examples of permission in principle, outline planning and phased development are provided.

1. Appeal Ref: APP/H1840/W/22/3297160 Littleton Auction, The Croft Barn, School Lane, Middle Littleton, Evesham, Worcestershire WR11 8LN (**Appendix 1**)
 - a. The development proposed is for one self-build dwelling and enhancement to barn and yard.
 - b. P. 2 “The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second (‘technical details

consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages."

- c. The site is located within North and Middle Littleton Conservation Area (Conservation Area). This includes listed buildings such as the Tithe Barn Middle Littleton (the Tithe Barn) which is a grade I listed building and Scheduled Monument, and the grade II* listed Church of St Nicholas (the Church).

2. Appeal Ref: APP/C1435/W/22/3301104 Land at Old Nursery House, The Street, Framfield TN22 5PN (**Appendix 2**)

- a. 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'.
- b. There is provision that 5% of dwellings would be self-build or custom-build.
- c. The appeal site is within the wider setting of the Framfield Conservation Area ('the CA') which includes several listed buildings, and there are further listed buildings in the vicinity of the appeal site at Framfield Grange and Grange.

3. Appeal Ref: APP/Y3940/W/23/3317252 Land to the East of Waitrose, A429, Malmesbury, Wiltshire (**Appendix 3**)

- a. The development proposed is self-build residential development with associated infrastructure works, landscaping, open space, and a minor variation of the route of footpath MALM19. For the purposes of the Community Infrastructure regime (and any other relevant purpose), the application is for a phased development. Phase A comprising the construction of the infrastructure works, landscaping, open space and a minor variation of the route of footpath MALM19. The construction of each self-build dwelling is an individual phase.
- b. The site is close to the boundary of the Malmesbury Conservation Area (MCA) with Grade 1 Abbey Church of St Mary and St Aldhelm and St Pauls Bell Tower nearby.
- c. The application is for a phased development. Phase A comprising the construction of the infrastructure works, landscaping, open space, and a minor variation of the route of footpath MALM19. The construction of each

self-build dwelling is an individual phase at Land to the East of Waitrose,
A429, Malmesbury, Wiltshire.

The Planning Inspectorate is satisfied that outline applications for self-build and custom housebuilding in Conservation Areas with heritage assets nearby have no impediment to determination through the application being characterised as such.



2.2 NPPF Paragraph 139

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, considering any local design guidance and supplementary planning documents which use visual tools such as design guides and codes. Conversely, significant weight should be given to:

- (a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes; and/or
- (b) outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Paragraph 139 states that development that is not well designed should be refused. Significant weight should be given to development which reflects local design policies and guidance on design and/or outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Detailed design of a scheme would be considered at the reserved matters stage. This would include the layout and appearance of the proposed buildings, although the parameter plans that form part of an application would set limits on building positions, general form, and the height of each building segment. A design code also forms part of the outline application and sets moderately detailed instructions for the site and each of the proposed buildings. Should different architects design the detailed stages of the development, which would be likely for self-build and custom housebuilding permissions, the design code would enable the Council to have sufficient leverage to oversee the quality of detailed design, particularly in terms of layout, massing, appearance, and landscaping.

The design code and parameter plans are together sufficiently robust to ensure that ultimate design would be of a high quality. The adoption of these within the proposal could form part of the recommended conditions and thus adherence in the reserved matters stages would be assured.

This was referenced in Appeal Ref: APP/Z3825/W/21/3266503 Land south of Newhouse Farm, Old Crawley Road, Horsham (**Appendix 4**) where 47 units of the 473 proposed were self-build and custom housebuilding dwellings and the proposed development was an outline application with all matters reserved apart from access.

At Paragraph 107 it was stated “The secondary mitigation includes the commitment to design quality, secured by the DCS. That a high standard of design that would be of the High Weald could be achieved is not questioned. Whilst this level of commitment to design excellence may be unusual for an outline scheme, it is not exceptional for development within an AONB to be of the highest standard, rather this is an expectation, noting Government’s renewed commitment to creating well designed and attractive places. Nonetheless, **design standard could assist in managing some aspects of visual integration and I note that the Framework paragraph 134 (December 2024 paragraph 139) requires such considerations to be given significant weight.**”

We believe that the combination of documents as identified above provides comprehensive and robust qualitative and quantitative parameters to optimally inform decisions at technical details consent stage. Thus, as per Paragraph 139, and qualified above, we believe that significant weight should be attributed to the suite of design guidance material.



3. Design Overview

3.1 Design Guidelines

- New developments will be required to be sympathetic with their surroundings in respect of scale, design, siting, and materials.
- Building materials should be in keeping with the existing materials in the vicinity of the site. Brick size and colour, mortar colour, and roof materials will all be features to be considered.
- Windows and doors made of traditional materials will be encouraged, although modern materials will be acceptable provided that the door and window designs reflect those on the properties in the immediate vicinity. Multi-pane design windows and doors solid are preferred.
- Any new properties must be designed to fit sympathetically with the buildings in the immediate vicinity and to respect the local character.
- Roofs of future developments should follow the example of the past: i.e. pitched and gabled with traditional Welsh slates, satisfactory alternative or, where appropriate, dark red clay tile. However, standing seam metal roofs will be acceptable where the development proposal is paying homage to an agricultural background and/or setting.
- Chimneys will be required on new developments. Wherever possible, chimneys should be incorporated into gable end walls with details like older dwellings. Their absence will be accepted in barn style development proposals.
- New developments should avoid featureless and windowless walls on buildings in prominent locations. Suitable traditional details should be incorporated, e.g. the use of windows, false windows, or blue bricks to form a pattern, where this does not adversely affect the amenity of adjoining residents.
- Developments should avoid 'Standardised Designs'; individual and traditional styles that capture the distinctiveness of the village and reflect the building features found within the Parish will be encouraged.
- Garages should be unobtrusive and not a prominent feature of the design.

3.2 Building Materials

- Materials in any new development should complement the established vernacular in the use of natural, local resources and colours.
- The predominant building material within the parish/village is red/orange brick.
- The use of bricks and mortar and rendering materials that match with buildings in the immediate vicinity should be expected, as will the use of matching brick bonds and features.
- The finishing of gables and eaves should be in keeping with the design aspects of the village; the use of bargeboards on gable ends is incongruous to the settlement and should be discouraged. The preferred feature is brick relief design that has been used extensively on new and old properties alike.
- If render is to be considered, tones should be kept to within the pastel range. Bright primary colours are to be avoided and on principal elevations.
- Vertical and horizontal cladding is permitted but not on the principal elevation or street facing elevations. Cladding is not limited to timber as a material, with consideration for standing seam metal with preferred colours of black, dark grey and natural zinc colours. Primary colours and imitation green copper are not permitted for any cladding material on the principal elevation, street facing elevations or roof.



4. Design Parameters

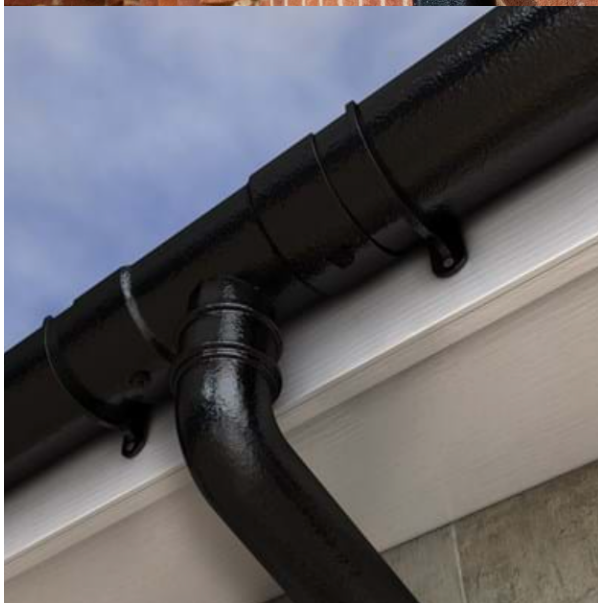
4.1 Roofs and Chimneys

- Height should be restricted to two storeys with careful design of roof elevations particularly on rising ground.
- In general, clay, slate or stone roofing materials should be used with slate primarily encouraged to reflect the roof types in the immediate vicinity of the development.
- Standing seam metal roofs will be acceptable where the development proposal is paying homage to an agricultural background and/or setting.
- Attention should also be paid to the types of chimneys as part of the overall design of the building; the use of appropriate styles of chimney pot should be encouraged. These should reflect the styles generally found within a rural village. Contemporary proposals will be considered.
- Roof integrated solar panels, tiles or slates are encouraged.
- The incorporation of green/sedum roofs in new housing is encouraged to promote sustainable living and enhances environmental resilience. It is considered that green/sedum roofs will populate flat roofs on extensions or outbuildings.



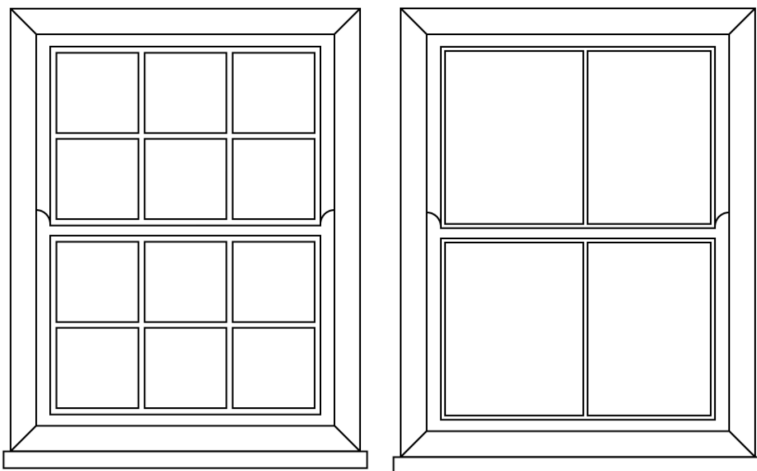
4.2 Rainwater Features

- Gutters and downpipes are important features. Inappropriate styles or colours can adversely affect the appearance of buildings.
- Modern materials are acceptable for these items, but dark colours (preferably black) are considered more appropriate.
- The use of white and other bright colours should be discouraged.



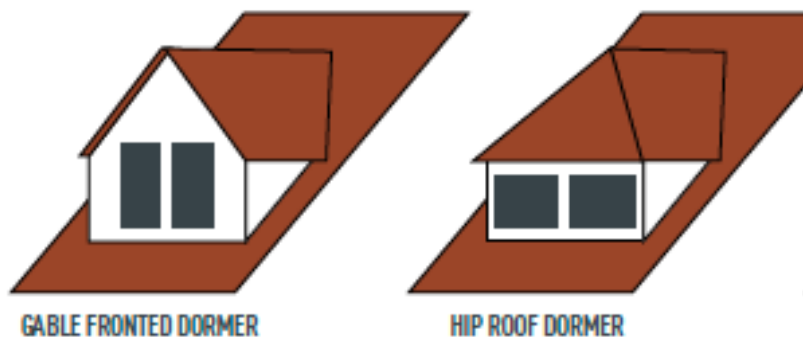
4.3 Windows

- A predominant window design is multi-paned sash or flush casement. Such design is not mandatory but preferred.
- Fenestration should enhance buildings; however, side windows should be carefully placed so as to minimise overlooking of other plots.
- Whilst traditional materials are encouraged, sensible and sympathetic use of modern materials is considered acceptable, provided the window design reflects that of properties in the immediate vicinity.
- Low grade pastiche white uPVC windows are discouraged.
- Particular attention should be paid to the brick details over windows and the sill design and materials.



4.4 Dormer Windows

- Dormer windows can dramatically influence the character of a building. Dormer window design is generally of a type that has a pitched roof and sits close to the eaves, with the bottom of the window interrupting the guttering.
- Where dormer windows are being considered, adherence to the preferred design features (gable fronted or hip roof) should be encouraged.
- Contemporary design using standing seam material should be reserved for the rear elevation.



4.5 Doors and Porches

- Most doors are set into the building with only a small rebate.
- Doors are predominantly of a solid type.
- Most porches in the village consist of a single canopy. Such designs are considered appropriate. Porches having a pitched roof should be designed to reflect and mimic the main roof construction.
- The use of these design features, together with, as far as possible, the use of traditional materials (although modern materials may be acceptable if used sympathetically within the Conservation Area) will be encouraged, subject to compatibility with the building and adjacent properties.



4.6 Sustainability & Drainage

- The inclusion of green, low carbon energy and sustainable technologies is mandatory as part of any dwelling design solution.
- EVC's are similarly mandatory.
- The incorporation of high standards of insulation will be encouraged.
- Micro generation, e.g., photovoltaic panels and (air or ground source) heat pumps will be supported as part of the overall design solution.
- As above, roof integrated solar panels, tiles or slates are encouraged.
- As above, the incorporation of green or sedum roofs in new housing is encouraged as it promotes sustainable living and enhances environmental resilience.
- Design should include, as appropriate, sustainable drainage systems (SuDS), other surface water management measures and permeable surfaces.
- Grey water and rainwater harvesting systems will be supported.
- The use of water butts is highly encouraged should none of the above be viable.



Appendix 1.

