

STATEMENT OF CASE
for
MID SUSSEX DISTRICT COUNCIL
as
LOCAL PLANNING AUTHORITY

For Appeal APP/D3830/W/24/3350075
At Scamps Hill, Lindfield, West Sussex RH16 2GT

Following the appeal for non-determination of planning application
DM/24/0446 on 14/08/2024 under Section 78 of the Town and Country
Planning Act 1990

DATE

3rd October 2024

REVISION

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I. Introduction

1.1 This is the Statement of Case for Mid Sussex District Council (“the Council”) as local planning authority in the appeal brought by Gladman Developments Ltd (“the Appellant”). The appellant has appealed against ‘non-determination’ of planning application DM/24/0446 at land off Scamps Hill, Lindfield, West Sussex, RH16 2GT.

1.2 This Statement sets out the Council’s case, responds to the Appellant’s Statement of Case and notes the documents that will be referred to in evidence.

1.3 Application DM/24/0446 was submitted with the following description:

The erection of up to 90 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access.

1.4 The application was validated on 23rd February 2024 with a determination date of 24th May 2024. A new Access Drawing was submitted on 15th April 2024. An extension of time was agreed until 31st July 2024 to allow the applicant time to submit an Ecological Impact Assessment which was issued on 23rd July 2024. A second statutory consultation exercise was launched enabling stakeholders to consider the additional evidence until 30th August before which a decision could not be made, but the appeal was submitted on 14th August.

1.5 Due to the timing of the appeal submission, the local planning authority was unable to report the application to planning committee to ascertain what decision it would have made had it been in a position to determine the application. Instead, the local planning authority assessed the case through an internal officer process and determined that had the Council had the opportunity to determine the application it would have been refused for the following reasons:

1. *The proposed residential development is outside of the built up area as defined by the Development Plan. The principle of the application therefore conflicts with the Development Plan in terms of what type of development is allowable under Policies DP6, DP12 and DP15 of the Mid Sussex District Plan and Policy 1 of the Lindfield and Lindfield Rural Neighbourhood Plan.*
2. *The proposed development will cause less than substantial harm to the Lindfield Conservation Area, and the nearby listed buildings known as Greyfriars and Tythe Cottage. In addition, the proposal will cause a high level of harm to an asset of a high level of significance within the local context, this being the non-designated heritage asset of Walstead Grange. The application therefore conflicts with Policies DP34 and DP35 of the Mid Sussex District Plan and the NPPF.*
3. *There is insufficient ecological information available on protected species for determination of this application. There is outstanding survey work on hazel dormice, otters, water voles and great crested newts (with no information either regarding the district licence on the great crested newts) meaning there is no certainty on the likely impacts from the development on these protected species. The application therefore conflicts with Policy DP38 of the District Plan and the NPPF.*
4. *In the absence of a signed legal agreement, the proposal fails to secure the required infrastructure contributions, the necessary affordable housing and the delivery and monitoring of the biodiversity net gain. The application therefore conflicts with Policies DP20, DP24, DP31 and DP38 of the Mid Sussex District Plan and the Mid Sussex*

Supplementary Planning Documents ‘Affordable Housing’ and ‘Development Infrastructure and Contributions’ and the NPPF.

STATEMENT OF COMMON GROUND

- 1.6 A Statement of Common Ground (“SoCG”) is being progressed between the Council and the Appellant and will follow by 10th October 2024, as agreed with the Planning Inspectorate.
- 1.7 The SoCG will include a detailed description of the site and surroundings and identify the relevant development plan policies and guidance, so these matters are not duplicated here in the Council’s Statement. A schedule of up to date application and appeal documents will also be provided, that will form part of the Inquiry’s Core Documents List. The SoCG will also identify remaining areas of disagreement between the parties ahead of the Inspector’s Case Management Conference on 14th October 2024.

SITE AND SURROUNDINGS

- 1.8 The appeal site is located on the southeastern side of the village of Lindfield and measures approximately 6.62 hectares in area. The site is made up of three adjacent fields that have been used for pastoral purposes. The field boundaries consist of a variety of trees and hedgerows and the site generally rises from northwest to southeast. There is no relevant planning history associated with the site.
- 1.9 Lindfield Enterprise Park and residential properties on East Wick and Noahs Ark Lane are located to the northwest of the site. The B2111 (Scamps Hill) runs along the southwest boundary of the site with residential properties located beyond this road to the south. Walstead Grange, Farm Cottage and Tythe Cottage are located to the southeast. Fields and woodland are found to the northeast including the designated Ancient Woodland ‘Little Walsted Wood’.
- 1.10 The putative reasons for refusal identify four heritage assets, being:
- Lindfield Conservation Area located approximately 150m to the northwest of the site along the B2111;
 - Greyfriars (Grade II listed building) a dwellinghouse located opposite the site across the B2111 to the southwest;
 - Tythe Cottage (Grade II listed building) a dwellinghouse located 150m to the east of the site; and
 - Walstead Grange (non-designated heritage asset) a collection of residential buildings adjoining the eastern boundary of the appeal site and within the applicant’s control as shown within the blue line on the Illustrative Framework Plan 9432-L-02(V).

2. Planning Policy Framework

- 2.1 The Town and Country Planning Act 1990 requires the determination of a planning application shall be made in accordance with the *development plan* unless material considerations indicate otherwise.
- 2.2 The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.
- 2.3 Using this as the starting point, the development plan for this part of Mid Sussex District Council's administrative area as local planning authority consists of the Mid Sussex District Plan (2014-2031) adopted in March 2018; the Site Allocations Development Plan Document adopted in June 2022; and the Lindfield & Lindfield Rural Neighbourhood Plan (2014-2031) made in March 2016.
- 2.4 The District Plan was adopted more than 5 years ago and so is under review in accordance with national guidance. The Council can demonstrate at least a 4-year housing land supply (as required by the NPPF paragraph 226) and considers that the policies most relevant to this appeal within the adopted District Plan and Neighbourhood Plan are consistent with the NPPF and up to date, and should continue to have full weight.
- 2.5 The National Planning Policy Framework ("NPPF") and the government's Planning Practice Guidance do not form part of the development plan, but are important material considerations.
- 2.6 There is also relevant guidance on decision making relating to heritage assets within the Historic England Good Practice Advice in Planning 3: The Setting of Heritage Assets (GPA Note 3), and the Mid Sussex Design Guide SPD (2020) which may be referred to in evidence.
- 2.7 The putative reasons for refusal also identify two Supplementary Planning Documents ("SPD"): the Affordable Housing SPD adopted in July 2018, and the Development Infrastructure and Contributions SPD adopted in July 2018.
- 2.8 The Council is reviewing and updating the District Plan and an Independent Examination of the Submission District Plan (2021-2039) will commence on 22nd October 2024. The Submission District Plan was published for Regulation 19 consultation between the 12th January and the 23rd February 2024. It was submitted for Examination on 8th July 2024 and the Council anticipates adoption in 2025 at which point it will replace the current District Plan. As there are unresolved objections to the majority of policies in the Submission District Plan only limited weight can be given to it in the determination of this appeal.
- 2.9 The policies relevant to this appeal will be set out in the Statement of Common Ground. The putative reasons for refusal set out above specifically mentions the following policies and documents:

Mid Sussex District Plan Policies

- DP6: Settlement Hierarchy
- DP12: Protection and Enhancement of Countryside
- DP15: New Homes in the Countryside
- DP20: Securing Infrastructure
- DP24: Leisure and Cultural Facilities and Activities

- DP31: Affordable Housing
- DP34: Listed Buildings and Other Heritage Assets
- DP35: Conservation Areas
- DP38: Biodiversity

Lindfield & Lindfield Rural Neighbourhood Plan

- Policy 1: A Spatial Plan for the Parishes

Other Documents

- Mid Sussex Affordable Housing SPD
- Mid Sussex Development Infrastructure and Contributions SPD
- NPPF

3. Case for the Local Planning Authority

- 3.1 The Council will present evidence to the Inquiry to support the putative reasons for refusal set out above which is summarised here and expanded under each subheading below. The Council's case in overview is set out here.
- 3.2 The appeal should be dismissed because the proposed development is outside of the built-up area boundary as defined by the development plan, and is not a type of development that is supported in the defined countryside area for planning purposes. As such, the principle of residential development in this location conflicts with Policies DP6, DP12 and DP15 of the Mid Sussex District Plan and Policy 1 of the Lindfield and Lindfield Rural Neighbourhood Plan. It also conflicts with the principles of the NPPF in prioritising previously developed land and ensuring decisions are genuinely plan-led, where proposals that conflict with the development plan should not usually be granted.
- 3.3 The proposed development will also cause harm to nearby heritage assets in conflict with Policies DP34 and DP35 and the NPPF. The Council will set out in evidence that the impacts amount to less than substantial harm to designated heritage assets, and a high level of harm to a non-designated heritage asset of a high level of significance within the local context; and that this harm is not outweighed by any public benefits of the proposed development.
- 3.4 The appellant during the course of the application failed to provide sufficient ecological evidence to provide the local planning authority with the necessary certainty about the likely impacts from the proposed development on protected species, and so the local planning authority has identified a conflict with Policy DP38 and the NPPF.
- 3.5 In the absence of a signed legal agreement, the appellant has also failed to secure the necessary affordable housing and financial contribution towards infrastructure to support the scheme and make it acceptable in planning terms, nor the delivery and monitoring of biodiversity net gain requirements. The proposed development therefore conflicts with Policies DP20, DP24, DP31 and DP38, the 'Affordable Housing' and 'Development Infrastructure and Contributions' SPDs and the NPPF.
- 3.6 The District Plan, Neighbourhood Plan and National Planning Policy Frameworks support decision making that is genuinely plan-led, delivers development proposals that conserve and enhance the historic environment, protects and enhances biodiversity and provides the necessary infrastructure to mitigate the impact of development. The development plan consisting of the District Plan, Site Allocations DPD and Neighbourhood Plan is up to date, and the Council can demonstrate at least a 4-year housing land supply. The Council's evidence will therefore demonstrate that the proposed development fails to comply with the development plan in principle and should be refused, and that the benefits of the scheme put forward by the appellant and any other material considerations weighing in favour of the appeal do not indicate that the plan should not be followed.
- 3.7 The Council's case in support of its reasons for refusal is expanded under each of the four subheadings below in turn.

REASON I. SETTLEMENT HIERARCHY AND THE PRINCIPLE OF DEVELOPMENT IN THE COUNTRYSIDE AREA

- 3.8 With reference to the development strategy of the District Plan as a whole, and in particular Policy DP6 ‘Settlement Hierarchy’, the Council’s case is that the proposed development is not plan-led and should be refused. The appeal site is outside of the defined built up area boundaries of the District Plan’s Adopted Policy Maps and proposes residential development in the countryside area, in breach of relevant policies DP6, DP12 and DP15 which seek to protect the countryside by minimising the amount of land taken for development and preventing development that does not need to be there.
- 3.9 Policy DP6 of the District Plan states in part that:
“Outside defined built-up area boundaries, the expansion of settlements will be supported where:
1. The site is allocated in the District Plan, a Neighbourhood Plan or subsequent Development Plan Document or where the proposed development is for fewer than 10 dwellings; and
2. The site is contiguous with an existing built up area of the settlement; and
3. The development is demonstrated to be sustainable, including by reference to the settlement hierarchy.”
- 3.10 The proposed residential development does not meet all three criteria as required and so the proposed residential development is not supported in this location by Policy DP6.
- 3.11 Policy DP15 of the District Plan refers to new homes in the countryside and sets out the special justifications where new homes would be permitted. Special justification would include (paraphrased);
- Essential agricultural or forestry workers accommodation; or
 - Exceptional design quality for isolated new homes; or
 - Rural exception sites; or
 - DP6 requirements being met.
- 3.12 The proposed residential development does not meet any of these special justifications.
- 3.13 At Neighbourhood Plan level, Policy 1 (A Spatial Plan for the Parish) states that:
“Only development proposals within the built up area boundaries of Lindfield and Scaynes Hill, as shown on the Proposals Map, will be supported and the re-use of previously-developed sites will be encouraged, provided that the development is appropriate in scale, massing, and character, and that the proposals for development have had due regard to the policies contained elsewhere in this Plan and the Local Development Plan.”
- 3.14 Being outside of the built up area and not on previously developed land means these criteria are not met.
- 3.15 While there is some compliance with Policy DP12 insofar as the development is deemed to maintain the quality of the rural and landscape character in terms of visual impact, the scheme does not meet the two tests set out, of being necessary for the purposes of agriculture, or supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.
- 3.16 There are no other relevant policies in the District Plan, any other development plan documents such as the Site Allocations document, or the Neighbourhood Plan that would explicitly support the residential development of this site. The principle of the appeal scheme conflicts with the development plan in terms of what development is allowed in the countryside area by Policies DP6, DP12 and DP15. According to planning law, decisions must be made in accordance with the development plan unless there are any

material planning considerations which indicate otherwise; those material considerations are explored below but are not considered by the Council to indicate a deviation from the development plan is necessary.