**Appeal Ref - APP/H1840/W/22/3297160 Littleton Auction,
The Croft Barn, School Lane, Middle Littleton, Evesham,
Worcestershire WR11 8LN**





Appeal Decision

Site visit made on 16 August 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2022

Appeal Ref: APP/H1840/W/22/3297160

Littleton Auction, The Croft Barn, School Lane, Middle Littleton, Evesham, Worcestershire WR11 8LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Stuart Homer against the decision of Wychavon District Council.
 - The application Ref 22/00230/PIP, dated 10 December 2021, was refused by notice dated 1 April 2022.
 - The development proposed is one self build dwelling and enhancement to barn and yard.
-

Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a maximum of one dwelling and enhancement to barn and yard at Littleton Auction, The Croft Barn, School Lane, Middle Littleton, Evesham, Worcestershire WR11 8LN in accordance with the terms of the application, Ref 22/00230/PIP, dated 10 December 2021.

Preliminary Matters

2. In addition to the erection of a dwelling, the proposal incorporates external alterations to The Croft Barn (the auction centre) and erection of a new façade to disguise the adjacent shipping containers. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. When granting permission, the decision must specify the minimum and maximum net number of dwellings which are, in principle, permitted. Details of the proposal that might properly fall for consideration at the technical details consent stage have been treated as indicative.
4. The Council's decision notice makes reference to the Council's assessment that it could at that time demonstrate a five year housing land supply of 5.76 years. However, the Council has since confirmed that it can no longer demonstrate a

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

five year housing land supply. On that basis, National Planning Policy Framework (Framework) paragraph 11.d)ii. is engaged. This states that where relevant policies are out 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.

5. The site is located within North and Middle Littleton Conservation Area (Conservation Area). This includes listed buildings such as the Tithe Barn Middle Littleton (the Tithe Barn) which is a grade I listed building and Scheduled Monument, and the grade II* listed Church of St Nicholas (the Church). Notwithstanding that heritage matters did not form one of the Council's reasons for refusal, I am conscious of my statutory duty under section 72(1) and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore I address heritage matters as a main issue in my reasoning.

Main Issues

6. The main issues are whether the site is suitable for residential development, having regard to location, land use and amount of development proposed, with particular regard to:
 - the effect of the proposal on housing land supply, including self-build plots;
 - the development strategy for the area and access to services, facilities and sustainable travel choices; and
 - the effect of the proposal on the character or appearance of the conservation area and on the setting of nearby listed buildings and the Scheduled Monument.

Reasons

Housing land supply

7. The Council acknowledge that it is presently unable to demonstrate a five year supply of deliverable housing sites in line with the Framework paragraphs 11 and 74. The extent of the shortfall has not been defined. However even if only a very slight shortfall, the proposal would make a small contribution to the supply of housing. I have given this contribution modest weight which I take forward in the overall planning balance below.
8. Under Section 2A of the Self-build and Custom Housebuilding Act 2015 (as amended) the Council is required to grant sufficient planning permissions to meet the demand for self-build and custom housebuilding in the authority's area in each base period. The Council maintains that the number of such permissions it has granted currently exceeds the demand for self-build plots by at least five. The appellant has challenged the robustness of the Council's evidence in that respect and references an appeal decision dated July 2020 (Ref APP/H1840/W/19/3241879). In that decision the Inspector found that evidence at appeal was not sufficiently reliable to conclude that the Council had met its duty.
9. Relatively limited details are provided of the permissions that the Council considers are addressing the current demand for self-build plots. Nevertheless,

even were I to accept that the number of self-build permissions meets or exceeds current demand as expressed through the Council's self-build and custom housebuilding register, the proposal would make a modest contribution to diversifying the housing market and increasing customer choice.

Development strategy and accessibility

10. It is not a matter in dispute between the main parties that the site is located outside of the settlement boundaries of both North Littleton and Middle Littleton. Under Policy SWDP2 of the South Worcestershire Development Plan (February 2016) (Local Plan) it therefore comprises open countryside where development is to be strictly controlled. The proposal would not comprise a rural worker dwelling, rural employment development, rural exception site, building for agriculture and forestry, replacement dwelling, house extension, replacement building or renewable energy project. Further, it is not submitted as one that would be specifically permitted by other SWDP policies. Therefore it would not meet any of the exceptions to development within open countryside (Policy SWDP2 criterion C).
11. Services and facilities within North Littleton and Middle Littleton appear reasonably limited. Whilst there may be some opportunity for employment in the locality, occupants of the appeal scheme would be likely to need to travel to other settlements for employment and to meet their day-to-day needs. Rural footpaths connect the site with North and Middle Littleton, albeit these would not be conducive to travel on foot in hours of darkness and for those with reduced mobility. I note that bus stops are located in Middle Littleton and North Littleton. The bus stop in North Littleton would require occupants of the appeal scheme to walk a short distance on the road or on grass verges, and is not well lit. However this would not be uncommon for a rural village location. Furthermore, the existing auction centre contains residential accommodation which makes use of the same appeal site access from School Lane.
12. Alternatively the bus stops in Middle Littleton are approximately 800m from the appeal site and accessible by pavement. The width of the pavement is relatively narrow and not particularly well lit, however it is reasonably flat. Although the desirability of the route would be less favourable outside of daylight hours, it would offer the potential for future occupants to make some use of the rural bus service. Nevertheless, given these constraints, an increase in travel by private car remains a likely consequence of the appeal scheme.
13. Consequently, whilst the site is previously developed, due to its open countryside location and constraints to accessibility, it would be contrary to the development strategy for the area. As such, it would conflict with Local Plan Policy SWDP2 as a whole. This seeks to focus development on urban areas where housing needs and accessibility to public services are greatest. The proposal would also be contrary to Local Plan Policy SWDP4. This seeks to ensure proposals minimise demand for travel and offer genuinely sustainable travel choices.

Conservation Area and Listed Buildings

14. The Conservation Area spans the two villages and incorporates green space and ridge and furrow land adjacent to the built settlements. Within the Council's Conservation Area Appraisal (2014) (CA Appraisal), the appeal site is classified as one of neutral features. In contrast, the Croft Barn (Littleton

Auction) is considered to detract from the appearance of the Conservation Area and as such is indicated as an enhancement opportunity. Insofar as it is relevant to this appeal, the significance of the Conservation Area is derived from the range of buildings of historic and architectural interest and their association with the villages' historic agricultural setting.

15. School Lane connects North Littleton and Middle Littleton. Existing houses front on to the Lane from the same side of the road as the appeal site. Therefore the proposed development would appear broadly consistent with the prevailing pattern of development. The topography of the area is relatively flat and the appeal site is not particularly prominent in the locality. The proposal would be contained by the form of the auction building to its rear and would not appear to encroach on undeveloped agricultural land.
16. The CA Appraisal identifies a significant viewpoint from School Lane, adjacent to the appeal site entrance, towards the Tithe Barn. The proposal would not encroach on this view or any of the other identified significant viewpoints. Consequently, from the evidence available at this point I am satisfied that the proposal could be designed so as to preserve or enhance the character and appearance of the Conservation Area.
17. Amongst other notable buildings within the Conservation Area are the Tithe Barn, and the Church. The Tithe Barn is a substantial building thought to date from the 1300s. It is constructed of blue lias stone with Cotswold stone dressings and a stone tile roof. Close to the Tithe Barn is the Church, also a substantial stone building and, together with the Tithe Barn, likely formed part of the historic village core. Insofar as it is relevant to this appeal, the significance of these buildings is primarily derived from their architectural interest and historic connection with the villages and their farmland.
18. The appeal site has a functional appearance due to the modern barn-like appearance of the auction centre, adjacent storage containers and the pylon at the site entrance. The appeal site appears as part of the auction centre site and is separated from the Tithe Barn by the intervening auction car parking area as well as the adjacent field. The Church is further separated by intervening houses fronting on to School Lane. Any visibility of the appeal site from the Tithe Barn and Church is likely to be an incidental rather than planned vista. Consequently, I find that the appeal site makes little contribution to the significance of the setting of those assets.
19. Accordingly, given the nature of the site and its surrounding context and from the evidence available at this point, I am satisfied that the proposal could be designed so as not to result in any harmful effects on the setting of nearby listed buildings and Scheduled Monument. I also note that the Council's Conservation Officer and the National Trust did not object to the proposal in principle. Further consultation and scrutiny of detailed design proposals would be necessary at technical details consent stage. As my assessment is context specific, I foresee no potential for this decision to set an unwarranted precedent or to justify proposals that might be considered to lead to harm to these or other heritage assets in the Conservation Area.

Other Matters

20. As the site is identified as being within flood zone 2, a sequential test is necessary to determine whether there are any reasonably available, lower risk

sites, appropriate for the proposed development. As no sequentially preferable sites were identified, the sequential test has been satisfied. I note also that flood risk did not form one of the Council's reasons for refusal on that basis. In addition, further consideration of flood risk and drainage would be required prior to the granting of any technical details consent.

21. I acknowledge that the proposal would occupy a proportion of the parking area for visitors to Littleton Auction. Whilst parking demand may increase over time following the Covid-19 pandemic, a reasonably large area for vehicle parking would remain available on site. Moreover the layout and efficiency of parking arrangements would reasonably be addressed at technical details consent stage. On the evidence available at this stage, the proposal would not unacceptably constrain the existing business or impair its continued operation.
22. The North and Middle Littleton footpath NM-524 runs along and partly on the northern boundary of the site. This is confirmed by Worcestershire County Council's public rights of way team with reference to the Council's definitive map. Therefore I am satisfied that the proposal could be designed to maintain this existing public right of way. A public footpath is also shown crossing the appeal site but is not recorded as a public right of way. No robust evidence is before me to indicate otherwise. In any event, matters relating to the detailed appeal scheme layout would be addressed at technical details consent.

Planning Balance

23. Framework paragraph 11.d)ii. states that where relevant policies are out 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. The Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development through the delivery of the mutually dependent economic, social and environmental objectives.
24. There would be a small benefit to the auction centre business should the proposed enhancements to the existing barn come forward. There would also be small economic advantages of construction and occupation of this development. I afford these modest weight. The proposal's contribution to the Council's overall supply of housing attracts modest weight, as does its contribution to diversifying the housing market through a self-build development. Paragraph 69 of the Framework recognises that small sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. There would also be a small benefit associated with the proposed development's potential to enhance the vitality of the existing rural community and surrounding settlements.
25. In the context of the development plan I have found the location of the proposed development would be contrary to the development strategy. It would also have only limited access to services, facilities and sustainable travel choices. It is therefore contrary to policies SWDP2 and SWDP4 and to the development plan as a whole. For this appeal, I have found policies SWDP2 and SWDP4 to be generally consistent with the relevant aims of the Framework. However, paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision-making.

26. In addition, whilst the conflict with these policies amounts to harm, the Council's development strategy is currently failing to deliver sufficient homes to meet the five year housing land supply. Therefore in the context of the appeal, this reduces the weight to be afforded to this policy conflict. Accordingly, I afford modest weight to these harms.
27. Subject to its design at technical details consent stage, the proposal would preserve or enhance the character and appearance of the Conservation Area and would not harm the setting of nearby listed buildings or the Scheduled Monument. These are neutral considerations. Given my reasoning above, flood risk, drainage and vehicle parking are also neutral in the planning balance at this permission in principle stage.
28. Therefore, the adverse impacts of the proposed development in respect of the location of the site and its accessibility would not significantly and demonstrably outweigh the combination of its benefits, when assessed against the policies in the Framework as a whole. Despite the conflict with the development plan, material considerations indicate in this case that permission in principle should be granted for the proposal.

Conclusion

29. For the above reasons, and having had regard to all other matters raised, the appeal should be allowed.

Rachel Hall

INSPECTOR

Appendix 2.

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



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 ghylls 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 site¹ 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 3.

**Appeal Ref - APP/Y3940/W/23/3317252 Land to the East of
Waitrose, A429, Malmesbury, Wiltshire**





Appeal Decision

Site visit made on 28 November 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 5th March 2024

Appeal Ref: APP/Y3940/W/23/3317252

Land to the East of Waitrose, A429, Malmesbury, Wiltshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (The Act) against a refusal to grant outline planning permission.
 - The appeal is made by Rob Stewart of Malmesbury Self Build Ltd against the decision of Wiltshire Council.
 - The application Ref PL/2021/09852.
 - The development proposed is self build residential development with associated infrastructure works, landscaping, open space and a minor variation of the route of footpath MALM19. For the purposes of the Community Infrastructure regime (and any other relevant purpose), the application is for a phased development. Phase A comprising the construction of the infrastructure works, landscaping, open space and a minor variation of the route of footpath MALM19. The construction of each self build dwelling is an individual phase.
-

Decision

1. The appeal is allowed, and outline planning permission is granted for self build residential development with associated infrastructure works, landscaping, open space and a minor variation of the route of footpath MALM19. For the purposes of the Community Infrastructure regime (and any other relevant purpose), the application is for a phased development. Phase A comprising the construction of the infrastructure works, landscaping, open space and a minor variation of the route of footpath MALM19. The construction of each self build dwelling is an individual phase at Land to the East of Waitrose, A429, Malmesbury, Wiltshire in accordance with the terms of the application, Ref PL/2021/09852, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application was made in outline form with all matters reserved apart from access. As part of the application indicative plans were submitted to show how the site could be laid out for up to 26 dwellings. The plans are marked as illustrative, and I shall treat them as such.
3. An updated version of the National Planning Policy Framework (Framework) was published on 19 December 2023. The main parties have been given the opportunity to make extra representations on this matter, and any comments received have been considered in my determination of the appeal.
4. The Council's fourth refusal reason refers to noise mitigation. It confirmed in its appeal statement that it is content that the additional information submitted by the appellant as part of the appeal is sufficient to overcome this matter, subject to the use of a condition if the appeal is allowed. I am satisfied that I should agree with this position; accordingly, matters relating to noise

mitigation and the living conditions of future residents should not form a main issue of the appeal.

5. The Wiltshire Local Plan and Malmesbury Neighbourhood Plan are both at an early stage of review. Both should attract little weight in the decision making process at this stage.