- 3.17 The Appellant's Statement of Case (sections 2.2 and 3.2) accepts that the site is outside of the defined built-up area boundary where the principle of development is not supported by the development plan, but suggests (without providing any evidence) that this conflict is not determinative because it is outweighed by material considerations. The Appellant asserts that this is because the Council cannot demonstrate a sufficient supply of housing land. The Council's rejects the Appellant's position for the following reasons.
- 3.18 Policy DP4 establishes the Council's housing requirement to meet its objectively assessed need, and how this will be met. The Site Allocations DPD was a commitment of Policy DP4 in order to deliver some of the housing required, and was adopted in June 2022. Policy SA10 of the Site Allocations DPD refers to the DP4 housing requirements and updates the spatial distribution of housing requirement in order to meet the identified housing target for the District within the Plan period. It states that additional dwellings (for example windfalls) will be delivered through Neighbourhood Plans or through the Development Management process.
- 3.19 As the Appellant accepts at paragraph 2.3.1 of its Statement, because the Council submitted the emerging District Plan for examination on 8th July 2024, it is only required to demonstrate a supply of deliverable sites sufficient to provide a minimum of four years' worth of housing pursuant to paragraph 226 of the NPPF.
- 3.20 The Council's most recently published land supply position was established through an appeal at Henfield Road, Albourne (PINS reference APP/D380/W/23/3319542) which determined in October 2023 that the Council can demonstrate 5.04 years' worth of housing land supply as-at April 2023. The Council has not yet calculated its position as-at April 2024 which will be published in the normal manner in the Authority Monitoring Report towards the end of the year.
- 3.21 A demonstrable 5.04 year supply of housing land, against a requirement of 4.0 years as required by the NPPF paragraph 226, means that the "tilted balance" of paragraph 11(d) is not in force in Mid Sussex and is not a factor in this appeal – and the development plan is up to date and the policies pertaining to the delivery of housing are considered to have full weight as set out earlier in this statement.
- 3.22 The Appellant's Statement (section 2.6) refers to the Consultation Draft NPPF and Written Ministerial Statement of 30th July 2024, for which the consultation ended on 24th September 2024. The consultation documents proposed amendments to the NPPF including the removal of the four-year supply clause and other provisions relating to housing land supply calculations. The Council accepts that Written Ministerial Statements are material considerations for planning purposes, but the weight to be attributed to the Consultation Draft NPPF in this appeal is limited due to the lack of certainty over the timescale for publication of any new NPPF or the scope of its contents; at the time of writing there has been no publication of a consultation report setting out the scale or nature of representations to the consultation either. As such, the Council remains subject to the four-year requirement in the extant NPPF.
- 3.23 Despite alleging a shortfall in the Council's housing land supply at section 2.3 of its Statement, the Appellant has provided no evidence to substantiate that allegation to date. The Council will seek to work with the Appellant to review any evidence they make available in good time to dispute the published land supply position. The Council reserves the right to respond to that evidence (depending upon when it is

provided in the future) within the Statement of Common Ground, or the Proofs of Evidence, or at the Inquiry itself if necessary.

REASON 2. HARM TO DESIGNATED AND NON-DESIGNATED HERITAGE ASSETS

- 3.24 The Council alleges that the proposed development will cause less than substantial harm to three nearby designated heritage assets, being the Lindfield Conservation Area and the Grade II Listed Buildings of Greyfriars and Tythe Cottage. It is also alleged that the proposed development will cause a high level of harm to a non-designated heritage asset (NDHA) of a high level of significance within the local context, being the collection of buildings at Walstead Grange.
- 3.25 The Council's evidence will demonstrate how the appeal proposal conflicts with Policies DP34 and DP35 of the Mid Sussex District Plan. It results in less than substantial harm, through impact on setting, to the three above mentioned designated heritage assets, such that paragraph 208 of the NPPF will apply. The balancing exercise set out in this paragraph is carried out elsewhere within the Council's evidence.
- 3.26 With respect to the harm identified to the NDHA, paragraph 209 of the NPPF will be relevant.
- 3.27 According to the staged approach set out in the relevant Historic England Guidance GPA Note 3, evidence will be provided which examines and demonstrates an understanding of the significance of the Lindfield Conservation Area, the listed buildings identified, and their settings. The nature and extent of the impacts and less than substantial harm arising to these designated heritage assets will be assessed.
- 3.28 Regarding impacts on the Lindfield Conservation Area, the Council's case is that the proposal will detract from the contribution which is currently made by setting to the character and appearance of the Area, resulting in less than substantial harm at the low-mid range of that scale.
- 3.29 The Council's evidence will demonstrate that the significance of Lindfield Conservation Area lies in its nature as the heart of a historic Sussex village which has grown up over many centuries in close connection with the surrounding landscape. The surviving tangible connections between the Conservation Area, which include open views from the northern part of the Area, glimpsed views from the Common looking southeast (including of the site) and the proximity of open countryside in the approaches from the north and from the southeast (again including the site) contribute to reinforcing the significance of the Conservation Area. For these reasons the proposed development site is considered to make a positive contribution to the setting of the Lindfield Conservation Area.
- 3.30 It is the Council's case that the proposed development will fundamentally alter the existing character of the site, which will become suburbanised. This will remove and reverse the positive contribution which the site currently makes to the setting and significance of the Conservation Area.
- 3.31 As set out above, the significance of the Area is drawn fundamentally from its nature as a historic Sussex village which has grown up over many centuries in close connection with the surrounding rural landscape. The site forms one part of that landscape, and has particular significance as it is the one remaining area of undeveloped countryside which is visible from within the southeastern part of the Area, including the village common. It is also particularly important in placing the Area within a wider rural context in terms of the approach to it from the southeast. These factors reinforce the identity of the Conservation Area as the historic heart of a rural Sussex village.

- 3.32 For these reasons, it is the Council's case that the appeal development would result in less than substantial harm, through impact on setting, to the Lindfield Conservation Area, with that harm falling at the low-mid range of that scale.
- 3.33 In respect to the impact on the setting of the Conservation Area, the Council will refer to one relevant appeal decision (see **Appendix 3**) APP/D3830/W/20/3261311 Land at Birchgrove Road, Horsted Keynes (Council's Ref. AP/20/0053). This will be in relation specifically to the Inspector's views on the positive contribution made by the appeal site in this case to the setting of the Horsted Keynes Conservation Area, notwithstanding that the site, which consists of a number of agricultural fields, is at a short distance from the Area's boundary, and that views from the Area towards the site are funnelled between intervening more modern development.
- 3.34 Regarding impacts on Greyfriars, the Council's case is that the appeal scheme will result in less than substantial harm, through impact on setting, to the special interest of the listed building. This harm lies at the mid-high range of the less than substantial scale.
- 3.35 The Council's evidence will demonstrate that the significance of Greyfriars, which is a Grade II listed cottage dating from c.1830, lies in architectural value based on its design, construction and craftsmanship, as well as historical illustrative value as a good example of a small rural dwelling of its type and period, and aesthetic value.
- 3.36 The Council's evidence will demonstrate that although the identification of this building as a lodge or toll house (as suggested in the list description and the appellant's Heritage Statement) appears somewhat tenuous, historical map regression allows us to be certain that at its construction this cottage was in a rural setting. The application site forms the entirety of the surviving closer rural context of the building, and is particularly important in terms of views from and to the building, and the context in which it is appreciated from Lewes Road and Scamps Hill and Gravelly Lane. The new development would be prominent in all these views and vistas.
- 3.37 As above, it is the Council's case that the appeal scheme would fundamentally alter the character of the site, which would become suburbanised. This will remove and reverse the positive contribution made by the site to the significance of Greyfriars, resulting in less than substantial harm to the manner in which its significance as an early 19th century rural cottage is appreciated. The impact of the appeal scheme will be cumulative with existing 20th century and later development around the Cottage. The Council places the level of less than substantial harm at around the mid-high range of that scale.
- 3.38 Regarding impacts on the Tythe Cottage, the Council's case is that the appeal proposal would result in less than substantial harm, through impact on setting, to the significance of the listed building, at around the low-mid range of that scale.
- 3.39 The Council's evidence will demonstrate that the significance of Tythe Cottage is drawn from architectural value based on its construction and craftsmanship, historical illustrative value as a good example of a rural Sussex dwelling of its period, and aesthetic value based in part on the use of vernacular materials viewed within the landscape from which they were drawn. As such, the rural setting within which the listed building is experienced makes a strong positive contribution to its special interest and the manner in which this is appreciated, in particular those parts of that interest which are drawn from historical illustrative and aesthetic values.

- 3.40 The application site forms a significant element of the surviving rural setting of the Cottage, forming the greater part of the wider context to the west of the building, although separated from it by Walstead Grange (see below). Although direct intervisibility may be limited, the site particularly influences the character of the approach to Tythe Cottage from the direction of Lindfield and the entrance driveway. It also contributes positively to a sense of separation between the listed building, in its historical rural context, and the modern spread of Lindfield village.
- 3.41 The appeal proposal would result in a fundamental change of character to the site, which would become suburbanised. The Council will argue that alongside the obvious impact of the housing and associated infrastructure which is proposed to the two north western fields, the proposed 'public open space' which is shown to the south eastern field will also be likely to result in a significant change in the character of this space, which will become managed, suburbanised parkland, and will no longer be understood for its historical agricultural character and role. For example, it is noted that the appellant's Statement of Case refers to new parkland planting (1.4.3), 'substantial new recreational routes' (1.9.1), and a children's play area (1.9.1)- features of this nature will fundamentally alter the historically agricultural character of the land. In this respect the Council will refer to a further relevant appeal decision (see **Appendix 4**) APP/D3830/W/23/3319542 Land south of Henfield Road, Albourne (Council's Ref. AP/23/0035). This will be specifically in relation to the Inspector's views on the character of the public open space which formed part of the appeal proposal, and whether this made the same contribution to the setting of the Albourne Conservation Area as the existing agricultural fields which it was proposed to develop.
- 3.42 The Council will argue that because of the fundamental change to the character of the site, the appeal proposal will result in harm to the wider rural setting of this listed building, in particular the approach to it along Scamps Hill from the northwest, and will significantly undermine the manner in which the site currently provides a rural buffer between the building and the modern spread of Lindfield village. In these respects as for Greyfriars the impact of the proposal will be cumulative with other 20th century and later development in the vicinity. This will result in in a degree of less than substantial harm to the special interest of the listed building and the manner in which this is appreciated, at around the low-mid range of that scale.
- 3.43 Regarding impacts on the Walstead Grange, the Council's case is that the appeal proposal will result in a high level of harm to a non-designated heritage asset (NDHA) of a high level of interest within the local context.
- 3.44 The Council's view is that the farmstead at Walstead Grange, formerly known as Beadles Farm, is an NDHA of a high level of interest within the local Mid Sussex context. The Heritage Statement submitted with the appeal proposal suggests that the former farmhouse may be of 16th century origin, but extended in the 19th century and later. It also states that a number of former farm buildings survive around the house. The farmstead is also recorded in the West Sussex Historic Farmstead and Landscape Character Assessment as a historic farmstead of the post Medieval period.
- 3.45 It is the Council's case that given the former agricultural function of the farmstead, the surviving rural setting around it, which consists in large part of the application site, would be considered to make a strong positive contribution to the significance of the NDHA. The 1848 Tithe Map which is reproduced in the applicant's Heritage Statement suggests that the farmlands associated with the tenancy at Beadles Farm consisted largely, if not entirely, of the fields forming the application site. In the Council's opinion this historical functional relationship serves to strengthen the contribution made by the site to the setting and significance of the NDHA.