Main Issues

6. The main issues are:

- 1) Whether the site is suitably located for the development proposed, with regard to the development plan, and
- 2) The effect of the proposal on the character and appearance of the area, including the setting of the Grade 1 Abbey Church of St Mary and St Aldhelm¹ and St Pauls Bell Tower², and the Malmesbury Conservation Area.

Reasons

Location

7. The appeal site is a field that adjoins the developed edge of the market town of Malmesbury. It is outside the Council's development boundary, which is close to the site's western boundary on the other side of the main road, and more distant to the south. Core Policy 1 of the Wiltshire Core Strategy 2015 (WCS) establishes that market towns have the ability to support sustainable patterns of living and the potential for significant development. There can be no dispute that Malmesbury is a thriving settlement with a range of services and facilities that can meet the day to day needs of its residents and provide an attractive living environment.
8. Core Policy 2 of the WCS establishes that unless in circumstances permitted by other Policies, development will not be permitted outside the limits of development. There are no other development plan Policies that would permit the proposal. The appeal site is within the Malmesbury Community Area as defined by Core Policy 13 of the WCS, which ties development proposals back to Core Policy 1 and 2. The Council advises that the indicative requirement for housing in the area has been exceeded. Saved Policy H4 of the North Wiltshire Local Plan 2011 provides further exceptions for new dwellings outside development limits. The proposal would also not accord with these exceptions.
9. The Malmesbury Neighbourhood Plan 2015 (MNP) allocates land for housing development. Whilst there are no specific policies that restrict residential development in other areas, the allocated sites are considered sufficient to meet Malmesbury's housing need for the plan period, and it is suggested that this need has been exceeded.
10. In summary, the site is not suitably located for the development proposed as it does not accord with Policies of the development plan referred to above that establish the location of new development.

¹ List Entry Number 1269316

² List Entry Number 1269428

Character and appearance

11. The site is close to the boundary of the Malmesbury Conservation Area (MCA). The eastern edge of the MCA aligns with the western side of the A429, and the closest part of the MCA to the appeal site is occupied by the Waitrose supermarket and carpark. The MCA boundary was drawn before the supermarket site was developed. The supermarket itself does not have any apparent special architectural or historic interest. From the adjacent areas of the A429 the area beyond the supermarket site is not visible, and to the casual passerby it would not be clear that the historic edge of the settlement was close by to the west. Indeed, the A429 corridor in the vicinity of the site has a character and appearance that is typical of many suburban ring roads.
12. The appeal site is elevated significantly above the level of the A429 at its southern end. From this area it is easy to gain wide open views to the west towards the historic core of Malmesbury. The MCA covers the town's hilltop core and extends to its defining river valleys to the north and south. It enjoys a dramatic hilltop setting as an elevated medieval defensive settlement that is crowned by the distinctive form of the Abbey and Bell Tower. Its tight urban form is owing to the two branches of the river Avon that almost fully encircle it, and provided a natural defence that would have strongly influenced its early development. Consequently, the core of the town is tightly defined and densely formed. Roads are often narrow and steep, and many buildings occupy small and steeply sloping sites. These overall spatial and landscape characteristics are key contributors to the significance of the MCA.
13. These are also matters that are highly relevant to its setting. The interplay between the densely developed historic core of the town and the surrounding rural landscape are highly significant. As is its prominent hilltop and in particular the distinctive silhouette of its highly graded historic assets that are mounted on the town's highest ground and visible from many local vantage points. Despite the presence of a significant spread of more modern development to the west and northwest of its historic core, the relationship between the town, the river valleys to the north and south and the surrounding rural landscape are largely retained and free from the usual spread of modern suburban development. Thus, the wider landscape setting of the MCA, and the lack of modern suburban extensions to the historic core of the town are characteristics of its setting that contribute significantly to the character and appearance of the MCA.
14. There are many listed buildings close to the appeal site to the west. These primarily stand within the historic core of the town and are not individually discernible from the appeal site. However, the Abbey and Bell Tower are visible from the site. Their historic and architectural interest is recognised by their status as grade 1 listed buildings. The Abbey is reported to be one of the oldest and most important religious sites in England and dates from the 7th century, though the current buildings date from the 12th century. They have a dramatic hilltop setting and form a highly distinctive and unique skyline to the town, which was particularly discernible at the time of my visit when the late afternoon sun was behind the buildings.
15. It is suggested that the Abbey building would not have been designed or sited to take advantage of a particular view or landscape position. However, its development at the centre of the settlement would have been intentional, and

it is highly likely that its prominent siting on the highest ground would have been deliberate to highlight its importance to the community and with the aim of drawing people skyward or towards the heavens. Therefore, whilst the celebrated views of the Abbey and Bell Tower that are enjoyed today may not have been deliberately conceived as part of a formal or planned landscape, it is highly likely that their prominent hilltop siting was deliberate. For these reasons I find that these are important characteristics of the setting of both buildings that contribute to their special interest.

16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
17. The appeal site slopes down to the north, and at its southern end is considerably higher than the level of the adjacent road. The higher parts of the site allow views towards the upper parts of the MCA and Abbey and Bell Tower. On the basis that the proposed dwellings would be detached such views would still be possible between dwellings and along any roads that run east to west. The roof of the adjacent supermarket is highly prominent in views to the west from the site, especially through the leafless winter trees, and is a detracting feature.
18. The footpath extends from the southern part of the site to the east and the land rises in this direction. From the footpath in the adjacent field to the east of the site a greater depth of view towards the heritage assets is achieved. At my visit I saw that the view was clearer and more generous than that suggested by image EDP6 of the heritage appeal statement³, partly because the intervening trees were without leaf at the time.
19. From these perspectives the skyline is much more discernible than from the site, and the Bell Tower and Abbey more prominent. The supermarket roof is still visible, but at a lower level and is thus less noticeable. The hilltop form of the settlement and its crowning heritage assets can be easily appreciated from this perspective. Additionally, its undeveloped rural setting in the foreground and to the northwest can be appreciated and the site can be seen to form part of a swathe of agricultural land that extends away from the settlement.
20. From this perspective existing development either comprises the historic settlement as demarcated by the MCA, of which its easterly limit is defined by the A429 and its maturing tree lined edges, or the linear and more modern development that extends away from the roundabout and along B4042. The Landscape and Visual Impact Assessment⁴ clarifies that the tree belts that run alongside the A429 ensure that the modern road corridor, roundabout and supermarket are contained, and they significantly reduce the impact of these elements on the rural landscape to the east. Therefore, although the road is a modern construct, its vegetative boundaries offer some landscape mitigation and help to maintain the long-established interplay between the historic settlement and the surrounding agricultural land.

³ Report Ref edp5049_r004b

⁴ Ref: ACLA/BMO

21. The proposal would extend the developed area of the settlement beyond the boundary of the A429 into the open countryside on land that is higher than the adjacent supermarket site. The visual impact of many dwellings in place of the natural appearance of the existing field would be considerable. The proposal would thus represent a suburban extension of the historic settlement, in a direction that would dilute its tight historic form and thus cause considerable harm to the setting of the MCA.
22. Similarly, the development of the site for housing would draw out development within the setting of the Abbey and Bell Tower and dilute the strong and long-established interrelationship between the extent of the historic town and its rural surrounds. Its impact would be readily felt from the elevated land to the east of the site. I accept that this is only one of the many vantage points from where the heritage assets can be experienced, and development here would have little impact on other views; however, given the high grade of the listed buildings at the core of the MCA, a lessening of such a relationship from any perspective is likely to cause considerable harm.
23. Additional landscaping along the eastern boundary of the site would help to lessen the landscape impact to a degree. However, much of the site is significantly higher than the adjacent supermarket and the proposed planting would be limited to the thickness of a linear hedged boundary. It would soften the developed edge of the proposal but would not be sufficient to meaningfully lessen the overall harm that would arise from extending the settlement in this direction, and in any case such planting would take many years to establish.
24. In summary, in accordance with the LBCA, the duty to have 'special regard' is discharged. The proposal would not accord with Core Policies 51, 57 and 58 of the WCS and Policy 13 of the MNP, which together seek to ensure that development proposals do not harm the locally distinctive character of settlements and their landscape settings, and conserve the historic environment.

Heritage Balance

25. The impact of extending the settlement in this direction would be considerable. In addition to the general landscape harm the proposal would harm the special interest of the listed buildings identified by eroding a characteristic of their setting that contributes to their significance. There would also be some harm to the setting of the MCA. In terms of the Framework, the harms would be less than substantial, but would nevertheless be of considerable importance and weight. Paragraph 208 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
26. The proposal is for up to 26 self-build dwellings. There are lengthy submissions before me relating to this. The government's support for self-build and custom-build housing is clear. The Self-Build and Custom Housebuilding Act 2015 (SBCHA) requires planning authorities to establish and publicise a register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. The Housing and Planning Act of 2016 provides that planning authorities must give suitable development permission in respect of enough serviced plots of land to meet the demand identified. The Planning Practice Guidance (PPG) provides guidance on what methods a planning authority may wish to consider to determine whether an application or development is for self-build or custom housebuilding.

27. The Levelling Up and Regeneration Act 2023 (LURA) amended the SBCHA and recently came into force. This reinforced the view that self-build plots should only be counted in relation to development that is brought forward that is genuinely carried out as a self-build project.
28. The Council accepts that demand for self-build plots is advancing at a faster rate than is met by current supply. However, based on the evidence before me the situation would appear to be graver than the Council is willing to accept. Many of the schemes that the Council considers to be self-build development it does so with reference to the submission of the Community Infrastructure Levy Form (CIL) 7 Part 1, which does not require the submission of any evidence. Only a small number of developments recorded by the Council appear to have been sincerely built out as self-build development, as evidenced by the completion of CIL Form 7 Part 2. Reaching this further stage is a more robust means of demonstrating that a development has been realised as a genuine self-build scheme. An alternative means of securing this would be by a S106 agreement.
29. Without this evidence the Council has not satisfactorily demonstrated that it has granted enough permissions to meet the demonstrated demand for self-build development in its area, and the level of self-build delivery in its area is far worse than that suggested by its data.
30. Given what would appear to be a considerable level of under deliverability against a high level of demand for self-build development, I find that I should give substantial weight to the self-build nature of the proposal. The delivery of such is a clear public benefit that attracts significant weight in the heritage balance.
31. There would also be economic benefits delivered during the construction process, and this would be more than for a comparably sized housing development as it is recognised that a higher proportion of local spending is associated with self-build development. There would be additional long term benefits as future occupiers make the use of local services and facilities. These public benefits attract considerable weight.
32. Together the public benefits carry significant weight. I need to weigh this against the harm to heritage assets that would arise from the proposal, and take into account Paragraph 205 of the Framework, which states that great weight should be given to the conservation of a heritage asset. The harm relates to the special interest of the listed buildings identified and the character and appearance of the MCA. Whilst the level of harm would be considerable, I am satisfied that the public benefits of the proposal would be sufficient to outweigh the harm.

Other Matters

33. I have found that the site would not be suitably located for the development proposed and would not accord with the Council's approach to the location of new development, as established by the WCS.
34. However, for the reasons already given, its self-build characteristics weigh heavily in favour of the proposal. Additionally, the proposed dwellings would be well located, with good access to the town and its wide range of services and facilities and would not be spatially isolated from the spread of existing

development at the town's edge. It would be feasible for future occupiers to live at the site without depending on a private car to meet their day-to-day needs. Furthermore, the proposal would help to address the identified matter of in-commuting to Malmesbury, where the growth in jobs has not been matched by a growth in housing provision. I find that the failure of the proposal to accord with the development plan in respect of the location of new development is outweighed by these material considerations.

35. Numerous objections to the proposal are before me, which I have carefully considered. Matters relating to biodiversity net gain, disruption during the construction process, the need for the detailed design stage to be carefully managed, pressure on local services, surface water flooding, light pollution, landscaping and tree protection are all addressed by the conditions and planning obligation.
36. Potential further development to the east of the site would be considered on its own merits and is not a factor that should weigh against the proposal.
37. The highways impacts of the proposal have been carefully considered by the Council, requiring the submission of amended information so that the Council could be satisfied that the proposal would not harm highway safety. Based on my own assessment of the submissions and my observations on site I can see no reason to take a contrary view.
38. Although there is little evidence before me relating to this, the Council's second refusal reason also states that the proposal precludes future viable agricultural use/s for the adjoining farmland to the west and south, which would not represent an efficient use of land. A portion of land would be isolated by the proposal to the south of the application site area. This area of land is modest and is already separated from the rest of the field by a hedge. Whilst I accept that the proposal would prevent this portion of land being put to agricultural use in the future, its potential to serve a useful agricultural purpose is limited given its size, shape and proximity to existing dwellings. I do not therefore consider the layout to be inefficient and thus contrary to this aspect of Policy 57 of the WCS.
39. There are therefore no other matters before me that weigh against the proposal.

Planning Obligation

40. A Unilateral Undertaking (UU) pursuant to Section 106 of the Act is before me, dated 25 October 2023. The UU contains various provisions related to waste and recycling, early years education, primary school education, sports, open space, off site place space, off site biodiversity off-setting, management company provisions, and self-build and custom build housing. There is no dispute between the parties relating to the provisions of the UU.
41. I am satisfied that its content is fit for purpose and secures various necessary contributions, as well as securing the self-build nature of the proposal. With reference to Paragraph 57 of the Framework, the UU is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.