- 3.46 Furthermore, the appeal site contributes to the setting of the farmstead not only through direct intervisibility, but also in terms of the character of the approach to the farmstead along Scamps Hill from the north. It also provides an important buffer of undeveloped, rural land between the farmstead and the modern development of Lindfield to the south and west.
- 3.47 It is the Council's view that the appeal proposal will have a fundamental impact on the character of the site, which will become suburbanised. As discussed above in relation to Tythe Cottage, this suburbanising impact is considered to extend to the south-eastern field adjacent to Walstead Grange, notwithstanding the intention to convert this to a 'Public Open Space' rather than use it for housing. This will have a significant adverse effect on the positive contribution which the site currently makes, through setting, on the significance of the NDHA. Again, the impact of the proposal will be cumulative with other modern development in the vicinity.
- 3.48 In respect of the assessment set out in paragraph 209 of the NPPF the Council therefore considers the impact of the proposal to constitute a high level of harm to an asset of a high level of interest within the local context.
- 3.49 The Council has considered whether this heritage harm is outweighed by the public benefits of the proposed development, noting that this harm must be given great weight. For the reasons explained in the Planning Balance section below, the Council considers that the benefits do not outweigh the harm.

REASON 3. LACK OF EVIDENCE TO CONSIDER IMPACTS ON PROTECTED SPECIES

- 3.50 Policy DP38 of the District Plan states that biodiversity will be protected and enhanced, by ensuring development delivers against all five stated criteria. Nationally, the NPPF at Chapter 15 seeks to conserve and enhance the natural environment, and at paragraph 186 directs decision makers to assess applications against four principles.
- 3.51 The Council (through its Ecological Consultant) has assessed the Appellant's Ecological Impact Assessment (EcIA) (FPCR Environment and Design Ltd., July 2024) and concluded that there is insufficient ecological information available for determination of the application (at the time). The full comments of the Council's Ecologist are provided at **Appendix 1** but a shortfall in survey work on hazel dormice, otters, water voles and great crested newts was identified. In the absence of these necessary surveys, there is not sufficient information about potential protected species to support a lawful decision as the decision maker does not have certainty of the likely impacts from the development.
- 3.52 Regarding Great Crested Newts specifically, the Council has a specialist consultant (NatureSpace) that provides advice on this protected species. NatureSpace made detailed comments on the evidence at **Appendix 2** but in summary found that the Appellant's ecological evidence relies on eDNA data from 2021 which is out of date. The Appellant can either secure new eDNA data in the next available survey season or make use of the 'District Licence Scheme' which can negate the need for further surveys to be undertaken and can be applied for outside of the survey season. The District Licence Scheme provides certainty through planning and, if the Appellant choose to use this route, a valid NatureSpace report or certificate must be provided to the decision maker. No such report or certificate has been submitted to the Council and as such there is insufficient information to assess the application in respect of the impact on Great Crested Newts.

3.53 Biodiversity Net Gain (“BNG”) is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. The applicant (at the time) submitted a BNG report and BNG metric which showed there will be a mixture of on-site and off-site enhancements although the offsite part is on land immediately adjacent to the site within the ‘blue line’ area of Appellant’s control. The evidence indicates a total increase in habitat units of 13.55%, and 19.22% in hedgerow units resulting in meeting and slightly exceeding the mandatory BNG requirements. A monitoring fee will be secured to ensure delivery of the BNG units (including the on-site and off-site enhancements) through the legal agreement although this remains outstanding at the time of writing and so is referred to in the fourth reason for refusal expanded below.

REASON 4. LACK OF AFFORDABLE HOUSING AND CONTRIBUTIONS TO COMMUNITY INFRASTRUCTURE AND THE MONITORING AND DELIVERY OF BIODIVERSITY NET GAIN

3.54 Policy DP20 of the District Plan seeks to ensure that development is accompanied by the necessary infrastructure and will be secured through the use of planning obligations. Policy DP24 refers to the provision of on-site leisure facilities secured through planning obligations. Policy DP31 of the District Plan requires all development of 11 dwellings or more, or with a maximum combined gross floorspace of more than 1000sqm, to provide 30% affordable housing on site. The NPPF (from paragraph 55) sets out tests for securing planning obligations to mitigate the impacts of development, which reflect the statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations).

3.55 The Appellant proposes 27 affordable housing units (being 30% of the total 90 dwellings) which is compliant with Policy DP20 at a high level, but the submitted Affordable Housing Statement is silent on the tenure split and the application form was marked to indicate all would be Affordable Home Ownership tenure. Policy DP31 seeks, amongst other criteria, “*a mix of tenure of affordable housing, normally approximately 75% social or affordable rented homes, with the remaining 25% for intermediate homes, unless the best available evidence supports a different mix*” which would equate to 25% First Homes (7 units) and 75% Social Rented or Affordable Rented housing (20 units, including the wheelchair accessible dwelling referred to below). The Appellant has not provided any evidence to demonstrate a need to depart from the policy requirements and so the tenure mix sought by Policy DP31 should be secured in any planning obligation if the appeal were to succeed but without a suitable legal agreement in place the appeal fails to accord with Policy DP31. The Council’s Housing Officer has provided detailed commentary on the need for, and specification of, affordable housing through their consultation response which was submitted to the Inspectorate with the application files (and will be referred to in the Core Document Library).

3.56 The new population arising from this development will impose additional burdens on existing infrastructure and the following financial contributions have been identified to mitigate these impacts, secured through a planning obligation. Developers are not required to address any existing deficiencies in infrastructure; it is only lawful for contributions to be sought to mitigate the additional impacts of a particular development.

3.57 West Sussex County Council has sought financial contributions towards the following relevant infrastructure items, the calculation formulas for which are provided in the County Council’s consultation response and will be used to inform any draft planning obligation in due course:

- Library provision: Additional facilities at Haywards Heath Library
- Education Primary: Additional facilities at Lindfield Primary Academy, or another local primary school
- Education Secondary: Additional facilities at Oathall Community College, or another local secondary school

- Total Access Demand: improvements to Lewes Road and High Street, Lindfield and/or sustainable transport improvements from Scaynes Hill to Lindfield.
- 3.58 Mid Sussex District Council seeks the following relevant financial contributions towards:
- Formal Sport: £110,282 (formal sport pitches and ancillary facilities at Lindfield Common and / or Hickmans Lane)
 - Community Buildings: £63,250 (Make improvements to 1st Lindfield Scouts Hut and / or King Edward Hall and / or Barn Cottage Community Centre)
 - Local Community: £71,685 (project tbc following discussions with Parish)
- 3.59 Because the development includes on site playspace/kickabout areas, no financial contribution is required for these elements, with full details regarding the layout, equipment and on-going maintenance of this being secured by condition.
- 3.60 Other planning obligations are sought to ensure the development is acceptable in planning terms, the detail of which will be advanced through the draft planning obligation with the Appellant and presented to the Inquiry in due course:
- NHS Sussex: financial contribution to local healthcare services
 - Delivery of access and highways works identified in the appellant’s Transport Statement
 - Travel Plan implementation and monitoring
 - The delivery and management of the open space
- 3.61 The Appellant’s Statement at section 4 indicates a willingness to enter into a legal undertaking during the appeal process and sign a Section 106 agreement before the Inquiry Hearings, but if no such agreement is reached on these matters, the Council will present evidence in support of its position that the appeal scheme fails to accord with Policies DP20, DP24 and DP31, the Affordable Housing Development Infrastructure and Contributions SPDs and the NPPF.

OTHER MATERIAL CONSIDERATIONS

- 3.62 It is acknowledged that at the point of submitting the appeal the Appellant was not aware of the decision that the Council would have made, had it had the opportunity to determine the application. As such, some of the Appellant’s case is not in contention and the Council will agree those matters in the Statement of Common Ground.
- 3.63 Further matters are not considered by the Council to be an issue in planning terms and/or could be suitably addressed by condition should the appeal be allowed and these too will be included in the SoCG. These uncontended matters include the site being sustainably located, risks from contaminated land, landscape and visual impact, archaeological remains, minerals and waste safeguarding, impacts on neighbouring amenity, impacts on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC), sustainable design and construction requirements, tree protection, additional planting and landscaping management, flood risk and drainage and highway safety.
- 3.64 Consequently, there are a number of development plan policies that are not breached by the proposed development, and are either not relevant, neutral or supportive of the scheme. These include DP13, DP17, DP21, DP26, DP27, DP28, DP29, DP30, DP37, DP39, DP41 and DP42 of the Mid Sussex District Plan, and Policy SA38 of the Mid Sussex Site Allocations DPD which have been taken into account in reaching the putative reasons for refusal, will be identified in the SoCG and referred to in evidence as required.

3.65 The Appellant's statement at section 2.4 and 5.1 provides a list of benefits that assert a range of social, economic and environmental benefits of the proposed development that outweigh the conflict with the development plan, as well as a stated intention to establish public benefits that outweigh harm to the significance of heritage assets.

3.66 The Council accepts that the following material benefits noted by the Appellant would arise from the scheme, and will set out in evidence the appropriate weight that should be accorded to them:

- The supply of 27 affordable houses;
- The supply of 63 open market houses;
- Economic benefits through the construction phase and ongoing expenditure from residents;
- Biodiversity Net Gain above 10% legal requirement.

3.67 The Council disputes that the following elements identified by the Appellant are material benefits. The Council's view is that these elements of the proposed development are instead either duplicates of other benefits, or not benefits at all because they are necessary to comply with other development plan policies, or measures to mitigate otherwise harmful impacts of the development itself. As such, the Council's case is that these elements should not be given any weight in the planning balance.

- Sustainable and accessible location is not in and of itself a benefit of the appeal scheme, residential development is required to be in a sustainable location by the development plan and the NPPF;
- Double-counting 27 homes both within the identified 90 total houses, and the 27 affordable homes at paragraph 5.1.4 of the Appellant's Statement;
- Vehicular access from Scamps Hill is not a benefit, but a necessity for the development to be accessible and acceptable;
- Pedestrian access on to Scamps Hill and on-site footway/cycleway is not a benefit, but a necessity for the development to be accessible and acceptable;
- A sustainable drainage system is required to mitigate the drainage impacts of the scheme;
- "No unacceptable adverse effects on environmental designations" (paragraph 2.4.8) is not a benefit, but a neutral impact;
- On-site open space is a policy requirement and likely to be used only by future residents of the site given its location;
- 10% BNG is a legal requirement and only the level above mandatory minimal level can be considered an additional benefit;
- Section 106 contributions or matters secured by condition are not material benefits, but measures to mitigate the harm arising from the development to render it acceptable in planning terms.
- New Homes Bonus payment is noted, but is not considered to be a material benefit, as noted in the National Practice Guidance, and because the purpose to which that funding is put is not known.

3.68 The Council's evidence will address these other matters in more detail.

WITNESSES

3.69 The Council will present evidence to the Inquiry to defend the reasons for refusal, with the following list of witnesses. It is hoped that the Appellant will engage with the Council in a constructive dialogue ahead of the Inquiry Hearings to resolve the outstanding issues relating to ecological evidence and a signed planning obligation to avoid the need to contend these matters in front of the Inspector. If so, no witness will be called for issues 3 and 4:

- Planning witness to address reasons for refusal (1);
- Heritage witness to address reasons for refusal (2);
- Ecology witness to address reasons for refusal (3) – if not resolved in the meantime;
- Development viability witness to address reasons for refusal (4) – if not resolved in the meantime.