Conditions

42. I have had regard to the planning conditions suggested by the Council and the alternative wording suggested by the appellant. I have considered these against the tests in the Framework and the advice in the PPG.
43. Conditions 1-6 cover the phasing for the development and the submission of the reserved matters. They are worded such that the submission of individual details for each self-build plot can be made, to allow the development to be brought forward as a genuine self-build scheme.
44. Condition 7 is necessary to ensure that the design of the dwellings can be considered holistically, and the individual design of each dwelling responds appropriately to the context of the site, the relationship with neighbouring plots, and delivers a level of consistency necessary to minimise harm to the character and appearance of the area.
45. Condition 8 is necessary to safeguard any archaeological interest at the site.
46. Condition 9 is necessary to ensure that the development is adequately drained and does not lead to an increased rate of surface water run off from the site that would increase the potential for flooding elsewhere.
47. Condition 10 is necessary to ensure that adequate protection and mitigation for ecological receptors is in place prior to and during the construction process. This needs to cover the whole process, not just Phase A, to ensure that adequate measures and mitigation cover the entire development period.
48. Condition 11 is necessary to manage the impacts of the construction process to minimise harm to those who live nearby or use the adjacent roads. I have used the wording suggested by the Council as it is reasonable to expect that a statement could be prepared to cover the whole development through to completion, to which all would adhere to. This condition includes a requirement to submit details of hours of construction; so an additional separate condition relating to this is not necessary.
49. Conditions 12 and 13 are necessary to ensure the long-term management of landscape and ecological features to minimise harm to the character and appearance of the area, and the site's biodiversity interests.
50. Condition 14 is necessary to ensure that the acceptable living conditions are secured for future occupants of the development.
51. Conditions 15 and 16 are necessary to minimise harm to the character and appearance of the area and the site's biodiversity interests.
52. Conditions 17-22 are necessary to manage the highways impacts of the development, to ensure that it does not harm highway safety and encourages future occupants to make journeys by means other than a private car.
53. A separate condition to require the submission of details of a scheme of ultra low energy vehicle infrastructure is not necessary, as such provision is now secured through other legislation.

Conclusion

54. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Tucker

INSPECTOR

Schedule of Conditions

- 1) Phase A of the development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last of the reserved matters related to Phase A is approved, whichever is the later.

The development of each self-build plot hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of the approval of the last of the reserved matters related to that plot is approved, whichever is the later.

- 2) An application for the approval of all of the reserved matters related to Phase A shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3) An application for the approval of all of the reserved matters related to each self-build plot shall be made to the Local Planning Authority before the expiration of five years from the date of this permission.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: L02, R-21-0068-002 Rev A, and R-21-0068-007 Rev B.
- 5) No development of Phase A shall commence on site until details of the following matters in relation to Phase A (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:
 - a) The scale of the development;
 - b) The layout of the development;
 - c) The external appearance of the development;
 - d) The landscaping of the site;

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

- 6) No development of any self-build plot shall commence on site until details of the following matters in relation to that self-build plot (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:
 - a) The scale of the development;
 - b) The layout of the development;
 - c) The external appearance of the development;
 - d) The landscaping of the site;

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

- 7) No development shall commence until a Development Design Code for the entirety of the development and a Plot Passport for each self-build plot have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the reserved matters for any individual self-build plot shall accord with the approved Development Design Code and Plot Passport.
- 8) No development shall commence on site until a written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority. The approved programme of archaeological work has been carried out in accordance with the agreed details.
- 9) No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access), incorporating sustainable drainage details that include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage), has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.
- 10) No development shall commence on site, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:
 - a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
 - b) Working method statements for protected/priority species, such as nesting birds and reptiles.
 - c) Mitigation strategies already agreed with the Local Planning Authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
 - d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
 - e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
 - f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the CEMP.

- 11) No development shall commence on site including demolition, ground works/excavation, site clearance, vegetation clearance and boundary

treatment works, until a Construction Management Statement, together with a site plan, has been submitted to and approved in writing by the Local Planning Authority, which shall include details of 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) Measures for the protection of the natural environment, and
- i) Hours of construction including deliveries.

The approved statement shall be adhered to through the construction period including the construction of the individual self-build plots. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written agreement of the Local Planning Authority.

- 12) No development shall commence on site including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

- 13) The development shall be carried out in strict accordance with the biodiversity enhancement recommendations made in Section 5 of the Preliminary Ecological Appraisal of the site by Ecology by Design dated December 2021.
- 14) Any Reserved Matters application for residential development shall provide details (including calculations and reasoning) of the architectural sound mitigation, relevant to the control of external noise in accordance with the recommendations made in noise assessment Pro:PG Noise Assessment for Planning Application dated 31 January 2023. The assessment scheme shall demonstrate that the indoor noise criteria of BS 8233:2014 for all new residential accommodation can be achieved and identify noise attenuation and alternative ventilation measures, where necessary. Development shall be implemented in accordance with the agreed measures and shall be maintained thereafter.

- 15) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development, whichever is sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.
- 16) No new external artificial lighting shall be installed at the site unless otherwise agreed in writing by the Local Planning Authority.
- 17) No part of the development shall be first occupied until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.
- 18) No part of the development shall be first occupied until the first 5m of the access, measured from the edge of the carriageway and/or whole of the internal road layout, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.
- 19) No part of the development shall be first occupied until a scheme for the future maintenance of the roads and other communal areas has been submitted to, and approved in writing by, the Local Planning Authority.
- 20) No part of the development shall be first occupied until the offsite footway provisions and crossing point on the A429 with connection to the existing footway on the B4042 (High Street) shall be provided in line with approved drawing R-21-0068-007 Rev B.
- 21) No self-build plot shall be first occupied until details of secure covered cycle parking related to that self-build plot has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall accord with dimensions, access, location, design and security principals laid out in Appendix 4 of Wiltshire's LTP3 Cycling Strategy. These facilities shall thereafter be provided in accordance with the approved details and made available for use prior to the first occupation of that Self Build Plot hereby permitted and shall be retained for such use thereafter.
- 22) No dwelling shall be first occupied until those parts of the Travel Plan/Residential Travel Plan capable of being implemented prior to occupation have been implemented. Those parts identified for implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented if any part of the development is occupied. The Travel Plan/Residential Travel Plan Co-ordinator shall be appointed (within a month of occupation) and carry out the identified duties to implement the Residential Travel Plan for a period

from first occupation until at least 2 years following the first occupation of the last dwelling.

END OF SCHEDULE

Appendix 4.

**Appeal Ref - APP/Z3825/W/21/3266503 Land south of
Newhouse Farm, Old Crawley Road, Horsham**





Appeal Decision

Inquiry (Virtual) Held between 25 May and 4 June 2021

Site Visits made on 19 May and 6 July 2021

by Dr A J Mageean BA(Hons), BPI, PhD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th July 2021

Appeal Ref: APP/Z3825/W/21/3266503

Land south of Newhouse Farm, Old Crawley Road, Horsham

- 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 FCP Land 4 Ltd against the decision of Horsham District Council.
 - The application Ref: DC/20/0470, dated 3 March 2020, was refused by notice dated 29 July 2020.
 - The development proposed is an outline application for the erection of 473 dwellings, with new access provided off the Crawley Road, plus associated areas of open space and landscaping. All matters reserved apart from access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the fuller site address set out on the decision notice and appeal form as it more accurately locates the appeal site.
3. The application was submitted in outline with all matters except access reserved for future consideration. I have had regard to the Indicative Site Layout (1909/PL.04 Rev J) for the purposes in determining the appeal. I have also had regard to a Parameters Plan (1909/PL.06 Rev F) provided to establish the principles for accommodating development on the site.
4. An Environmental Impact Assessment (EIA) of the proposal was undertaken prior to the appeal. The resulting Environmental Statement has been found to meet the requirements of the EIA Regulations.
5. Following the Inquiry, a legal agreement, signed and dated 24 June 2021, was submitted under Section 106 of the Town and Country Planning Act 1990 (the S106 agreement). This reflected the earlier draft document, though was amended to reflect the discussion at the Inquiry.
6. The S106 agreement contains provisions to secure the delivery of affordable housing and also self-build and custom house building plots. It includes obligations relating to: the ongoing management and maintenance of open spaces; the details and contributions for upgrade works to public rights of way (PROW); an Air Quality Mitigation Strategy; and highways improvements, including a bus stop upgrade. It secures the implementation of a Design Code and a Biodiversity and Landscape Management Plan. Finally, it includes a contribution towards the improvement of the Horsham Riverside Walk.

7. Following the close of the Inquiry additional evidence relating to housing land supply, the local plan review, and recent appeal decisions was submitted. I have considered this where relevant and appropriate. However, whilst the appellant has referred to the contents of the Regulation 19 version of the Local Plan, as this document is not before me it is not appropriate that I consider its implications.
8. On 20 July 2021 a Revised National Planning Policy Framework (the Framework) was issued. The main parties were given the opportunity to comment on the implications of the resulting changes for this appeal. I have considered these as far as they are material to the outcome of the appeal. The paragraph references made within the decision are to the 2021 Revised Framework.

Main Issues

9. Prior to the Inquiry the Council confirmed that the S106 agreement would resolve the concerns contained in its fourth reason for refusal. This related to the lack of provision for affordable housing, PROW improvements, the delivery of outdoor amenity space, upgrading of nearby bus stops and highway contributions.
10. Whilst the Council's reasons for refusing the application included highway safety matters, following technical discussions between the parties prior to the Inquiry, the Council withdrew its objection in this regard. Nonetheless, as highway matters remain a concern for interested parties, this was handled as a main issue to allow for full consideration of outstanding concerns.
11. The remaining main issues are:
 - whether the proposal would conserve and enhance the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty (the AONB);
 - whether this would be an appropriate location for development in relation to the spatial strategy for the District;
 - the effect of the development proposed on the capacity and safety of the local highway network;
 - whether the Council has a five-year supply of housing land; and
 - other matters, including the benefits to be weighed in the planning balance.

Reasons

Landscape and AONB Matters

12. The appeal site comprises two cultivated fields and one deciduous woodland parcel, 'The Birches', and forms part of the wider countryside to the east of the built-up area of Horsham. The northern boundary of the western field with Old Crawley Road marks the north western tip of the AONB. The ancient woodland of High Wood forms much of the eastern site boundary, and the dispersed properties along Forest Road lie directly to the south. An informal grassed recreation space and allotments are located to the west, along with part of the identified built up area boundary of Horsham and the B2195. The site rises gently from north west to south east by a little over 20m to around 100m AOD, and then falls slightly to the south east.

13. As the AONB covers an area of some 1,461km², it is inevitable that the presence of the defining components of natural beauty will vary across its area. The characteristic elements apparent in the vicinity of the appeal site include highly interconnected areas of ancient woodland, productive fields bound by hedgerows, woods dissected by historic routes and isolated farmsteads. Other elements, including the landform pattern of faults and folds, numerous streams and the dispersed settlement pattern of late Medieval villages, including distinctive vernacular architecture, are less apparent. This, however, does not in itself determine that this landscape is somehow more 'ordinary', particularly as, via footpath routes, this area is closely connected and provides a gateway to more intimate landscape areas around Woodland Farm, Roffey Park and Faygate Forest to the east.
14. Unsurprisingly the AONB qualities are similarly reflected in the High Weald National Character Area (NCA). The rising land to the north of the A264 crosses the boundary into the Low Weald NCA. This area is recognised as being closely linked to the High Weald, and its characteristics include views from lanes and PROW to the higher ground of adjacent NCAs. The finer grain county and district level Landscape Character Area (LCA) assessments refer to this being a densely wooded area with a landform of flat top rides and steep sided ghylls, divided by fields. It is a strongly enclosed landscape with confined views and a sense of isolation and remoteness, despite the closeness of large towns and roads, though suburban development has spread along ridge top roads. Whilst the landscape value of these areas is judged to be medium to high, with high sensitivity to change, it is recognised that the overall condition of the district level LCA, that of St Leonards Forest, is declining.
15. At the site level some of these characteristic elements are experienced. The main PROW 1587, a route present since at least the mid-19thC, leads directly through to the eastern field where these qualities are most clearly apparent. The strong landscape framework around the fields, including the containment by High Wood and the separation provided by The Birches, along with the open views north across the vale to the wooded landscape opposite, together establish a strong sense of rurality. The road noise from the A264 and built form of Newhouse Farm to the north are apparent, and there are glimpsed views of perimeter dwellings to the west and south, but this does not significantly undermine the sense of being within rural fields. Representations indicate that PROW 1587 and its connecting paths and informal routes stemming from these are much valued and well used by local residents, particularly during recent times.
16. The western field is at a slightly lower level and appears less well connected to the wider landscape. The lack of buffer from the road noise and the visibility of the built form of the settlement edge to the west, mean that whilst it provides a rural setting for Horsham, it has a more transitional character.
17. In visual terms the containment provided by High Wood, and mature trees screening much of the Forest Road and Beech Road properties mean that the most important receptors are in close proximity to the site. Those to the north and north west are associated with residential receptors and transient road users and have clear visibility of the gently rising ground. From the west and south views into the site are restricted by intervening vegetation, though this also serves to limit awareness of the urban edge to glimpses only. Of greatest sensitivity are the viewpoints from within and closely adjacent to the eastern