SUGGESTED CONDITIONS

3.70 The Council will seek to agree a schedule of suggested conditions with the Appellant and provide these to the Inspector within the Statement of Common Ground.

INSPECTING DOCUMENTS

3.71 All appeal documents are available digitally on the council's planning register at this link:

<https://pa.midsussex.gov.uk/online-applications/appealDetails.do?activeTab=summary&keyVal=SIZLTSKT04L00>

3.72 Interested parties may also view paper copies of the appeal documents by appointment at Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath, RH16 1SS.

4. Planning Balance and Conclusion

- 4.1 Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.2 The Council can demonstrate the necessary four-year housing land supply in accordance with NPPF paragraph 226 and considers that the most important development plan policies for the determination of the appeal accord with the NPPF, are up-to-date and thus hold full weight.
- 4.3 The “tilted balance” of the NPPF paragraph 11(d) is not engaged. The NPPF states that in these circumstances, where a development conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted, and the decision maker can depart from the development plan only if material considerations indicate it should not be followed.
- 4.4 The Council’s Statement sets out that the appeal scheme is contrary to the most relevant development plan policies because it proposes residential development outside of the adopted built-up area boundary and is not a type of development that is supported in the countryside area for planning purposes. As such, the principle of the proposed development conflicts with Policies DP6, DP12 and DP15 of the Mid Sussex District Plan and Policy 1 of the Lindfield and Lindfield Rural Neighbourhood Plan. It also conflicts with the principles of the NPPF in prioritising previously developed land and ensuring decisions are genuinely plan-led, where proposals that conflict with the development plan should not usually be granted.
- 4.5 The Council has also identified harm to nearby designated and non-designated heritage assets in conflict with Policies DP34 and DP35 and the NPPF.
- 4.6 The Council has also identified a lack of sufficient ecological evidence to provide the necessary certainty for the decision maker on the likely impacts of the proposed development on protected species in conflict with Policy DP38 and the NPPF.
- 4.7 In the absence of a signed legal agreement, the appellant has also failed to provide the necessary affordable housing and financial contribution towards infrastructure to support the scheme and make it acceptable in planning terms, nor the delivery and monitoring of biodiversity net gain requirements in conflict with Policies DP20, DP24, DP31 and DP38, the ‘Affordable Housing’ and ‘Development Infrastructure and Contributions’ SPDs and the NPPF.
- 4.8 In accordance with the principles set out above, the Council has assessed whether the benefits of the scheme and any other material considerations outweigh the identified conflict with development plan policies and indicate that the development plan should not be followed. A similar balancing exercise, weighing any public benefits arising from the scheme against the identified harm to the significance of nearby heritage assets, must also be undertaken in accordance with NPPF paragraphs 205, 208 and 209.
- 4.9 The application has been found to comply with parts of the development plan and the following matters are not contested and will be identified fully in the SoCG: the site being sustainably located, risks from contaminated land, landscape and visual impact, archaeological remains, minerals and waste safeguarding, impacts on neighbouring amenity, impacts on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC), sustainable design and construction requirements, tree protection, additional planting and landscaping management, flood risk and drainage and highway safety.

- 4.10 Consequently, there are a number of development plan policies that are not breached by the proposed development, and are either not relevant, neutral or supportive of the scheme. These include DP13, DP17, DP21, DP26, DP27, DP28, DP29, DP30, DP37, DP39, DP41 and DP42 of the Mid Sussex District Plan, and Policy SA38 of the Mid Sussex Site Allocations DPD. These policies have been taken into account in reaching the reasons for refusal, they will be identified in the SoCG and referred to in evidence as required.
- 4.11 The Council has also assessed the material benefits put forward by the Appellant (including disputing whether some of those matters are in fact benefits). As set out in the 'Other Material Considerations' section above, there would be social and economic benefits from the delivery of 63 open market houses to boost the Council's housing land supply, as well as 27 affordable houses. There would also be public benefits arising during the construction phase of the project, albeit this would be for a temporary period, and from ongoing expenditure from the new residents. There are also some environmental benefits with the additional biodiversity net gain above the mandatory 10% requirement attracting positive weight in the planning balance.
- 4.12 The Council's evidence will expand on this assessment, attributing the appropriate weight to these public benefits and other material considerations, and demonstrate that they are insufficient to outweigh the in-principle development plan conflict and the harm to heritage significance.
- 4.13 Although the appeal must be assessed against the development plan taken as a whole, the Council's case is that the identified conflict with policies DP6, DP12, DP15 DP20, DP24, DP31, DP34, DP35 and DP38 of the District Plan and Policy 1 of the Neighbourhood Plan, and the harm to heritage significance, is not outweighed by the public benefits and other material considerations noted above.
- 4.14 As such, the appeal scheme conflicts with the development plan as a whole and should be refused.



30 August 2024

Stuart Malcolm
Mid Sussex District Council
Oaklands Road
Haywards Heath
RH16 1SS

By email only

Thank you for requesting advice on this outline application from Place Services' ecological advice service. This service provides advice to planning officers to inform Mid Sussex District Council planning decisions with regard to potential ecological impacts from development. Any additional information, queries or comments on this advice that the applicant or other interested parties may have, must be directed to the Planning Officer who will seek further advice from us where appropriate and necessary.

Dear Stuart

Application: DM/24/0446
Location: Land Off Scamps Hill Scaynes Hill Road Lindfield West Sussex
Proposal: The erection of up to 90 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access.

Thank you for re-consulting Place Services on the above outline application.

Temporary Holding Objection pending further information on European Protected Species (Hazel Dormouse & Otter) and protected species (Water vole)	Yes
No ecological objections	
Recommended Approval subject to attached conditions	
Recommended Discharge of condition	

Summary

Further to our comments dated 19th March 2024, we have reviewed the Ecological Impact Assessment (Ecia) (FPCR Environment and Design Ltd., July 2024) and its appendices, supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority species and habitats, with identification of proportionate mitigation and mandatory Biodiversity Net Gains.



We are still not satisfied that there is sufficient ecological information available for determination of this application.

European Protected Species (Hazel Dormouse & Otter) and protected species (Water vole):

The hedgerows, scrub and neighbouring woodland have the potential to support dormice. Surveys to date have not found any evidence of this species, but surveys will continue until October 2024 to achieve an adequate survey effort score. The results of the full suite of surveys are needed prior to determination to inform the need for mitigation and potentially a licence from Natural England. We acknowledge that if dormice are found to be present on site, as part of an EPS mitigation licence, all suitable vegetation removal will be undertaken following precautionary measures, that will also be outlined in a CEMP Biodiversity to be secured by a condition of any outline consent.

A survey of the Scrase Stream and Northland Brooks did not find any evidence of riparian mammals including Otter & Water vole). A second survey is scheduled for August 2024. The results of the second survey are needed prior to determination to inform the need for mitigation and potentially a licence from Natural England. However, we acknowledge that the proposals will provide significant buffers to Scrase Stream and Northland Brooks (both offsite within blue line land) so no direct impacts on riparian mammals are predicted.

The results of the further surveys for Hazel Dormouse, Otter and Water Vole are required by the Local Planning Authority (LPA) before determination under paragraphs 99 of the ODPM Circular 06/2005 which highlights that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."*

This further information is therefore required to provide the LPA with certainty of impacts on legally protected species and enable it to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 (as amended).

Additional information:

Bats

We note that the EclA confirms that bat surveys have identified moderate levels of common and widespread bat species use the linear habitats on site, along with a single Barbastelle. No roosts are to be lost on site and those trees identified as having roosting bat potential will be retained and should be protected from any impacts. Most commuting and foraging habitats (hedgerows and tree lines) will be retained. However, a small section of hedgerow H1 will be lost, severing this corridor. Whilst hedgerow planting will compensate for the loss in the mid- to long-term, H1 will remain fragmented by the access road. Appendix F Bat Survey Report confirms that the static detector record for Barbastelle is not related to H1 so we are satisfied that evidenced foraging /commuting routes for this Appendix II species will not be severed. We support the recommendation for a wildlife sensitive lighting scheme secured by a condition of any outline consent. This should be supported by submission of a lux contour lighting plan produced by a qualified lighting engineer at Reserved Matters in consultation with an ecologist. The lighting scheme should meet the target Lux levels on the habitat features described in the impact assessment in the EclA (FPCR Environment and Design Ltd., July 2024), to ensure the features described remain accessible to light-sensitive bats.



Reptiles and breeding birds

A single grass snake was found in the north, indicating a low reptile population on site and the bird assemblage found using the site was made up of common and widespread species which are typical of grassland and edge-of-woodland habitat. The EclA (Table 5) states that there is, however, a risk that habitat removal will lead to killing or injury of individuals during the construction phase but no mitigation for construction is recommended. We advise that precautionary measures are included in the CEMP Biodiversity to be secured by a condition of any outline consent.

BNG:

We welcome the Biodiversity Net Gain Report in Appendix M of the Ecological Appraisal (FPCR Environment and Design Ltd., July 2024). However, please note that the Biodiversity metric Excel spreadsheet should still also be submitted to the LPA - it does not appear on the planning portal - so that the baseline assessment for this application can be fully reviewed.

We look forward to working with the LPA and the applicant to receive the additional information required on protected species to overcome our holding objection to support a decision.

Please contact us with any queries.

Yours sincerely

Sue Hooton CEnv MCIEEM BSc (Hons)

Principal Ecological Consultant
Place Services at Essex County Council
placeservicesecology@essex.gov.uk

Place Services provide ecological advice on behalf of Mid Sussex District Council

Please note: This letter is advisory and should only be considered as the opinion formed by specialist staff in relation to this particular matter.

Appendix 2

Case Ref: DM/24/0446	Date: 23/09/2024
From: NatureSpace	Response: More information required
Recommendations: <ul style="list-style-type: none">- The applicant has provided an ecological report with details of eDNA surveys undertaken in 2021. These results return a negative result, however, due to the length of time since the surveys are undertaken, it is recommended (following CIEEM guidelines) that these eDNA surveys are repeated in the 2025 survey season to confirm a negative great crested newt presence.- Should the applicant not wish to wait until the 2025 survey season, the applicant can utilise the District Licence scheme without the need to undertake further surveys and therefore reduce any associated delays.	
These comments are in relation to DM/24/0446 The erection of up to 90 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access. Land Off Scamps Hill Scaynes Hill Road Lindfield West Sussex	
Ecological Summary: <p>The development is situated in the red impact risk zone indicating that highly suitable habitat is present in the surrounding landscape.</p> <p>Site context:</p> <ul style="list-style-type: none">- Nine ponds have been identified within 500m of the site. The closest of these is less than 50m south of the proposed development boundary.- There are 1 historical positive record within 500m of the site.- There is good connectivity in the wider landscape, including woodland pockets, hedgerows, pond networks and grassland and scrub.- The applicant undertook eDNA surveys in 2021 with a negative result.	
Conclusion: <p>The applicant has provided an ecological report [Ecological Appraisal, FPCR Environment and Design Ltd, January 2023] in which they have included eDNA survey results undertaken on 3 ponds to the east of the development boundary. These results returned a negative result for great crested newts. However, the eDNA survey results are almost 3 years old and considered to be out of date and will need to be updated in line with the CIEEM Advice Note on the Lifespan of Ecological Reports and Surveys (CIEEM, 2019). Survey data that are more than a few years old normally cannot be relied upon for details on which to base mitigation schemes, as populations and sites may change in nature and extent (Great Crested Newt Mitigation Guidelines, page 21, English Nature, 2001).</p> <p>Should the applicant not wish to wait until the next survey season, use of the District Licence can negate the need for further surveys to be undertaken and can be applied for outside of the survey season, providing certainty through planning, if the applicant</p>	

Appendix 2

chooses to use this route, a valid NatureSpace report or certificate must be submitted to planning.