- field. From within the field, whilst partial views of some Beech Road dwellings and the dispersed Forest Road properties is possible, the edge of settlement location is not readily apparent. It appears that there may be glimpsed views of the Land North of Horsham (LNH) development from viewpoint (VP) 12, but this would be largely screened by existing tree cover.
18. Several more than partial views through to the eastern field are gained from the PROW 1587 approach to the east, and also a limited number of longer distance views from walking and cycling routes across the vale from the north to the higher ground of the appeal site. In these views, particularly VP 31, the valley side position of the appeal site is seen as part of the combination of fields and intervening woodland forming the vista of the High Weald. The eastern field is particularly prominent as an open field rising up the valley side and is not significantly filtered by existing tree cover. There is some loose and indistinct sense of the built form beyond the woodland setting to the west, though at the time of my summer site visits the extensive tree cover masked the presence of Horsham to a very considerable degree. I accept that this may be less effective in winter months.
19. The LNH development may become apparent at lower levels on the western side of these views, though to a limited degree only due to existing woodland cover and the fact that this will mostly be sited below the 75m contour, around 20m lower than that proposed on the appeal site. It will not, therefore, fetter views across to the open aspect of the eastern field. Nonetheless it is probable that in other views further west, such as VP 26 and 28, and VP 33 and 34, the current restricted views of the appeal site will be interrupted by the built form of the LNH development.
20. Therefore, in landscape and visual terms the appeal site cannot be described as deeply rural, with evidence indicating that this outer part of the AONB is, perhaps unsurprisingly, one of its least tranquil areas. The area lacks elements of the inner parts of the AONB: specifically, the strong sense of intimacy generated by the more intricate topography, the remoteness associated with distance from larger settlements, and the visual interest associated with Medieval villages. Nonetheless, local and more distant views reveal that the appeal site does reflect important elements of AONB and NCA/LCA character. Specifically, there is a sense of the complex and well-connected mosaic of woodland and field structure which evokes an essentially rural and human scale character, from which the outstanding beauty of the AONB is said to stem. The eastern part of the site is more closely related to the rural qualities of the AONB and is only loosely connected to the town. Further, notwithstanding the urban influences around the western field, the experience of walking the footpaths in and around the eastern part of the site, do provide a sense of intimacy and escape.
21. The Horsham District Landscape Capacity Assessment (HDLCA), prepared in 2014 and updated in 2020, is an objective and consistent assessment of the capacity of land around existing and new settlements to accommodate new housing and employment development. More specifically, it seeks to identify areas where new development could best be accommodated without unacceptable adverse landscape and visual impacts. The appeal site covers much of the southern part of Area 17. This landscape is assessed as being in good condition, despite the proximity of Horsham, with the southern part having a strongly rural character. Area 17 is identified as having *moderate-*

high visual sensitivity with some limited capacity for housing development closer to the existing urban edge but this should not extend further east¹ as this could be perceived as a significant incursion into the AONB. It is categorised as having 'moderate' capacity for medium scale housing development of around 100-500 units.

22. Be that as it may, the levels of landscape sensitivity and capacity identified in the HDLCA are generalised statements, providing indicative landscape and capacity levels with further analysis expected at a smaller scale to determine the actual capacity of the site. In the current case the landscape evidence broadly corroborates the findings relating to Area 17, though at this finer grain level it identifies the variability of sensitivity across the site.
23. Whilst submitted in outline at this stage, the appeal proposal illustrates how the main blocks of residential development would be introduced into the east and western fields, connected by two new road corridors running through The Birches. It is inevitable that the transformative nature of this scheme with the permanent loss of agricultural fields and their replacement with significant housing development would cause varying degrees of landscape and visual harm.
24. In settlement terms much has been made of the comparative circumstances of the LNH development, noting that its area relates to land previously identified as having similar capacity to Area 17 (though varying from no/low to mod/high capacity). Full details of what will be a significant urban extension are not before me, though the fact that it will be on lower land than the appeal site suggests that it has been sited to minimise intervisibility across the vale into the AONB. This development has established the expansion of Horsham to the north, beyond the A264 in an area not distant from the appeal site. However, these areas are separated by the A264, the railway line and fields. As such there is no evidence to support the suggestion that the development of the appeal site would somehow integrate with a wider settlement edge.
25. Whilst the development of the western field would have some connection with the existing settlement edge, the same cannot be said for the eastern field. Therefore, even though only around a quarter of Area 17 would be built on, this larger part of the development would amount to a distinct incursion into a rural setting, the part of Area 17 of greatest sensitivity.
26. At a more detailed level it is clear that efforts would be made to sensitively integrate the development into the site, with built form set in from its boundaries, its overall profile remaining the same, the retention and improvement of the route of PROW 1587, and the retention of an area estimated to be 48% as green infrastructure. This would include the establishment of a country park and the creation of a 20m wide block of native woodland and scrub planting to contain the northernmost part of the eastern field. This would reinforce the wooded character of the site context, with the retained open area also connecting with the rural setting to the east. Nonetheless, notwithstanding that the spaces would include naturalistic and semi-formal planting areas, their essential role would be to provide an attractive setting and recreation opportunities for the new homes. As such there would be a change in character from an essentially modest agrarian landscape to a managed setting for significant residential development.

¹ CD7.8 p34 Whilst referred to as 'west' it was agreed that this was a mistake

27. At this outline stage in order to give some certainty, principles of the design and layout have been set out in the Design Commitment Statement (DCS) and Landscape and Ecology Commitment Statement (LECS), which are tied into the S106 agreement. These documents set out that the scheme would be a little below the threshold density range set out in the HDLCA, and that its character would seek to draw from the intrinsic qualities of the wider AONB to provide new homes that would be characteristic of the High Weald. This would include being of an appropriate scale and layout, the use of local vernacular elements and colour palette, and the presence of trees throughout. On this basis it would certainly be possible to create attractive and high-quality homes in this setting, and overall the scheme could be perceived as a 'beautiful' place to live. However, whilst assisting to a degree with visual integration and mitigation, this does not in itself demonstrate that development here would be appropriate in landscape or visual terms.
28. The creation of a total of over 3ha of new woodland cover would be a benefit and would, in time, have the effect of moderating the harm caused by the insertion of two 10m wide roads through The Birches. However, the 20m buffer to High Wood would be bordered by development, resulting in a loss of visual appreciation of this feature in the landscape.
29. The upgrading of PROW 1587 to a bridleway would support year-round access for all and provide an attractive tree-lined route. Nonetheless it would also be bordered by roads, houses and associated infrastructure. This would transform the character of this rural route, currently very much valued for its relative tranquillity and opportunity for escape.
30. In visual terms the most significant effect would be on the highly sensitive internal and closely adjacent visual receptors, particularly VP's 12, 14 and 15 along PROW 1587 in which built form would fill much of the field of vision. Distant views north would also be lost due to both built form and the additional woodland planting. Beyond the built form to the east, open space and woodland planting would provide a green outlook, though onto managed space.
31. When approaching from the west (VP 16 and 17) awareness of the site is restricted by the presence of trees, serving to highlight the kinetic experience of arriving to appreciate the scale and openness of the site. Whilst some openness would remain around PROW 1587, Verified Visual Montage (VVM) 16 illustrates the change to an essentially suburban character. Even with mitigation, the effect on these sensitive viewpoints would be to cause major adverse harm.
32. Directly to the north in VP5 and VP6 from Old Crawley Road, a route well-used by walkers, initially the development in both fields would be seen behind farm buildings, rising with the landscape. This would be moderated in time by planting, though rooftops would remain visible breaking the skyline, such that the harm would remain moderately adverse. Similarly, slightly further east from VP 9 on PROW 1588, a section of open views across the field boundaries to the western field would be lost to the development, though again in time this would in part be filtered by vegetation. Also, the moderate visibility of the open aspect of the eastern field from the PROW, would initially be dominated by built form. Woodland planting would significantly mask this in time, reducing harm to minor-moderate adverse.

33. In the limited number of longer distance views from the north, particularly around VP 31, the development would be visible stretching across the two fields on either side of The Birches, close to the skyline and set apart from existing built form. Additional woodland planting would provide some mitigation of visual impacts over time, though roof tops and higher levels of built form would remain visible, particularly noting that the parameter plan includes areas of 2.5-3 storey units. The presence of development would remain moderately harmful.
34. For those receptors close to the western field the development would meet the settlement edge and the view of the wooded valley side would be blocked. Efforts to mitigate the immediate visual impact of the scheme through planting would be hampered by the fact of the gently rising valley side. Similarly, notwithstanding the fact that development would be set back from the entrance on Old Crawley Road, VVM 2 illustrates that it would be hard to moderate the presence of the development and infrastructure associated with what would be a significant junction. Whilst it is agreed that the overall effect would be adverse for residential receptors, the presence of the existing settlement edge and road infrastructure would to some degree contextualise perceived harm.
35. Turning to consider wider AONB management objectives, the retention of most of the existing woodland framework, reinforced with further planting, would assist with managing the visual intrusion associated with development of this scale, and it would be of a high standard of design, taking cues from elsewhere in the High Weald. However, this would not in itself ensure that this would be a positive addition. The development of the eastern field would have a tenuous relationship to the settlement edge. The dispersed settlement structure of the AONB is part of its natural beauty which management objectives seek to protect. Pressure for greenfield housing development such as this, which is not well related to the existing residential area nor its setting, is threatening AONB character.² Whilst historic routes would be retained and improved to support increased usage, their rural character would change significantly. In terms of perceptual qualities, the sense of being in the countryside and able to appreciate AONB character would be lost.
36. The fact that Horsham does not itself possess the natural beauty of settlements fully embedded within the AONB, and that this is an outer part of the AONB, are not primary considerations when assessing landscape and visual impacts. The appeal site *is* within the AONB. The appellant's reference to the fact that further exploration of the AONB would still be available 400m to the east, underestimates the intrinsic value of the eastern field in itself and as a gateway to the wider countryside.
37. Summing up, the appeal proposal would introduce a significant area of residential development into an area of moderate to high landscape sensitivity. Whilst it would be sensitively handled in relation to some existing site features, I have found moderate to high adverse effects in relation to a number of landscape receptors, particularly associated with the eastern field. In visual terms the effect of existing woodland, in combination with the woodland cover proposed, would to some degree screen the presence of the development in

² CD7.1 AONB Management Plan, p32

some local and more distant views. Nonetheless, I have found residual moderate and major adverse effects to some visual receptors.

38. On this basis I find that the significant harm to the landscape and visual qualities of the site means that the proposal would not conserve and enhance the landscape and scenic beauty of the High Weald AONB. There is conflict with the requirement of the Horsham District Planning Framework 2015 (HDPF) Policy 25 to protect, conserve and enhance landscape character, and Policy 26 which seeks to protect the undeveloped nature of the countryside against inappropriate development. Whilst design quality is not at issue, there would be conflict with those aspects of Policy 32 and Policy 33 requiring that development relates sympathetically to and integrates with its surroundings.
39. Whilst not referred to in the reason for refusal, the relevance of Policy 30 relating to protected landscapes is agreed. There is conflict with the Policy 30 requirement that there should be no adverse impacts on natural beauty and public enjoyment.
40. In terms of policy and statute, the notion of relative beauty, and the fact that the appeal site is not with in deep countryside, with other areas perhaps having greater scenic beauty, is not important. Neither is the fact that the appeal site is a tiny corner of the much larger AONB, two fields out of some 10,000. Nonetheless, the assessment of harm to landscape and scenic beauty set out above is qualified. In this regard Policy 30 refers to the fact that decision making in relation to major development should also include public interest considerations, reflecting the balanced approach to AONB planning decisions set out in the Framework paragraph 177, points to which I return below.

Spatial Strategy

41. The appeal site is located outside though adjacent to part of the built-up area boundary of Horsham. Policy 2 sets out that the overarching spatial strategy to 2031 seeks to protect rural character, whilst ensuring that the needs of the community are met through sustainable growth. This indicates that development should be focused in and around the key settlement of Horsham, with growth in the rest of the district in accordance with the identified settlement hierarchy. It also requires that development around the edge of settlements be managed in order to prevent the merging of settlements and to protect rural character and landscape. As such my conclusion of harm in relation to the first main issue is of direct relevance.
42. Policy 3 further defines the settlement hierarchy and allows for development within built-up areas, whilst Policy 4 sets out how development around the edge of settlements is to be managed. This establishes the mechanism for growth through the designation of built-up area boundaries and the planned expansion of existing settlements through the Local Plan or Neighbourhood Planning. In this case, whilst the site does partly adjoin the settlement edge, as the proposal relates to land that is neither allocated in a Local Plan nor Neighbourhood Plan, there is conflict with the first criteria. In basic terms the proposal may meet criteria 2 given the scale and function of Horsham. However, in relation to criteria 5, the proposal would not maintain and enhance landscape character features.
43. Also of relevance, Policy 26 seeks to protect the rural character and undeveloped nature of the countryside against inappropriate development. It

sets out that development outside built-up areas must be essential to its countryside location and additionally must meet one of four identified criteria, none of which apply to the present case.

44. I therefore conclude that this would not be an appropriate location for development in relation to the spatial strategy for the District, as set out in Policies 2,4 and 26. I will return to the matter of the weight to be attached to this policy conflict as part of the planning balance.