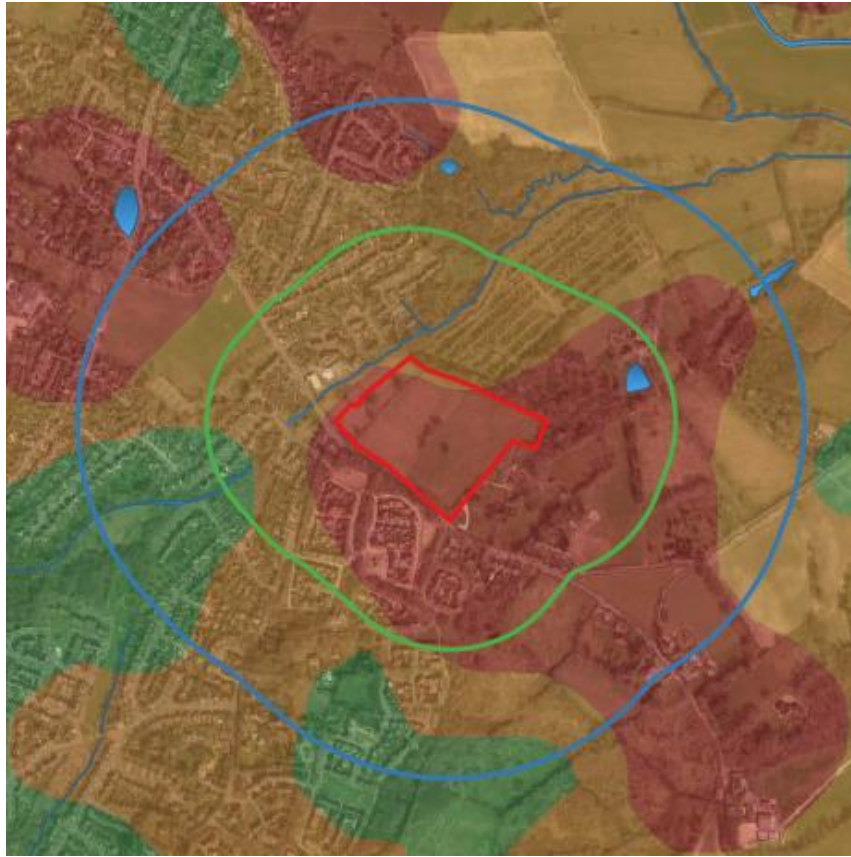


Figure above: Outline of the site (red) in the context of the surrounding landscape, including the Impact Risk Zones for great crested newt. Ponds are shown in light blue – not all ponds are visible on this map. A 250m buffer is shown around the site in green and a 500m buffer in blue. Contains public sector information licensed under the Open Government Licence v3.0.

Contact details: info@naturespaceuk.com

Relationship between NatureSpace and the Planning Authority

Mid Sussex District Council holds a Great Crested Newt Organisational (or “District”) Licence granted by Natural England. This is administered by NatureSpace Partnership through their District Licensing Scheme as the council’s delivery partner. A dedicated Newt Officer is employed by NatureSpace to provide impartial advice to the council and help guide them and planning applicants through the process. All services and arrangements are facilitated in an unbiased, independent, and transparent manner. You can find out more at www.naturespaceuk.com

Legislation, Policy and Guidance

Reasonable Likelihood of Protected Species

Appendix 2

Permission can be refused if adequate information on protected species is not provided by an applicant, as it will be unable to assess the impacts on the species and thus meet the requirements of the National Planning Policy Framework (2021), ODPM Circular 06/2005 or the Conservation of Habitats and Species Regulations 2017 (as amended). The Council has the power to request information under Article 4 of the Town and Country (Planning Applications) Regulations 1988 (SI1988.1812) (S3) which covers general information for full applications. CLG 2007 'The validation of planning applications' states that applications should not be registered if there is a requirement for an assessment of the impacts of a development on biodiversity interests.

Section 99 of ODPM Circular 06/2005 states:

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and / or planning obligations before permission is granted."

Great crested newts

Great crested newts and their habitats are fully protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Therefore, it is illegal to deliberately capture, injure, kill, disturb or take great crested newts or to damage or destroy breeding sites or resting places. Under the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any great crested newts occupying a place of shelter or protection, or to obstruct access to any place of shelter or protection (see the legislation or seek legal advice for full details). Local planning authorities have a statutory duty in exercising of all their functions to 'have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving and enhancing biodiversity,' as stated under section 40 of the Natural Environment and Rural Communities Act 2006 (as amended), as well as a duty under the Conservation of Habitats and Species Regulations 2017 (as amended) to have regard to the requirements of the Habitats Directive. As a result, great crested newt and their habitats are a material consideration in the planning process.

Lifespan of Ecological Reports and Surveys

Validity of ecological reports and surveys can become compromised overtime due to being out-of-date. CIEEM Guidelines for Ecological Report Writing (CIEEM, 2017) states, if the age of data is between 12-18 months, "the report authors should highlight whether they consider it likely to be necessary to update surveys". If the age of the data is between 18 months to 3 years an updated survey and report will be required and anything more than 3 years old "The report is unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated".

Appendix 2



Appeal Decision

Inquiry Held on 9-12 March 2021, and 16-17 March 2021

Site visits made on 22 February and 18 March 2021

by Peter Rose BA MRTPI DMS MCM I

an Inspector appointed by the Secretary of State

Decision date: 10 May 2021

Appeal Ref: APP/D3830/W/20/3261311

Land at Birchgrove Road, Horsted Keynes

- 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 Fairfax Acquisitions Limited against the decision of Mid Sussex District Council.
 - The application Ref: DM/19/4276, dated 9 October 2019, was refused by notice dated 20 April 2020.
 - The development proposed is 'outline planning application, with all matters reserved apart from means of access, for up to 32 new dwellings, comprising 90% affordable housing units, and 10% open market units, with access from Birchgrove Road, open space, associated infrastructure and landscaping'.
-

Decision

1. The appeal is dismissed.

Preliminary matters

Description of development

2. The original description of development was for up to 32 new dwellings but comprising 85% affordable housing units and 15% open market units. The description of development was subsequently amended prior to the authority's decision to 90% affordable housing units and 10% open market units. The appeal has been publicised on those revised terms.

Plans

3. The proposal involves an outline application with all matters reserved for subsequent approval except access. Only two drawings are submitted seeking formal approval: drawing Ref: 1906/PL.01 Revision B, 'Location Plan'; and drawing Ref: SK21613-06, 'Pedestrian & Vehicular Access Strategy'.
4. The application is also accompanied by a number of illustrative drawings and which, whilst not determinative, have helped inform my reasoning. These include an 'Indicative Site Layout' Ref:1906/PL.04 (the illustrative layout).
5. The parties have agreed that whilst a number of the application drawings are described as indicative, they are in fact merely illustrative in nature. Except as set out in the specified access drawing as it relates to details of the Birchgrove

Appendix 3

Road junction, the parties also agree the application is not seeking approval for any matters of internal access.

Planning obligations

6. The appeal is supported by an agreement between the appellant and local planning authority made pursuant to section 106 of the Act and dated 19 March 2020 (the section 106 agreement).

Main issues

7. The main issues are:

- the possible contribution of the proposed dwellings to meeting local housing need;
- the effect of the development upon the character and appearance of the appeal site and its surroundings, and including whether or not the scheme would conserve and enhance the natural beauty of the High Weald Area of Outstanding Natural Beauty (the AONB);
- whether or not the proposal would preserve the significance of Lucas Farm, a Grade II listed building, and preserve or enhance the significance of Horsted Keynes Conservation Area.

Reasons

The contribution to local housing need

Local needs and best available evidence

8. The proposal is promoted under Policy DP32 of the Mid Sussex District Plan, 2014-2031 adopted March 2018 (the District Plan). Policy DP32 provides for development of affordable housing as Rural Exception Sites subject to various criteria. These include at criterion ii) that the housing is to meet local needs justified by the best available evidence.
9. The policy's accompanying narrative explains how Rural Exception Sites would not usually be granted permission for housing. They seek to address the needs of the local community by accommodating households who are either current residents or who have an existing family or employment connection.
10. Neither Policy DP32 nor the National Planning Policy Framework (the Framework) offers further definition of 'local', and the Inquiry received evidence of need at a number of different levels.
11. The most local data relates to Horsted Keynes Parish. The Horsted Keynes Housing Needs Survey, a snapshot dating from 2019, found significant unmet local housing need for affordable housing. The survey identified 24 households as having an unmet affordable housing need over the next decade or more.
12. A similar and more up-to-date picture derives from the Council's Common Housing Register. As at 6 January 2021 it included 29 households with a local connection to Horsted Keynes in need of affordable housing. Ten of the 29 households are existing tenants living in social housing in Horsted Keynes.

Appendix 3

Appeal Decision APP/D3830/W/20/3261311

13. Apportioning a district-wide need for affordable dwellings over the 17 year period of the District Plan by population suggests, fairly crudely, a pro-rata requirement for Horsted Keynes amounting to some 44-56 affordable dwellings. There have been no affordable housing completions or planning permissions for affordable housing in the period 2014-2020.
14. The Council's emerging Mid Sussex District Council Site Allocations Development Plan Document July 2020 (the DPD) proposes two housing allocations in Horsted Keynes. These comprise: Site SA28, Land south of the Old Police House, Birchgrove Road, (25 dwellings); and Site SA29, Land south of St Stephens Church, Hamsland (30 dwellings). Together these sites could deliver, subject to viability, 17 affordable housing units if developed in accordance with the Policy DP31 requirement for 30% affordable housing. The DPD is at an advanced stage of preparation and a recent appeal found no reason to suggest either of the two allocations would not be deliverable.¹
15. Data was presented by the Council for a wider area drawing upon the parishes of Horsted Keynes, Ardingly, Lindfield Rural and West Hoathly. Based upon the same District-wide need, the pro-rata share for the four parishes is in the range of 257-330 affordable dwellings. In the period 2014-2020, there were 83 affordable housing completions and planning permission has been granted for 137 affordable dwellings. The DPD proposes four site allocations which could yield a total of 44 affordable dwellings. The total number of completions, permitted dwellings and draft allocations in the four parishes amounts to 264 dwellings. A delivery of 264 would place supply just above the lower end of the identified range of need of 257, but well short of the upper level of 330.
16. Alternatively, the Medium Super Output Area 06 (the MSOA) is suggested by the appellant as a more appropriate context within which to consider the housing needs of the local community. Although the MSOA and the four parishes cover similar areas, a number of schemes which have delivered a significant amount of affordable housing in recent years are just outside the MSOA boundary but still fall within the four parishes. Applying similar pro-rata methodology to the MSOA, need is identified to be in the range of 202-259 dwellings relative to a total number of completions, permitted dwellings and draft allocations of 83.

Summary of conclusions

17. The Council now accepts that it would be possible for a reserved matters application to come forward with a housing mix that could deliver 90% affordable housing and meet local needs. Based on the Council's position that there is a local need for 24-29 affordable dwellings, the authority recognises that the appeal proposals would meet local needs justified by the best available evidence for the purpose of criteria (ii) of Policy DP32. This is notwithstanding any possible release of existing properties through transfer of existing tenants from social housing in Horsted Keynes should that eventuality arise.
18. The accompanying narrative to Policy DP32 suggests that delivery of Rural Exception Sites will normally be led by Parish Councils, and the proposal is not supported by either Horsted Keynes Parish Council or by the Horsted Keynes Community Land Trust Feasibility Group. Nevertheless, such support is not a

¹ Appeal Ref: APP/D3830/W/19/3242226 dated 12 February 2021 and relating to Land to the rear of Peacocks, Church Lane, Horsted Keynes

pre-condition to a proposal's ability to meet local housing need and I assess the appeal scheme according to its merits. I also note the relatively early and emerging status of the Horsted Keynes Neighbourhood Plan and the efforts being made towards other possible community-led housing schemes for the village but which have yet to materialise.