Highway safety

45. A SoCG on traffic and transport matters addresses considerations relating to the access onto the B2195 Crawley Road in terms of its safety and possible increased hazards for road users, and also the effect of the development on the capacity of the local highway network.
46. Vehicular access to the site would be provided by a three-arm signalised junction which would include pedestrian and cycle crossing facilities, and a new 3m wide shared pedestrian/cycle link on the western side of Crawley Road. Measures to improve safety would include appropriate signage on the shared pedestrian/cycle routes to minimise risks of conflict between users on these routes and through the junction. From the details before me I agree that this access arrangement would be appropriate for the scale of development proposed, and on this point there are no outstanding highway safety concerns.
47. Updated traffic data modelling to 2031 has incorporated cumulative considerations relating to the LNH and Kilnwood Vale developments. Interested parties expressed particular concern about queuing from the Moorhead Roundabout. On this point adjustments made to signal timings at the Moorhead Roundabout junction, and other junctions, could be made to optimise operations and reduce queuing. On this basis I agree that the impact of the proposed development could be mitigated, and capacity impacts managed, such that the performance of the road network would be comparable to that previously accepted when assessing the LNH and Kilnwood Vale developments. As a result, the development would not have severe capacity impacts on the surrounding road network.
48. Further measures would be introduced to improve pedestrian and cycling facilities in and around the appeal site and on routes to local destinations, including schools and Horsham town centre. These measures, along with enhanced bus stop facilities, would assist in supporting the sustainability credentials of the site, as well as addressing concerns about traffic and pollution levels.
49. I therefore conclude that the development would not have an unacceptable effect on the capacity and safety of the local highway network. In this regard the requirements of HDPF Policy 40 relating to the provision of safe and suitable access and the need to minimise potentially significant impacts on the wider transport network would be met. The Framework paragraph 110 requirement in relation to the mitigation of significant impacts on the transport network would also be met.

Housing land supply

50. As the HDPF is more than five years old the adopted housing requirement of an average of 800 dpa (dwellings per annum) is now out of date. It was agreed at

the Inquiry that the standard method for calculating local housing needs results in a figure of 897 dpa. Whilst subsequent to the Inquiry the Council have indicated that 902 dpa has been used elsewhere, both parties agree that 897 dpa is consistent with planning practice guidance (PPG). As such the five-year requirement for the period 1 April 2020 to 31 March 2025, is 4,485. If a 5% buffer is added then the five year requirement figure is 4,709.

51. The Annual Monitoring Report December 2020 indicated that the five-year supply of deliverable units for this period is 5,104 dwellings. The Council has updated this figure, such that the supply is considered to be 4,780 dwellings, that is a 5.08 years supply.³ The appellants position is that the deliverable supply is 3,252 dwellings, equating to a 3.45 year supply. The deductions relate to the anticipated build out rate on two sites, the deliverability of three sites with outline planning permission for major development, the deliverability of eight neighbourhood plan allocations without planning permission and finally the disagreement about whether a windfall allowance for sites of over 10 dwellings should be included.
52. In determining 'deliverability', the Framework Annex 2 sets out that Category A sites which do not involve major development and have planning permission, and all those sites with detailed planning permission should be considered deliverable in principle, unless there is clear evidence that homes will not be delivered within five years. In contrast Category B sites, including those which have outline planning permission for major development or have been allocated in a development plan, should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. The essential point for both categories is whether or not it is reasonable to assume that they will contribute to the five-year supply, though caselaw has determined that it is not necessary for there to be certainty of delivery as anticipated.
53. Some examples of the nature of 'clear evidence' is provided in the PPG.⁴ These are necessarily generalised and refer to indicators such as 'progress towards approving reserved matters' and 'firm progress with site assessment work'. Nonetheless, as the Framework definition makes clear, the key test for all sites should be whether there is a 'realistic prospect' of delivery within five years.
54. Looking firstly at the disputed sites in relation to build out rates, the two sites in question have full planning permission for major development and so in accordance with the guidance are agreed to be 'deliverable', unless there is clear evidence that homes will not be delivered within five years.
55. Site A01 – West of Horsham (East) Highwood. Around half of this 1,000+ unit scheme had been developed by the base date. The average build rate on this site by the developer is 70.75 dpa, with a slightly lower build rate of 65 dpa over the past five years. The appellant notes that delivery so far has included a number of apartment blocks, reasonably assumed to have a faster completion rate than houses. Remaining phases include a mix of houses and flats. The Council's anticipated delivery of 75 dpa, is based on the current buoyancy of the local housing market and the fact that an established builder has been on site for the past eight years. As such 375 units are included in the

³ The Council has since conceded in its 30 June 2021 response to correspondence from the appellant that for a future appeal its supply level is considered to be 4.98 years.

⁴ Para 007 Reference ID:68-007-20190722

deliverable supply. These propositions appear to be reasonably sound and provide a not unrealistic basis for the prediction. As such there is no evidence to suggest an adjustment to the supply figure is necessary.

56. Site A02-Kilnwood Vale-Colgate. The Kilnwood Vale site overall gained outline permission for up to 2,500 dwellings in 2011. Completions started in 2013, and 137 dpa have been completed on average. An occupation schedule provided by the developer indicates that 570 dwellings will come forward for the Colgate site and 218 dwellings for the Colgate Reserve site. The Council has removed 30 from the first figure to allow for slippage, giving a supply figure of 758, equating to an average of 152 dpa.
57. It is clear from earlier completion figures that this site is capable of higher delivery rates (353 in 2017/18 and 196 in 2018/19). I also understand that the lower delivery rate of 74 units in 2019/20 related in part to the completion of the infrastructure for a school. However, the appellant provides evidence that the developers prediction in 2018 of 204 units for 2019/20, presumably at a point when the requirement to provide a school was understood, was completely unrealistic. This provides reason to doubt the credibility of the current predictions. I therefore agree that a more realistic basis for the supply figure is the average of past completions, that is a deduction of 73 units from the five-year supply.
58. The three sites where the dispute relates to the deliverability of major development with outline planning permission are Category B sites, where the Council is required to demonstrate deliverability. The first relates to site B02, Former Novartis Site, a proposal for a mixed-use neighbourhood with outline consent for up to 300 dwellings, with 245 dwellings currently planned. The site is owned by West Sussex County Council (WSCC) who have appointed Muse Developments as its preferred development partner. WSCC anticipates that a reserved matters application for the phase 1 development of 133 dwellings will be submitted in 'late autumn' 2021, with construction starting in August 2022 and completing in 2023/24. The Phase 2 programme of 112 homes is anticipated to be completed in 2025/26. Whilst the AMR included 250 units, this has been updated to reflect the anticipated completion of phase 1 only.
59. This timeline has been set out by the landowner and not the developer. It may be reasonable to suggest that WSCC as landowner has less reason to exaggerate delivery speeds, and some on site clearance works have commenced. However, the email correspondence relied upon falls short of the robust and practical supporting evidence referred to in the PPG. It does not reflect the challenges around gaining reserved matters approval, noting also that there is no evidence of pre-commencement conditions associated with the outline approval having been discharged. As such it is not clear this site will be able to deliver the 133 dwellings anticipated by the Council, though it appears reasonable to assume that development will have started on site.
60. Site B03 Kilnwood Vale, Rusper, is linked to Site A02 and refers to phases 4 and 5 of the overall development. It is allocated for 594 dwellings, with the developer's occupation schedule suggesting that 180 dwellings should be included in deliverable supply, with delivery starting from Q1 2023. Whilst the Council assumes that a reserved matters application could come forward in early 2022, there is no sound basis for this assumption, noting that the current outline approval is scheduled to expire in October 2023. This approval also

contains a condition requiring details of a railway bridge to be submitted with the reserved matters application, stating that dwellings are not to be constructed until this is in place. No evidence of progress towards such an application is provided, suggesting that delivery from Q1 2023 is unrealistic. Further, the reliance on the previous delivery rates in earlier phases of development as an indicator of future performance is not a sound basis for evidencing the deliverability of this Category B site. Whilst it is probable that a proportion of these units will be delivered within five years, my view is that it is not appropriate to include all 180 units in deliverable supply.

61. Site B04 Land North of Horsham. This is a large strategic site with outline planning permission to provide up to 2750 dwellings and a range of supporting uses. As at March 2021 there were 42 live applications relating to this site, including a range of outline, reserved matters and approval of details applications. Substantial progress is being made towards delivering necessary infrastructure, including a school, due to open in September 2022, and a footbridge over the A264. Detailed consent has been obtained for 193 dwellings at RM Area 1, with construction due to commence in summer 2021, and a further detailed application for 197 dwellings (RM Area 2) is currently under consideration. There have also been pre-application discussions in relation to a further 219 homes (RM Areas 6 and 7), which are to be affordable dwellings constructed using modular construction methods which, the developer anticipates, would speed up delivery considerably.
62. It is realistic to expect residential development to be completed on this site within five years, and progress on RM Areas 1 and 2 can be expected to deliver 390 units within this period. Whilst there is a reasonable prospect of RM Areas 6 and 7 also starting to deliver, the evidence relating to this is less than clear and cannot be relied upon. As such the Council's anticipated 700 dwellings in the five-year period is optimistic, noting that this is based on the developers current generalised trajectory, which they acknowledge is prior to land sales. Evidence of build rates on similarly sized local sites does not represent the sort of clear evidence of deliverability anticipated by the PPG.
63. The next group relates to neighbourhood plan (NP) allocations. The first of these, Site C01 Land north of Parsonage Farm, Henfield is included in the draft Henfield NP, which recently passed referendum, for around 205 dwellings, with the Council suggesting that 40 dwellings should be included in supply. Correspondence from the site promoter indicates that preliminary site appraisal work is underway and that an outline application is anticipated by June/July 2021. It appears that pre-application advice was on the basis of 270 units, though the details of that are not before me, with the promoter most recently stating their intention to progress an application for around 230 units and suggesting commencement in winter 2022/23. Given uncertainties about site capacity and the lack of supporting information, including the required masterplan, the ambitious statements of the promoter fall short of realistic evidence that completions could be achieved within five years.
64. Site C02 Land East of Wantley Hill, Henfield is also included in the draft Henfield NP for around 25 dwellings. It is a WSCC site and is one of a number involving a recently agreed joint venture with Lovells. Email evidence suggests that it is 'hoped' that a planning application will be submitted in December 2021, though this is subject to joint venture programming. Details of the nature of the application and future programming are limited. Some

preliminary site assessment work in terms of ground level water and filtration tests took place earlier this year. However, such generalised aspirations fail to show a realistic prospect of housing completions within the five year period.

65. Site C03 Land West of Backsettown, off Furners Lane also relates to a site allocated in the draft Henfield NP. The Council suggest 30 dwellings should be included in supply. Evidence of detailed site assessment is provided, however the planning agent indicates that a planning application will not be prepared until early 2022 at the earliest, and that full planning permission is 12-18 months away. As there is some uncertainty about timings it is not realistic to expect delivery within the five-year period.
66. Site CO5 Land at Holly Farm, Mannings Heath is allocated in the Nuthurst NP, for five dwellings. Planning permission was refused in October 2020, with a second application submitted in March 2021 seeking to overcome previous reasons for refusal. Having reviewed the supporting documentation, which has been presented to the Parish Council, it does appear that the revisions proposed could address previous concerns, and that there is some momentum around gaining approval. As such, I am satisfied that there is a reasonable prospect of this site delivering within the five-year period.
67. Site C06 Crosby Farm is allocated in the Slinfold NP for up to 24 dwellings. An outline application for up to 24 dwellings was refused based on the scale of the proposed site access works. This has been appealed and a revised outline application seeking to address this concern has been submitted, as has a full application. As such, whilst planning approvals are not yet in place, it does appear that, as with the previous case, there is evidence of some momentum behind this case, such that there is a good prospect of this site delivering within the five-year period.
68. Site C08 Land North of Downsview Avenue is allocated in the Storrington NP for at least 60 dwellings. Outline planning approval for 62 dwellings was gained in May 2020 and a reserved matters application submitted in March 2021. Whilst there is limited evidence of pre-commencement conditions having been discharged, the detailed site analysis and design work is presented, and the developer confirms the intention to start on site in early 2022 with completions being made 9 months later at a rate of 1 dwelling per week. Even if such timescales are optimistic, the evidence suggests a sensible prospect of delivery within the five year period.
69. Site C09 Ravenscroft Allotments, Storrington is allocated in the NP for at least 35 dwellings. A hybrid application is anticipated which will include an outline element for up to 78 homes. As this is more than double the initial allocation it is likely to lead to local objections. As such there is no clear prospect of matters relating to this site being resolved, and even the suggestion that 35 dwellings should be included in supply is unrealistic at this stage.
70. Site C11 Land East of Pound Lane, Upper Beeding is allocated for around 70 dwellings in the NP which has now passed referendum. The site has been subject to previous outline applications relating to different parts of the site and dating from three to six years ago, none of which were successful. Pre-application discussions took place last year with a view to developing the whole site and providing various community benefits. Whilst a range of site assessment work was undertaken in relation to the earlier scheme, it is not clear how relevant this will be to the scheme currently being considered. Given

the uncertainties and lack of detail relating to the forthcoming application, there is no clear evidence that the 40 units anticipated by the Council will be completed within the five-year period.

71. Finally, turning to windfall figures, the dispute relates to whether a windfall allowance on larger sites of over 10 units should be included. Windfall sites are those not specifically identified in the development plan, though the Framework paragraph 71 sets out that they can be included providing this is realistic having regard to strategic housing land availability assessments, historic windfall delivery rates and expected future trends.
72. The Council have included a figure of 663 windfall dwellings in this category derived from analysis of completions 2012-18. This data does reflect historic delivery rates and this six-year period is a reasonable time from which to draw trends. Further, as updated information demonstrates, as these figures exclude prior approvals the average figures underestimate actual delivery. However, data from more recent years suggests more variable windfall approval rates for sites of over 10 dwellings, with the appellants evidence indicating that no approvals were recorded in 2020/21. At this stage there is no evidence of further potential sites coming forward, therefore falling short of the evidence referred to in the Framework paragraph 71.
73. The view of the Inspector in the Hanging Lane decision,⁵ supported by the Secretary of State, is that by definition the detail of these sites is unknown and the only logical basis for determining the allowance is by reference to past completions on such sites. This appears sensible though in this case, given recent faltering windfall approvals, 663 completions appears somewhat optimistic. On the other hand the appellants suggestion that 431 units should be removed from supply is overly pessimistic. My view is that a moderate deduction of around 20% from supply, giving 530 units, would be appropriate.