19. Whether specific to Horsted Keynes, or considered in relation to the four parishes or relative to the MSOA, the best available evidence demonstrates there is likely to be significant local need for affordable housing and the proposal would thereby align with Policy DP31's general commitment to delivery of such accommodation. The policy's guiding Strategic Objective 13) is to provide the amount and type of housing that meets the needs of all sectors of the community. The Framework similarly seeks to ensure that the supply of homes is boosted, and that planning policies and decisions in rural areas are responsive to local circumstances. It encourages local planning authorities to bring forward Rural Exception Sites that will provide affordable housing to meet identified local needs, and to consider whether allowing some market housing on sites would help to facilitate this, as also accommodated by criterion v) of Policy DP32.
20. The Framework describes Rural Exception Sites as 'small', but no definition is offered, and no further detailed specification is forthcoming from the Planning Practice Guidance. Policy DP32 does not define sites to be small. Rather, in criterion iv) reference is instead made to a need for the scale of the development to respect the setting, form and character of the settlement and surrounding landscape, and I return to this reference as part of my assessment of character and appearance.
21. In summary, I am satisfied that the scheme would meet local needs justified by the best available evidence as expected by criterion ii) and, setting aside criterion iv), otherwise generally accords with the remaining expectations of Policy DP32.

Character and appearance

The AONB

22. The appeal site is an area of arable land some 3.2 hectares in size and of irregular shape. It lies just outside the Built-up Area Boundary to Horsted Keynes as defined in the DPD, and within the High Weald Area of Outstanding Natural Beauty (the AONB).
23. The High Weald AONB Management Plan 2019-2024 (the Management Plan) explains how the AONB is characterised by dispersed historic settlements of farmsteads and hamlets and is described as one of the best-preserved medieval landscapes in north-west Europe. The Management Plan sets out the vision of a landscape which retains its distinctive historic landscape character and beauty. The significance of the AONB and its characteristic features are recognised in similar terms through other corresponding guidance at national, county and local levels.

Assessment

24. The Management Plan, through its Statement of Significance, explains how the natural beauty of the AONB comprises five defining components of character that have made the High Weald a recognisably distinct and homogenous area

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- for at least the last 700 years. These include: geology in terms of a ridged and faulted landform; dispersed historic settlement, including isolated farmsteads and late Medieval villages; a dense network of historic routeways (now roads, tracks and paths); ancient woodland; and small, irregular and productive fields, bounded by hedgerows and woods.
25. The appeal site forms part of a wider pattern of pleasant small and medium sized irregular fields. The fields are generally enclosed by a network of hedgerows and which connect to various areas of woodland beyond. To the west of the site, the village of Horsted Keynes sits in proximity to a ridge line in the landscape, and further dispersed settlement extends along Birchgrove Road opposite. Both Birchgrove Road and Danehill Lane are historic drove routes. It is also a significant AONB characteristic that the site is a field forming part of the wider separation between the settlement of Horsted Keynes and elsewhere.
 26. Taken together, these features lead me to conclude that the site is highly characteristic of the defining components of the AONB and, accordingly, makes an important contribution to the wider significance of the designation.
 27. The surroundings of the site are undoubtedly part of a settled landscape in which open land co-exists with dispersed built form, and the AONB washes over Horsted Keynes and adjacent dispersed settlement. Nevertheless, I do not accept that the appeal site has a transitional or in any way urban location. The site does lie adjacent to an historic village and there is some sporadic development along Birchgrove Road, but the predominant character is essentially one of countryside, and the built form is consistent with the dispersed settlement pattern generally characteristic of the AONB.
 28. In that context, any built form proposed for the site would be likely to give rise to some degree of landscape harm by virtue of its contrasting physical presence, but no policies prohibit greenfield development on such terms. Rather, the Council acknowledges that there is local affordable housing need in the AONB, and that it cannot expect to meet such needs in the absence of development.
 29. To mitigate the extensive built form of up to 32 dwellings and associated access, the appeal scheme would introduce significant planting to the site along its Birchgrove Road and Danehill Lane frontages and a large area of native woodland planting to the south-east. The latter would occupy a position fairly central to the wider field pattern and is indicated to be substantial in scale. These features would serve to significantly screen the proposed built form and, indeed, might generally be regarded as helping to maintain a rural character and appearance for the site.
 30. Even so, such mitigation would not be consistent with the particular defining AONB components of small irregularly shaped fields predominantly bounded by hedgerows and similar. Such measures would thereby contribute to a materially different character and appearance contrary to the expectations of the Management Plan. A dense woodland buffer and associated boundary planting as proposed would obscure characteristic AONB views and features and, rather than conserve, would seriously undermine the wider historic field pattern of which the site forms an important and integral part.
 31. Further, the High Weald Housing Design Guide November 2019 (the Design Guide) urges that the character of the High Weald should be embedded into

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- genuinely landscape-led design, taking account of features such as field patterns and boundaries. The appeal proposal runs contrary to the landscape in this regard. The scheme seeks to develop relatively exposed ground in an elevated position and which affords significant visibility not just from its frontages but also in more distant views from the south-east.
32. Similarly, the Design Guide requires development to be sensitive to existing historic settlement patterns. The location is not well related to the existing village of Horsted Keynes, being outside the Built-up Area Boundary and further separated by the historic drove route of Danehill Lane.
 33. The Design Guide also advises that new development should be good enough to be seen, not justified on the basis that existing or proposed planting will screen it from view. Whatever the quality of any detailed design, built form absent mitigation in this location would be even more harmful to those same defining components of AONB significance.
 34. The illustrative layout shows a cul-de-sac layout for the proposed 32 dwellings. Such layouts are specifically identified as unsuitable in the Design Guide, which states that dead-ends are uncommon and not in-keeping with the historic character, and that such arrangements are therefore to be avoided. Whilst the Design and Access Statement suggests that the scheme would be redolent of a farmstead, there was some inconsistency between the appellant's witnesses in this regard, and I draw little confirmation to that effect from the illustrative layout.
 35. Even allowing for the proposed planting and replacement of hedges, the built form and new site access would still erode the existing rural character of Birchgrove Road in the vicinity of the site and would have a similar urbanising effect towards the top of Danehill Lane. Exactly how much of the important established hedgerows fronting Birchgrove Road would be lost or otherwise impacted for the new access and associated works also remains unclear.

Summary of conclusions

36. The evidence does not lead me to conclude the scheme would yield only a moderate adverse effect upon landscape character, and nor that the effect would be less than significant. Applying the evidence presented through agreed methodology², I consider the general sensitivity of the landscape to be high, the proposed magnitude of change to be major, and the effect upon landscape character to be major adverse.
37. The site also has high visual sensitivity, particularly in its immediate exposure to receptors in Birchgrove Road and Danehill Lane, including to nearby residents and pedestrian passers-by. Changes in view mean receptors would experience major adverse effects adjacent to the site. More moderate adverse effects would be experienced by receptors further away as the development becomes relatively less incongruous with distance and more readily assimilated into its wider surroundings with the benefit of mitigation.
38. Section 85 of the Countryside and Rights of Way Act, 2000 places a statutory duty upon me to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The Framework similarly requires that planning policies and decisions should contribute to and enhance the natural and local

² Guidelines for Landscape and Visual Impact Assessment, Third Edition 2013 (GLVIA3)

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- environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan, and by recognising the intrinsic character and beauty of the countryside.
39. Framework policies also include in the first part of paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. The Framework further states that the scale and extent of development within these designated areas should be limited.
 40. The Council considers the appeal scheme to be 'major development' for the purposes of the Framework, and the second part of paragraph 172 states that planning permission should be refused for such schemes other than in exceptional circumstances. The appellant points to other decisions and proposed DPD allocations by the Council which consider similar or larger schemes not to be major.
 41. Despite the significant adverse impact the scheme would have on the purposes for which the area has been designated and defined and its setting, basic considerations of nature, scale (absolute numbers of dwellings)³ and of local consistency do not, on balance, lead me on those terms to regard the appeal scheme as major development. Nevertheless, even as 'non-major' development, the harm arising would still be in conflict with the protective policy set out in the first part of paragraph 172 for great weight to be given to the conservation and enhancement of the landscape and scenic beauty of the AONB⁴, and contrary to the accompanying duty under section 85.
 42. The scheme would conflict with Objective S2 of the Management Plan which seeks to protect the historic pattern and character of settlement, with Objective R1 which looks to maintain the historic pattern and features of routeways, and with Objective FH2 which seeks to maintain the pattern of small irregularly shaped fields bounded by hedgerows and woodlands.
 43. The application would introduce an unduly imposing and discordant presence significantly harmful to the character and appearance of the appeal site and its surroundings, and which would fail to conserve and enhance the natural beauty of the AONB. I find the scheme would thereby be contrary to Policies DP12 and DP16 of the District Plan. These seek, amongst other things, to protect the countryside in recognition of its intrinsic character and beauty, and to only allow development within the AONB where it conserves or enhances natural beauty and has regard to the High Weald AONB Management Plan.
 44. I conclude the proposal would also be contrary to criterion iv) of the Rural Exception Sites provision offered by Policy DP32 as the scale of the development would not respect the setting, form and character of the settlement and surrounding landscape.
 45. Further, the special justification for new homes in the countryside set out in Policy DP15 is subject not just to accord with Policy DP32 but also to not being

³ Footnote 55 clarifies that interpretation of 'major development' is a matter for the decision maker, taking into account a scheme's nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined

⁴ See R. (on the application of Monkhill Limited) and the Secretary of State for Housing, Communities and Local Government and Waverley Borough Council, Neutral Citation Number: [2021] EWCA Civ 74, Case No: C1/2019/1955/QBACF

in conflict with Policy DP12. There is also no other specific policy reference in support of Policy 12. The proposal is in conflict with all three policies.

46. The sum of the harm arising is a matter to which I attach considerable weight.

Heritage

Lucas Farm

47. Lucas Farm is a Grade II listed building located to the north-west of the site, on the opposite side of Birchgrove Road. Aside from the main house, it comprises a collection of other incidental buildings and open areas.

48. The West Sussex County Council Monument Full Report describes Lucas Farm as an 18th century double-sided loose courtyard farmstead with additional detached elements to the main plan. It indicates how Lucas Farm has been identified as an historic farmstead through the Historic Farmsteads and Landscape Character in West Sussex Project.

49. Although the asset has been variously modified over time, the heritage significance of Lucas Farm arises from its evidential value as a surviving 18th century farmstead, from its historical value illustrating the manner in which the farmstead has evolved, and in its aesthetic value, particularly through the house's impressive frontage and use of traditional and vernacular materials. The Inquiry was also informed by the current owner how the historic asset remains a working farm, and of an association between the farm and the appeal site.

50. As an historic farmstead, its surviving countryside setting to the north, south and east, and which includes the appeal site, makes a positive contribution to its significance and the manner in which the asset is appreciated.

51. The main house is set further away from the appeal site than other parts of the curtilage and does not face in that direction. The house is also set back from the Birchgrove Road frontage and, whilst vegetation can be removed or otherwise reduced, this boundary to Lucas Farm is heavily planted. There has also been some erosion of the original agricultural setting through development of other built form along Birchgrove Road, including the adjacent housing development of Lucas.

52. These various factors serve to constrain intervisibility between the appeal site and significant elements of Lucas Farm and would, in turn, limit the effect of the development upon the asset's setting. Nevertheless, the rural surroundings to the farm, and more particularly the area's historic AONB character as it relates to the asset, would be undermined by the built form and accompanying enclosure of the appeal site.

53. The appeal site is only one aspect of the farm's wider setting. Other elements of its setting which also contribute to its significance, including its wider rural context, would remain unaltered, as would the asset's evidential, historical and aesthetic importance. Accordingly, I consider that harm to the overall significance of Lucas Farm would be limited.