Conclusion on housing land supply

74. Based on the above, I have agreed that it is appropriate to include full supply from sites A01, C05, C06 and C08, and a large proportion of the windfall allowance in supply. However, I have found some uncertainty around the Council's reliance on the remaining sites, suggesting that the allocation for site A02 should be reduced, and that the allocations for sites C01, C02, C03, C09 and C011 should be removed. I have also indicated that whilst the supply figures for sites B02, B03 and B04 cannot be relied on in full, it is likely that there will be completions on these sites. As such my view is that for these sites the supply level should be at a mid-point between the Council's and the appellant's positions. As a result the total deductions from the supply figure amount to 732,⁶ giving a figure of 4,048 and a supply of 4.3 years.
75. The implications of not having a five-year supply of housing land are of great significance in as the most important policies for determining the application are deemed to be out of date for the purposes of paragraph 11 d).

⁵ APP/P4605/W/18/3192918, para 14.57-14.59 and para 20.

⁶ This comprises deductions of: 73 from A02; 66 from B02; 90 from B03; 200 from B04; 40 from C01; 25 from C02; 30 from C03; 35 from C09; 40 from C11, and 133 from the windfall allocation

Other Matters

Development plan policies

76. Whilst the most important policies for determining the application are deemed to be out of date, the Framework paragraph 219 sets out that due weight can be given to such policies according to their degree of consistency with policies in the Framework. However, the Framework does not prescribe the weight to be given to conflict with development plan policies. This is affected by the purpose of the policy and the circumstances of the case.
77. In this case the most important policies include those relating to the spatial development strategy as set out at HDPF Policies 1, 2, 3 and 4. Policy 1 reflects the Framework presumption in favour of sustainable development and is fully consistent. As noted above, Policies 2, 3 and 4 set out how sustainable growth will be achieved, though as they seek to focus development within settlements and only allow expansion on allocated sites and where landscape character will be protected, they have a restrictive element. Nonetheless as they generally reflect the Framework preference for development to be well located in relation to services and facilities, I give them moderate weight.
78. Policy 15 sets out the approach to ensuring that there is sufficient housing provision for the district, including meeting the needs of other authorities. However, as the Council has not demonstrated a five-year supply of deliverable sites this Policy has limited weight.
79. Policy 25 seeks to protect the natural environment and landscape character and is fully consistent with the Framework in this regard. Policy 26 refers specifically to countryside protection outside built up area boundaries, requiring development to be essential to this location. Whilst again this reflects the Frameworks preference for development to be well located in relation to services and facilities, as the definition of built-up areas is based on out of date housing numbers, I give this Policy moderate weight. Policy 30 sets out measures relating to protected landscapes. Whilst the wording differs slightly from the Framework, the principles are the same and so this Policy receives substantial weight.
80. Other policies are referred to by the appellant in support of the proposal. It is agreed that Policies 16, 24, 27, 31, 32, 33, 34, 36, 37, 38, 39, 40, 42 and 43, have a high degree of consistency with the provisions of the Framework, such that they should be afforded substantial weight.

Framework Paragraph 177 considerations

81. The lack of 5-year housing land supply triggers the Framework paragraph 11 d) and the presumption in favour of granting planning permission, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing development. This includes AONB, with paragraph 177 requiring that 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. In this case there is no dispute that the development would be 'major'. As such the appellant has set out a number of factors considered to be exceptional and in the public interest, which I now consider in relation to the paragraph 177 criteria.

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

Market Housing need

82. There is no doubt that there is a national housing crisis that manifests itself particularly in the South-East, as reflected in house price inflation which in turn pushes affordability ratios up to eye-watering levels. The high level of unmet need across the East and West Sussex Housing Market Areas is not in dispute. It is also clear that this undersupply has accumulated over the recent past, with the planned-for housing of a number of Sussex authorities falling below need. The level of unmet need is estimated by the appellant to be around 45,000 homes across the combined area. It appears that this is a long standing and systemic problem.
83. Whilst the position in Sussex overall is bleak, Horsham is one of the few authorities whose plan requirements have exceeded need. In terms of delivery, whilst between 2011/12-2019/2020 net housing additions have fallen a little below need when measured by the standard method, over the period 2015/16-2019/20 net additions have exceeded need using this measure, with an accumulated surplus of 663 dwellings over the period 2011/12-2019/20.
84. Nonetheless, the HDPF examining Inspector did make clear his concerns regarding the need for an early review of the Plan in order to identify areas for new housing development needed towards the end of the Plan period (2011-2031) in order to meet the increased housing requirement figure. It was agreed that this should commence within the first three years of the adoption of the Plan. As the HDPF is a strategic document making a limited number of large allocations, the need for a Site Allocations document (SA DPD) to enable a range of smaller scale housing sites to come forward was identified, though the Inspector stated that this was only necessary if initial monitoring showed a potential shortfall in the short term supply of land. As the data indicates that early delivery was above the housing requirement, the suggestion that a SA DPD was unnecessary is not unreasonable per se.
85. The examining Inspector also considered that an early review of the HDPF was required to assist in addressing the housing need of the wider area. I understand that such discussions are ongoing, with the case being made for some of the high levels of unmet need across Coastal Sussex and Northwest Sussex to be addressed by Horsham. Whilst the connection between Horsham and coastal authorities may be tenuous, there is a SoCG between the local authorities of Horsham, Crawley, Mid-Sussex and Sussex County Council setting out that they will work together to address future housing need across the HMA. That said, only Worthing, Crawley and Mole Valley have asked the Council to take on part of their unmet need through the Duty to Cooperate.
86. The Regulation 18 Draft Local Plan (Reg 18 Plan) looks at options for housing provision, noting that in addition to its own objectively assessed need of 965 homes per year, additional development will be required to meet the unmet needs of other districts. It sets out to test the deliverability and impacts of three potential options for housing growth: 1,000, 1,200 and 1,400 homes per year. The 1,000 figure would only provide for Horsham's needs, plus a 5% buffer, whereas the 1,200 and 1,400 figure would provide around 200/400 homes per year to help meet the unmet needs of Crawley and beyond. As

such, noting support for the higher figures from neighbouring councils, the latter positions represent more realistic propositions.

87. A range of large-scale potential housing sites (over 800 dwellings) are identified in the Reg 18 Plan either as new settlements or urban extensions. It is inevitable that a number of these sites will have considerable infrastructure requirements and, if included in the adopted plan, will take some years to deliver homes. The Reg 18 Plan does include smaller scale sites (up to 500 dwellings) which are likely to have greater prospects of earlier delivery, though not at scale. At this stage the plan has excluded sites which are fully within the AONB from consideration. Whilst this does not take into consideration the variable character of the AONB, considering that the designated area covers only 6.8% of the district, it is not unreasonable to expect that there is scope for meeting need outside the designated area.
88. Whilst the HDPF review commenced in 2018 progress has been slow, with the Reg 18 consultation held in February/March 2020. Following the close of the Inquiry it has been confirmed that the Council's intention to publish and consult on a Regulation 19 Submission Draft in September/October 2021 will be subject to delay for an undefined period. This is to allow for additional work to meet the requirement to set out a 30-year vision. Therefore, the suggestion that it could be adopted by autumn 2022 is not realistic, noting also the challenges of translating the Reg 18 options for housing growth into an agreed strategy. Whilst it is not suggested that progress has been completely halted, realistically it is unlikely that the new Local Plan will be in place for some time.
89. The significant need for housing in Horsham is not exceptional as it reflects what is happening elsewhere. Nonetheless, in the context of the current lack of five-year housing land supply, the delays in the allocation of housing to meet the needs of Horsham, as well as wider needs through the plan-led system, means that there is a vacuum which, until addressed, will exacerbate the housing shortage in the district. In this context the provision of market housing is a benefit of substantial weight.

Affordable housing need

90. With increasing affordability issues generally, the parties agree that the acute need for affordable housing (AH) in England is reflected in Horsham.
91. Looking at past delivery, the HDPF requirement of 35% AH on larger sites was found to be a sound basis for meeting the minimum level of affordable housing required. This had been identified in the Northern West Sussex Housing Market Area Affordable Housing Needs Update 2014 as a range between 225 and 404 dwellings per annum. Between 2014/15 and 2019/20 average net AH completions fell short of the minimum figure by 3%, with a shortfall of 43 dwellings, and with a shortfall of 46% or 1,117 dwellings, on the upper part of the range. It appears that, unsurprisingly, actual need levels fall somewhere within the range, with the number of households on the Council's register at 675 on 1 April 2020, increasing from 582 on 1 April 2019. As such, it appears that the Councils track record of delivery of AH has been at a reasonably steady level, though has fallen demonstrably short of meeting AH needs.
92. Turning to future supply, the Council anticipates an AH supply of around 240 units per annum, though based on the housing land supply evidence considered earlier the actual figure is likely to be somewhat lower. Furthermore, the 2019

Northern West Sussex Housing Market Assessment has identified a much higher need figure of 503 affordable homes in Horsham. Whilst this has yet to be tested at examination, it is clearly a considerable increase on current supply levels. The Council is considering increasing the policy target to 50%, a point to be explored through viability testing. The Council is also committed to using its affordable housing company to build AH, stating that Section 106 monies of around £16 million are available for this purpose. However, the estimated 96 dwellings this could provide would not make significant inroad into the shortfall. Given the delays to local plan progression, the capacity for enhanced provision at any time soon is uncertain.

93. Whilst national policy does not require local planning authorities (LPAs) to meet their assessed AH needs in full, the very real social responsibility of providing for each household within this group is without doubt, recognising also that their interests often go under-represented at Inquiries such as this. In Horsham it is relevant to note that of those households on the housing register, 387 indicate Horsham East and 93 indicate Colgate Civil Parish as their areas of choice. A further 506 households were on the help to buy register on 22 February 2021 seeking shared ownership. In these circumstances the appellant's enhanced offer of 45% AH, which would be secured by the S106 agreement and would amount to 213 new homes for local people (149 homes for affordable rent and 64 for shared ownership), is an important matter attracting very substantial weight.

Self-build and custom-build housing (SBCB)

94. In response to rising demand over the past decade, government has sought to boost the supply of SBCB housing, and now attaches great importance to this element of housing supply. The HDPF was prepared in the context of the 2012 Framework, which required LPAs to identify the scale and mix of housing and the range of tenures needed by local people over the plan period, including people wishing to build their own homes. Provision for this was made in Policy SD4 relating solely to the LNH allocation for at least 2,500 homes, which will include 30 SBCB plots.
95. Local policy does not yet reflect the provisions of the Self-Build and Custom Housebuilding Act 2015 which formalised SBCB requirements, placing a legal duty on local authorities to establish and publicise a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 added the requirement to grant suitable development permissions in respect of enough serviced plots of land to meet the demand for SBCB in the authority's area arising in each base period.
96. The dispute between the parties relates to whether this demand has been captured, and specifically whether a robust assessment of SBCB demand in the district has been undertaken, in line with PPG. The PPG sets out that LPAs should use demand data from the registers in their area, supported as necessary by additional data from secondary sources, to understand and consider future need for this type of housing. Secondary sources can include data from building plot search websites, enquiries for building plots recorded by local estate agents and surveys of local residents.⁷

⁷ Paragraph: 011 Reference ID: 57-011-20210208

97. In this case the Council introduced an annual fee of £20 to remain on the Register in November 2018, which resulted in the removal of entries. As such, whilst the current cumulative total entries on the Register from Base Period 1 to Base Period 6 is 103 (76 resident; 27 non-resident), if previous removals were added the cumulative total would be considerably higher, estimated by the appellant to be 332 individuals and four groups.⁸
98. The Regulations do set out that fees may be charged to be entered onto and remain on the register, and the reluctance to pay such a nominal fee may reflect a lack of commitment. Nonetheless, evidence of secondary sources presented by the appellant, which was not disputed, indicates that demand is higher than the Register would suggest.
99. The Reg 18 Plan does acknowledge the Council's duty to pursue SBCB plots, though it will be some time before its provisions are in place. Until then the Council's inability to fulfil its duty in terms of registered demand remains. The provision of 47 units of SBCB housing secured by the S106 agreement would more than double the Council's supply, providing for local demand and going some significant way towards meeting statutory duties in this regard. This is a benefit attracting substantial weight.
100. The demonstrable need for housing in Horsham district is without doubt. Looking at the effect on the local economy, whilst refusing the scheme would not have any specific adverse impacts, permitting it would deliver short to medium term benefits such as the boost to the construction industry, and additional spend in the economy. These are generic benefits associated with major development of this nature which attract modest weight.

The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way

101. The appellant has considered nearby sites outside the AONB, but has concluded that they are constrained by the railway line or already have permission for development (the LNH and Kilnwood Vale developments). However, as the designation covers only 6.8% of the district, this is not an adequate basis for concluding on the scope to meet needs outside the AONB.
102. Whilst at the present time the housing land supply evidence indicates that sites under development will not achieve the necessary targets, it is clear that there is a lot of development in progress which will deliver within and beyond the five-year period. The Council also considers that it can meet future needs without relying on AONB land, with a range of large and smaller scale sites included in the Reg 18 Plan. It will be some time before this emerging Local Plan is in place and it has limited weight at this stage, with the viability of these sites not having been fully considered. Even if viable, it is clear that larger sites will take some time to come forward, as demonstrated by the fact that the LNH has not yet delivered units. That said, not all would be required to meet future need and it is agreed that the Reg 18 Plan demonstrates the direction of travel, with considerable scope for meeting housing need outside the AONB.
103. The nature of the housing offered by the appeal scheme is not constrained to any particular location unlike, for example, in the Broadway appeal where

⁸ Compare Fig 1 of Mr Hermitage's PoE with Fig 4.2 of Mr Moger's PoE.

reference is made to the rarity of the opportunity to viably provide extra care housing that is affordable.⁹ Similarly in the Sonning Common case the Inspector found that, due in part to viability issues, the immediate unmet need for extra-care housing could not be met elsewhere.¹⁰

104. Whilst I conclude that the scope for developing a scheme of this nature outside the AONB has been underestimated by the appellant, the issue of meeting the urgent need for housing within the short to medium term remains.