Horsted Keynes Conservation Area

54. The significance of the Horsted Keynes Conservation Area in part relates to its historic development as a rural village in close connection with the surrounding

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rural landscape. Mid Sussex Council's 'Conservation Areas in Mid Sussex' publication August 2018 identifies how extensive views of the countryside from within the Conservation Area are amongst those features that contribute to its particular character.

55. The existing approaches to the village and Conservation Area along Birchgrove Road and along Danehill Lane are through open countryside with only occasional, dispersed buildings largely characteristic of the AONB. This setting is relevant to the Conservation Area's significance as a long-established village settlement with a direct visual and functional relationship to its rural AONB surroundings. The loss of the appeal site's open character, coupled with glimpsed views of houses and the presence of an access road and associated urbanising features in passing views, would all detract from that setting.
56. Whilst the appeal site is neither within nor directly adjacent to the Conservation Area, it still provides an immediate focal point at the end of a particular channelled view outwards along Birchgrove Road, and part of a rural backdrop in which the eastern end of the Conservation Area can be appreciated.
57. Accordingly, whilst the appeal site only relates to one relatively small part of the Conservation Area as a whole, there would be some limited harm to its significance.
58. I do not consider the DPD's draft allocation of Site SA28 to be comparable in its heritage implications. By virtue of its location on the village-side of the junction of Birchgrove Road and Danehill Lane, any development of SA28 is likely to have a far stronger and more integral visual and functional relationship to the existing built form of the settlement. The appeal site is more detached, and has a far more important role to play than SA28 in maintaining a distinct rural setting to both the Conservation Area and to Lucas Farm. Indeed, the junction would seem to function in townscape terms as a natural end-stop to the village, with its settled form largely confined to the west, and with open AONB countryside characteristically to the south and east.

Summary of conclusions

59. I therefore conclude the proposal would not preserve the setting of Lucas Farm, and would thereby not accord with Policy DP34 of the District Plan which requires development to protect listed buildings and their settings.
60. I further conclude the scheme would not preserve or enhance the character or appearance of Horsted Keynes Conservation Area and would thereby be contrary to Policy DP35 of the District Plan. Amongst other things, this seeks to ensure features that contribute to the special character of the Conservation Area are protected.
61. These policies are consistent with the Framework which advises that heritage assets are an irreplaceable resource, and requires them to be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, it requires great weight to be given to an asset's conservation, and irrespective of harm.
62. The collective harm I have identified to the significance of Lucas Farm and to the Conservation Area would, in overall terms, be relatively modest. It would be less than substantial and at a relatively low level that would not seriously

affect the significance of the designated assets, individually or collectively. That level of harm still remains to be weighed against the public benefits of the proposal in my overall assessments to follow.⁵

Other matters

Access

63. No objection is raised by the highways authority or planning authority and I have no reason to find any concerns in relation to the proposed details. The scheme would thereby be compliant with Policy DP21 of the District Plan which, amongst other things, seeks to ensure that development protects the safety of road users and pedestrians.

Section 106 agreement

64. The section 106 agreement makes various commitments, including measures to address the Council's previous other objections relating to infrastructure, and to the Ashdown Forest Special Protection Area (the SPA). Additionally, the agreement makes provision for other mitigations, and for affordable housing.
65. The proposed development would lie within the SPA's Zone of Influence and, in the absence of mitigation, would thereby be likely to have a significant adverse effect upon the SPA due to potential increased recreational pressures.
66. The Suitable Alternative Natural Greenspace and the Strategic Access Management and Monitoring mitigation approach set out in Policy DP17 of the District Plan accord with a strategic partnership solution for recreational disturbance supported by Natural England. This seeks to ensure compliance with the requirements of the Habitats Regulations, and the section 106 agreement makes specific provision in that regard for necessary mitigation in accordance with the recommendations of Natural England.
67. The Council raises no objection in relation to the Ashdown Forest Special Area of Conservation (the SAC). As a windfall development within the context of the Mid Sussex Transport Study, the scheme's potential effects upon the SAC are incorporated into the overall results of the transport model and it is agreed that no specific mitigation is required.
68. As the competent authority, I am satisfied from the evidence and representations before me that the proposed development with the mitigation proposed would not have an adverse effect upon the integrity of the SPA or upon the SAC. The proposal would thereby accord with Policy DP17 which, amongst other things, seeks to prevent adverse effects upon each.
69. The section 106 agreement makes provision for various other mitigation, including education, recreation and community facilities. These provisions accord with Policy DP20 of the District Plan which, amongst other things, seeks to ensure that developers provide for, or contribute towards, the infrastructure and mitigation measures made necessary by their development proposals through appropriate on-site mitigation and infrastructure provision.
70. The main parties confirmed at the Inquiry they were satisfied with the form and content of the agreement as a deed. I find the agreement to be compliant with

⁵ Framework paragraph 196

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

Housing land supply

71. The Council is able demonstrate a land supply of 5.37 years based upon the authority's most recent published Annual Position Statement 2020. The Council's Housing Delivery Test measurement for 2020 was 91% and the authority is required to produce an Action Plan and to apply a 5% buffer to supply.

Other concerns

72. A number of other matters were raised by interested local parties at the application stage. These included flooding, noise and disturbance, and light pollution. None have been further substantiated, none are supported by the authority, and I find no reason to oppose the scheme in principle on those terms.

Overall assessments

i) The development plan as a whole

Policy DP32 and its relationship to the wider development plan

73. It is submitted that Policy DP32 provides a mechanism for the development to proceed as a Rural Exceptions Site in the face of any breaches of Policies DP12, DP15 and DP16 and so accord with the development plan as a whole. This is because Policy DP32 operates as an exception to the restrictive approach of other policies.
74. Be that as it may, I have concluded there would be significant conflict with criterion iv) of Policy DP32 such that the proposal would not accord with its requirements. Further, reflecting the statutory duty under section 85 and the scale of harm involved, I place particular weight on the conflict arising with criterion iv) such that the scheme fails to accord with Policy DP32 as a whole. Any possible overriding dispensation Policy DP32 may itself offer to offset conflict with other policies does not therefore arise.

All policies

75. I consider the policies which are most important are those referred to and variously applied in my assessment of the main issues and other considerations. I regard that overall basket of most important policies to be up-to-date, and have found conflict and harm in connection with Policies DP12, DP15, DP16, DP32, DP34 and DP35.
76. The lack of policy compliance occasioned by the scheme is such that the appeal proposal cannot be regarded, read sensibly and in the round, to accord with the development plan as a whole. The scheme would involve fundamental conflict with the development plan on a range of important matters.

ii) Other considerations in favour of the scheme

77. The scheme would make a significant contribution of affordable housing, and a further addition of market housing.

78. The Council's two allocated sites could potentially contribute, at least in part, to meeting the need for affordable housing within Horsted Keynes. If those proposals materialise, the benefits of the appeal scheme towards meeting housing need in Horsted Keynes would be offset to some degree. Nevertheless, I cannot accept that any possible over-provision relative to Horsted Keynes, if that were to ever arise, should count against the scheme. Horsted Keynes is part of a wider local planning authority to which the same development plan policies apply and within which housing need exists and remains to be met. In terms of satisfying affordable housing need in Mid Sussex, any over-provision relative to Horsted Keynes would, in principle, still be a wider benefit and a factor in favour of the scheme.
79. The appellant also questions whether affordable homes arising from the DPD allocations would be satisfactorily reserved to meet the identified local need, and so place greater premium upon the relative benefits of the appeal scheme. The Council's housing allocations policy read in conjunction with the accompanying SPD identify priority and arrangements for bids from applicants who have a local connection with the town or village where the new development is located. I do not accept that only the present appeal proposal, as a DP32 scheme with its accompanying section 106 commitments, is significantly distinguished in its ability to meet local affordable housing need.
80. The more general economic benefits of development would include investment in construction and related employment for its duration, and an increase in subsequent local household expenditure and demand for services from new residents.
81. The appeal site is in a relatively sustainable location, at the edge of Horsted Keynes. The development would be well placed to support, and to be served by, a range of local services and other facilities in and around Horsted Keynes. This is confirmed by Policy DP6 which defines Horsted Keynes as a medium-sized Settlement Hierarchy Category 3 village and with accompanying expectations of available services.
82. The proposal includes a commitment to biodiversity through its 'Mitigation Statement and Habitat Creation and Management Plan'.
83. In sum, I find the benefits of the development amount to significant collective weight in favour of the proposal.

iii) Heritage balance

84. The extensive public benefits arising from the scheme would out-weigh the low level of harm I have found for the heritage significance of Lucas Farm and the Conservation Area. Accordingly, the Framework does not provide a clear reason for refusing the development proposed in this specific regard.

iv) Final planning balance

85. Relevant development plan policies apply and those which are most important for determining the application are not out-of-date within the terms of Footnote 7 of the Framework or otherwise. The tilted balance of paragraph 11 d) of the Framework is therefore not engaged, and the application remains to be determined in accordance with the statutory duty under section 38(6).⁶

⁶ Planning and Compulsory Purchase Act 2004

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86. Section 38(6) requires this appeal to be determined in accordance with the development plan, unless material considerations indicate otherwise. The scheme does not accord with the development plan as a whole, and I find the weight of the conflicts and harms arising in those regards not out-balanced by the far lesser but still significant weight of other material considerations. Accordingly, I find that planning permission should be refused.

Conclusion

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

Peter Rose

INSPECTOR

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APPEARANCES

For the local planning authority:

Jack Parker of Counsel, instructed by Mr T Clark, Solicitor and Head of Regulatory Services, Mid Sussex District Council

He called:

Neil Williamson BA(Hons) - Director, Neil Williamson Associates Ltd

Emily Wade - Conservation Officer, Mid Sussex District Council

Christopher Tunnell - Director, Arup

(Susan Dubberley - Senior Planning Officer, Mid Sussex District Council also contributed to round-table discussions)

For the appellant:

Christopher Boyle of Queens Counsel, instructed by Rodway Planning Consultancy Ltd

He called:

Peter Armstrong - Senior Associate,
Hyland Edgar Driver Landscape Architects

Mark Sanderson - Director, The Heritage Advisory

Michael Taylor - Director, Chilmark Consulting Ltd

Tim Rodway - Director, Rodway Planning Consultancy Ltd

(Andy Leahy, Bespoke Property Consultants also contributed to round-table discussions)

Interested parties:

Phil Miles - local resident, and on behalf of the Horsted Keynes Community Land Trust Feasibility Group

Councillor Webster - Horsted Keynes Parish Council

Councillor Colville - Horsted Keynes Parish Council

Claire Tester - High Weald AONB Unit

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INQUIRY DOCUMENTS

The following documents were submitted and accepted by the Inquiry:

Reference	Document
ID1	Draft Inquiry programme
ID2	Case management telephone conference summary note
ID3	Statement from Councillors Colville and Webster
ID4	R. (on the application of Monkhill Limited) Neutral Citation Number: [2021] EWCA Civ 74, Case No: C1/2019/1955/QBACF
ID5	District Plan map extract
ID6	Draft Site Allocations DPD map extract
ID7	Appellant opening statement
ID8	LPA opening statement
ID9	Final note on affordable housing need and supply
ID10	Final summary points of disagreement - affordable housing need
ID11	NCA 122 High Weald extract
ID12	Council's heritage proof of evidence
ID13	Listing description for Lucas Farmhouse
ID14	Heritage Gateway - Lucas Farm Historic Farmstead
ID15	Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment (Historic England, 2008)
ID16	Lucas Farm Historic Farmsteads and Landscape Character extract
ID17	Appellant's heritage statement
ID18	Appellant's heritage statement of case
ID19	Horsted Keynes Community Land Trust statement
ID20	Horsted Keynes Conservation Area map
ID21	LPA's note on landscape assessment scales
ID22	Correspondence from Julia Wykeham-Martin
ID23	Ashdown Forest Zone of Influence
ID24	Final statement of common ground
ID25	Housing Delivery Test 2020
ID26	Summary note of responses to public consultation in connection with application DM/20/4692
ID27	High Weald response to DM/20/4692
ID28	County response to DM/20/4692
ID29	Parish response to DM/20/4692
ID30	Landscape response to DM/20/4692
ID31	Draft section 106 agreement
ID32	Suggested list of conditions
ID33	Development Viability SPD
ID34	LPA closing statement
ID35	Appellant closing statement
ID36	Development Infrastructure and Contributions SPD
ID37	Notes relating to Inquiry housekeeping
ID38	Heritage note on further information regarding Lucas Farm
ID39	Final suggested list of conditions
ID40	Completed section 106 agreement