Detrimental effect on the environmental, landscape and recreational opportunities, and the extent to which they can be moderated

105. In relation to landscape and visual matters I have found that, perhaps unsurprisingly in relation to a site on both the edge of an AONB and the edge of a town, the site provides the opportunity to experience some, though not all of the AONB special qualities. Whilst the western field has elements more characteristic of a transitional edge of settlement environment, AONB qualities are experienced in the eastern field. The development would be a significant intrusion into this essentially rural space.
106. The site has a high degree of visual containment by virtue of The Birches and particularly the tall trees of High Wood. Additional planting would further moderate visual impacts over time. Nonetheless, I concluded that there would be residual moderate and major adverse effects to some landscape and visual receptors, and significant harm to AONB landscape and scenic beauty.
107. The secondary mitigation includes the commitment to design quality, secured by the DCS. That a high standard of design that would be of the High Weald could be achieved is not questioned. Whilst this level of commitment to design excellence may be unusual for an outline scheme, it is not exceptional for development within an AONB to be of the highest standard, rather this is an expectation, noting Government's renewed commitment to creating well-designed and attractive places. Nonetheless, design standard could assist in managing some aspects of visual integration and I note that the Framework paragraph 134 requires such considerations to be given significant weight.
108. The measures set out in the LECS include the commitment to the provision and management of green infrastructure, making up 48% of the site area and including LEAPs, LAPs, allotments, a sports pitch and a country park. The future management of these areas would be secured by the S106 agreement. This exceeds the policy requirement for Public Open Space by a considerable margin in an area said to be deficient in open space, though evidence to back this latter point was not provided. The legal access to the spaces provided would improve recreation opportunities for existing and new residents. The PROW itself would be upgraded and a financial contribution made via the S106 agreement to the improvement of the Riverside Walk. Whilst some of this provision would be necessary to support the increased local population, the recreational benefits to the wider community attract moderate weight.
109. The LECS also sets out how the green infrastructure would deliver ecological mitigation measures and reasonable levels of biodiversity enhancement which would secure measurable net biodiversity gains. The importance of planning

⁹ APP/H1840/A/14/2224292

¹⁰ APP/Q3115/W/20/3265861

decisions in mitigating impacts and providing net gains for biodiversity is reflected both in national and local policy. In this case the predicted outcomes based on the LECS and using the Biodiversity Metric 2.0 demonstrates a net gain of around 20% habitat units and 55% linear habitat unit increases. Whilst in part demonstrating policy compliance, I give this consideration moderate weight.

110. Finally, the appeal proposal contains several measures relating to sustainable design and construction seeking to address climate change. These provisions largely reflect the need for a proactive approach to mitigating and adapting to climate change, as set out in legislation as well as national and local policy. As such they are for the most part now expected in new development, and do not attract beneficial weight.

Other benefits

111. Paragraph 177 a)-c) criteria are not an exhaustive list of what may be considered exceptional circumstances. The appellant highlights a number of points relating to what is considered to be the exceptional location of the site adjacent to Horsham town. Firstly, it is agreed that the town has a pivotal role in the spatial strategy, providing district-wide services and facilities as well as extensive public transport links. The HDPF highlights the importance of retaining the existing settlement pattern, ensuring that development takes place in the most sustainable locations and is of a scale that retains the character and role of the settlement.
112. The HDLCA of 2014 and 2020 considered a range of sites around the circumference of Horsham town, providing an objective assessment of the sensitivity and capacity of the landscape around existing settlements to accommodate development. With the exception of the areas which will form part of the LNH development, most of the remaining perimeter of Horsham town is considered to have no/low capacity for development. The appeal site's location in Area 17 is unique in that it is considered to have moderate capacity. This is subject to further detailed consideration, as has been undertaken here, with harm identified in relation to the physical extent and form of the appeal scheme. As such the suggestion that the site is unique is of limited weight in determining this appeal.
113. That said, a development of this scale would not be disproportionate to the size of settlement, and in basic terms adjacent settlement size does provide a starting point for judging appropriate development scale. The appellant sought to highlight this with reference to other AONB developments adjacent to smaller settlements which have been permitted at appeal.¹¹ These cases engaged paragraph 177 and considered whether exceptional circumstances justified major development. Beyond this the case details differ. In the Broadway case, in addition to the challenge of viably meeting the need for the development elsewhere, the Inspector found no significantly harmful effect on the scenic beauty of the AONB, and that the development would appear as a marginal extension of a significant area of housing. In the Tetbury case¹² the Secretary of State agreed that there would be some harm to AONB scenic beauty, but that there was very limited scope to develop on sites that were outside the AONB. Therefore, notwithstanding the appellant's point about

¹¹ INQ12

¹² APP/F1610/A/11/2165778

proportionality in relation to settlement size, these cases demonstrate that whether the conclusion can be drawn that circumstances are so exceptional that development would be in the public interest is dependent on the careful balancing of harm to the protected area with meeting wider needs. I therefore attach limited weight to these other decisions.

114. Finally, the site is well located in relation to transport networks, with the A264 and bus routes along the Crawley Road close by. It is also well connected by PROW leading into the urban area. This would support sustainable travel methods, which can be of particular value to the occupiers of AH. Whilst the provisions of the S106 agreement seeking to enhance walking/cycling routes and upgrade bus stop facilities are required to make the development acceptable in planning terms, these improvements would also be enjoyed by the existing residents of the Roffey area. As such this would be a wider benefit of moderate weight.

Planning Balance

115. The starting point for reaching a conclusion on the Framework paragraph 176/177 is that *great weight* should be given to conserving and enhancing the landscape and scenic beauty of an AONB, which has the highest status of protection in relation to these issues. This reflects the statutory duty under Section 85 of The Countryside and Rights of Way Act 2000 to have regard to the purpose of conserving and enhancing the natural beauty of AONB. As such, the scale and extent of development within these areas should be limited, and planning permission should be refused for major development other than in exceptional circumstances.

116. I agree that the collective of benefits should form part of the consideration of whether exceptional circumstances exist. This is confirmed by *Compton PC v Guildford BC*,¹³ which also indicates that general planning needs such as ordinary housing are not precluded from being part of the judgement that exceptional circumstances exist. Further, this term does not mean that the factors involved have to be unlikely to recur in a similar fashion elsewhere.

117. In this case there is no doubt that the collective of benefits identified present considerations of great importance. As such I have afforded substantial weight to market housing, very substantial weight to affordable housing and substantial weight to self-build and custom-build housing. I have recognised that in very basic terms the site aligns with the spatial strategy in somewhat constrained circumstances, and that there would be sustainable travel benefits associated with the proposal. There would also be recreational and biodiversity benefits, and a high standard of design would be achieved. Whilst I have found that the scope for developing outside the designated area to be underestimated by the appellant, I recognise the short to medium term issues with achieving this, and also that the appellant is committed to securing the early delivery of the appeal scheme.

118. Set against this, I have found significant harm to the landscape and scenic beauty of the AONB. This relates particularly to the eastern field which I have found to reflect qualities of the wider AONB, a fact valued and appreciated by many. Whilst I have recognised the efforts to moderate these impacts

¹³ *Compton Parish Council v Guildford Borough Council* [2019] EWHC 3242 (Admin)

through design and green infrastructure, this would not significantly address the effects of the degree of physical and visual intrusion proposed.

119. The range, sensitivity, and importance of the issues on both sides of the balance are not taken lightly. I recognise that the identified benefits in relation to housing matters would clearly be in the public interest. However, the reality is that the circumstances of the housing shortfall, including huge challenges around providing for affordable housing and self-build and custom-build housing, are not unusual. The location of the site has been carefully considered: it is part of an area considered to have capacity to accommodate significant housing development adjacent to the main district settlement, though this is subject to detailed landscape analysis. The challenge of accommodating development that accords with the spatial strategy remains and is a material consideration, though the locational circumstances of the site have not been found to be unique. The other benefits identified are commonplace and do not add significantly to the balancing. Overall, my view is that these considerations do not together present exceptional circumstances. I conclude that when they are balanced against the significant harm to the landscape and scenic beauty of the AONB, a development of this scale in this location would not be in the public interest.
120. The Framework paragraph 11 sets out that where the application of policies within the Framework that protect areas of particular importance provide a clear reason for refusing development then the so called 'tilted balance' in favour of granting planning permission does not apply. Therefore, in light of footnote 7, given my conclusion in respect of AONB this case falls to be determined on the ordinary unweighted planning balance, to which I now turn.
121. Support for some aspects of the development, including the provision of a policy compliant housing mix, affordable housing, design quality, environmental protection, the provision of green infrastructure, energy use and climate change can be gained from development plan policies which carry substantial weight. The proposal would also be policy compliant in relation to other matters including sustainable transport, energy use, climate change and flooding. I have also found policy compliance in terms of highway safety.
122. Whilst the proposal would not support the spatial strategy for the District as set out in Policies 2, 4 and 26, these policies are not fully Framework compliant. Furthermore, the issues associated with the supply of housing land means that conflict with these policies may be afforded modest weight only.
123. Nonetheless, those policies relating to the conservation and enhancement of protected AONB landscapes are fully consistent with the Framework. The conflict identified is significant and is determinative in this case. I therefore conclude that the benefits of the appeal proposal do not outweigh the conflict with the development plan taken as a whole. There are no material considerations that suggest the decision should be taken other than in accordance with the development plan.

Conclusion

124. For these reasons the appeal is dismissed.

A J Mageean INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Young QC instructed by FCP Land 4 Limited
Assisted by Sioned Davies

They called:

James Donagh BA (Hons) MCD MIED on housing need

Ben Pycroft BA (Hons) DiP TP MRTPI on housing land supply

James Stacey BA (Hons) DiP TP MRTPI on affordable housing

Andrew Moger BA (Hons) MA MRTPI on self build and custom housebuilding

Andrew Smith BSc (Hons) MSc CMLI on landscape, visual and character matters

Elizabeth Alexander BA (Hons) MPhil MRTPI on planning matters

Michael Kitching BSc MSc CILT on transport

FOR THE LOCAL PLANNING AUTHORITY:

Clare Parry of Counsel instructed by legal services Horsham Council.

She called:

Mark McLaughlin BA (Hons), MTPL, MRTPI
on five year housing land supply

Anne Westover BA Dip LA CMLI
on landscape

James Hutchinson BA MA MRTPI
Planning consultant on planning policy and planning balance

INTERESTED PARTIES:

Ms Lydia Playfoot
Keep Our Green Spaces

Cllr David Searle
Horsham Town Community Partnership

Cllr Alan Britten
North Horsham Parish Council

Mr Paul Kornicky

Mrs Sally Sanderson
Horsham Green Spaces Forum

Dr Peter Simpson
Horsham Green Spaces Forum

Mr Andrew Caulfield

Mr Howard Wilder

Dr Roger Smith
CPRE Sussex

Mr Simon Neesam
The Landscape Partnership

Mrs Heather Playfoot
Keep Our Green Spaces

Mrs Elizabeth Rice

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Council Windfall Sites update (INQ 1)
2. Draft planning conditions (INQ 2)
3. Appellant opening statement (INQ 3)
4. Council opening statement (INQ 4)
5. Statement from KOGS Horsham
6. Statement from David Searle
7. Statement from North Horsham Town Council
8. Statement from Paul Kornicky
9. Statement from Horsham Green Spaces
10. Statement from CPRE Sussex
11. Statement from the residents of Roffeyhurst properties
12. Shelter report (INQ 5)
13. Landscape errata to Ms Westover Proof of Evidence (INQ 6)
14. High Weald AONB Map (INQ 7)
15. Further Extracts from the 2020 Horsham Landscape Capacity Study (INQ 8)
16. Joint Policy Position Statement (INQ 9)
17. Broadway appeal decision (APP/H1840/A/14/2224292) (INQ 10)
18. Holsworthy Appeal decision (APP/W1145/A/09/2117379) (INQ 11)
19. Major development in AONB comparison table (INQ 12)
20. Map of Wychavon AONB (INQ 13)
21. Table of responses to Reg 18 Horsham Local Plan (INQ 14)
22. Timeline for Reg 18 Horsham Local Plan (INQ 15)
23. Statement from KOGS
24. Council Closing Statement
25. Appellant Closing Statement

DOCUMENTS ACCEPTED AFTER THE INQUIRY

1. The appellants signed and dated legal agreement under Section 106 of the Town and Country Planning Act 1990.

2. SoCG and Council's Statement of Case in relation to the Appeal Ref APP/Z3825/W/3261401.
3. Appeal decisions APP/B1930/W/20/3265925 & 3265926
4. Appeal decision APP/Q3115/W/20/3265861
5. Council response to Appellant correspondence of 30 June 2021
6. Appeal decision APP/V3120/W/20/3261691
7. Appeal decision APP/K1128/W/17/3185418
8. Appellants reply to the Council's post-Inquiry Submissions
9. Appellants response to the Revised National Planning Policy Framework
10. Press release of 28 July 2021 relating to progress with the Draft Horsham District Local Plan