Appeal Decision

Inquiry held between 15 – 22 August 2023

Accompanied site visit made on 24 August 2023

by Dr Rachael A Bust BSc (Hons) MA MSc LLM PhD MIOl MCMI MIEEnvSci MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th October 2023

Appeal Ref: APP/D3830/W/23/3319542

Land south of Henfield Road, Albourne (Easting 526300: Northing 116837)

- 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 Croudace Homes Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/22/2416, dated 28/07/2022, was refused by notice dated 25 November 2022.
 - The development proposed is the erection of up to 120 residential dwellings including 30% affordable housing, public open space and community facilities. All matters are reserved except for access.
-

Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The Case Management Conference call was held on 19 June 2023. During the Inquiry there was formal presentation of evidence with cross examination of the matters of landscape, heritage and planning. Round table sessions were used to examine the five-housing land supply evidence, planning conditions and obligations.
3. In addition to the accompanied site visit which included a walking route agreed by the parties, I also carried out two unaccompanied visits to the site and Albourne using public footpaths. The first on 14 August the day before the Inquiry opened, and the second on 18 August having heard the evidence in relation to landscape and heritage.
4. The application was made in outline with access as the only matter to be considered at this stage. The Planning Statement of Common Ground (SoCG) set out the agreed plans which form the appeal scheme together with a list of the supporting plans, including parameter plans. Despite the outline nature of the scheme during the Inquiry frequent references were made by witnesses from both parties to the Land Use Plan (drawing reference 3117/A/1201/PR/C); such that by the Inquiry session on planning conditions, the main parties agreed that this plan should be elevated from being a supporting and parameter plan in the original submission to become an approved scheme plan in the event that the appeal were to be allowed. Having regard to the *Wheatcroft* principles¹, as the Land Use Plan was part of the full suite of

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

documents and consulted upon, I am satisfied that no prejudice would arise to any party from the change of status of this Plan. Accordingly, I have determined the appeal on the basis of the original scheme plans together with the Land Use Plan. All other supporting and parameter plans are for indicative and illustrative purposes only and I have therefore considered them accordingly.

5. The application was refused planning permission for four reasons. These related to harm to the aspects of (i) landscape character, (ii) views from 2 public rights of way (Footpaths 12_1AI and 15_1AI) and (iii) several designated heritage assets and (iv) the absence of infrastructure and affordable housing contributions. The Planning SoCG² confirms that the fourth reason for refusal would be addressed through the submission of a planning obligation under Section 106 of the Town and Country Planning Act 1990.
6. Two Section 106 planning obligations were submitted in draft and subsequently discussed at a round table session during the Inquiry. The signed and executed versions dated 29 August 2023 were submitted within the agreed timescale following the close of the Inquiry. Both deeds contain the mechanism (sometimes known as a 'blue pencil' clause) which provides that for any obligation(s) which I find does not pass the statutory tests such obligation(s) shall have no effect and consequently the owner and/or other covenanters shall not have liability for payment or performance of that obligation. I have had regard to both planning obligations and the Council's submitted Infrastructure Statement and will return to them later in the decision.
7. One planning obligation is made by way of an Agreement between the District Council, County Council, Appellant and Landowner. The Agreement provides for index linked financial contributions for formal sport, play space, kickabout, community buildings, local community infrastructure, police, health, primary and secondary education, libraries and transport. Associated administration/monitoring costs are also included. In addition, it secures the provision for on-site affordable housing. It also includes provision for the community orchard, locally equipped area of play (LEAP), public open space, and a community building to include a shop.
8. The second planning obligation by way of Unilateral Undertaking on the part of the Landowner and Appellant in favour of the County Council provides additional school land, woodland school land and school car park.
9. A revised National Planning Policy Framework (the Framework) was published on 5 September 2023 which replaces the version published in July 2021. However, the only revision relates to the Government's policy on onshore wind development within chapter 14. There is no onshore wind proposed as part of this appeal scheme. As such there was no need to seek the parties' views on the revision to the Framework.
10. From all I have read, heard and seen, the main issues are:
 - (i) The effect of the proposal on the landscape character including the public rights of way;

² CDD.1 – Statement of Common Ground (25 July 2023)

(ii) The effect of the proposal on the significance of nearby designated heritage assets including the Albourne Conservation Area and Listed Buildings; and

(iii) Whether or not the Council can demonstrate a deliverable 5-year housing land supply.

Reasons

11. For the purposes of this appeal the relevant part of the Development Plan comprises the *Mid Sussex District Plan 2014-2031* adopted in March 2018 (the DP); the *Mid Sussex Site Allocations Development Plan Document* (the DPD) adopted in June 2022 and the *Albourne Parish Council Neighbourhood Plan* made in September 2016 (the NP). The Council confirmed that no concerns were raised in relation to *West Sussex Joint Minerals Local Plan* (2018), so I do not consider minerals any further.
12. The Council and the Appellant consider that the following policies, which are included in the reasons for refusal, should be considered most important for this scheme. These are Policies DP6, DP12 and DP15 of the DP together with Policies ALC1 and ALH1 of the NP. I see no reason to disagree. Consideration of the relevant policies and weight to be given to them is considered in the planning balance.
13. The appeal site is located outside of the defined built-up area boundary of Albourne and is therefore in the countryside for policy purposes. The proposal is not necessary for the purposes of agriculture or supported by a specific policy reference elsewhere in the overall development plan and therefore there is conflict with Policy DP12 of the DP.
14. Albourne is defined as a category 3 medium sized village which provides essential services for the needs of residents and immediate surrounding communities. It is not disputed that Albourne is a settlement which can receive some growth. However, Policy DP6 envisages any expansion outside of the built-up area to be contiguous and that un-allocated windfall sites would be for 10 dwellings or fewer. The appeal proposal is for up to 120 dwellings which is a significant scale in relation to this policy expectation and would represent a substantial increase on the number of existing households in the village based on the Census 2021³. In this respect the proposal would conflict with Policy DP6 of the DP.

Landscape character

15. The appeal site comprises approximately 11.54ha and is located to the south of Henfield Road, on the western side of Albourne. It is agreed that the appeal site is not covered by any national or local landscape designations. It is not considered to be a valued landscape in accordance with paragraph 174(a) of the Framework and the impact on the South Downs National Park is neutral. As such the appeal site is to be regarded as the countryside which should in any event be recognised and valued for its intrinsic character and beauty according to paragraph 174(b) of the Framework.

³ ID13 Census 2021 Profile for Albourne indicates that there are 270 households in Albourne rounded to the nearest 10 households.

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16. Several landscape character assessment documents have been put to me, including the relevant extract from the National Character Area⁴, a county-wide assessment⁵ and a district-wide assessment⁶. Collectively, these provide a useful context and from them, and as confirmed by my site visit, the appeal site is located within an agricultural and pastoral rural landscape which has a largely dispersed settlement pattern of small hamlets, ancient farmsteads and farmstead clusters. The patchwork pattern of fields is generally enclosed by hedgerows and/or trees which form small woodlands. The topography is undulating with ridges and vales. Whilst these features are not rare, they are important to the rural landscape character of the countryside in this location.
17. The appeal site can be viewed as three portions, the northern part with a defined orchard area; the central and southern parts are divided east to west by one of the two Public Rights of Way (Footpath 15_1AI) and a hedge line which is patchy in places. Consequently, there is a sense of openness and connection between adjacent fields. Footpath 12_1AI runs along the eastern boundary of the southern portion in a north-south direction. Individual and groups of trees are present in places around the site boundary. The undulating nature of the topography allows a wide variety of short, medium and longer views, including to the South Downs from the site and across the site.
18. I consider that the appeal site is typical of the landscape in this location and shares many of the characteristics established in the collection of landscape character assessment documents. Consequently, in my opinion, the appeal site integrates very well into the wider landscape.
19. The appeal proposal is in outline, with the layout and external appearance to be considered at a future reserved matters stage. However, the Land Use Plan and other supporting and parameter plans help to illustrate how the site could be developed. It was clear throughout the Inquiry that by following a landscape led approach, the housing and built development would be focussed on the central part of the site with the southern portion becoming a form of managed landscape public open space. The existing orchard area to the north end would be largely unchanged, however this is the minority portion of the overall appeal site.
20. It is acknowledged by both main parties that as an undeveloped site adjacent to an existing settlement there will be some landscape character harm. The appeal scheme would be seen as a significant extension to the side of the village. I am not entirely persuaded that due to the scale, siting and the provisions indicated on the Land Use Plan that it could be effectively integrated with Albourne.
21. I have had full regard to the intentions set out in the Design and Access Statement (CDA.3) and the evidence of Ms Ritson for a landscape-led and design-led approach. A Landscape and Visual Impact Assessment with addendum⁷ was submitted as part of the planning application. There is no dispute regarding the methodology used, the disagreement relates to landscape sensitivity, landscape effects and visual effects. At the Inquiry the Appellant presented an agreed Revised Landscape and Visual Clarification Note⁸

⁴ CDG.10 – Natural England National Character Area NCA 121 The Low Weald

⁵ CDG.11 – West Sussex County Council A Strategy for the West Sussex Landscape (October 2005)

⁶ CDG.1 – A Landscape Character Assessment for Mid Sussex (November 2005)

⁷ CDA.15 – Landscape and Visual Impact Assessment (July 2022) & CDA.16 - Addendum LVIA (September 2022)

⁸ ID1 – Landscape and Visual Clarification Note, Revision A, Ms Ritson (August 2023)

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- which contained 3 tables to identify in summary form, the differences in the assessments of receptors and effects.
22. During my various visits to the area, I saw all of the agreed visual receptors⁹, some of which were from the closest point of public land. In my opinion the visual receptors where the impact of the proposal would be the greatest are those which are closest to the appeal site and include both footpaths 15_1AI and 12_1AI, the Millennium Garden, the Primary School, Henfield Road near Inholmes Farmhouse and Church Lane.
 23. Footpaths 12_1AI and 15_1AI were specifically identified in the second reason for refusal. These public footpaths appear to be well used and as Mr Zeidler explained to the Inquiry, they offer some more level walking and are less prone to mud than other footpaths. In addition to the accompanied site visit I walked the paths at other times and was passed by walkers and dog walkers.
 24. It is important to remember that from the footpaths the experience will be kinetic, since there will be continuing change as a receptor moves along the footpath in countryside. With the exception of the section of Footpath 12_1AI which is narrow and enclosed with vegetation alongside the primary school, both footpaths provide attractive routes that link up with a wider network of paths for informal recreation. At present users of these footpaths have an immediate experience of rural and traditional agricultural open fields and all-round views despite some more recent planting, including the attractive views of the South Downs escarpment and Wolstonbury Hill when leaving the edge of Albourne. Walkers are likely to particularly value the rural nature of these paths and are likely to be attuned to the environment through which they pass and thus highly sensitive to change.
 25. I heard at the Inquiry that the southern portion of the site would be an area of managed landscaped open space with a variety of paths and interpretation boards. Whilst the precise treatment of the southern portion and other aspects of detail would be assessed by the Council in a future reserved matters application, at this stage the principle of development and therefore change is examined. The change would diminish the current rural and traditional agricultural experience of the users of the sections of Footpaths 12_1AI and 15_1AI that run alongside and through the appeal site. Consequently, people would need to walk much further west from Albourne beyond the appeal site to gain a similar experience to what is experienced at present. The addition of a specific viewpoint, as fine as it is, would not overcome the harm arising from the change in the southern field as a whole.
 26. I concur with the Appellant's description of the Millennium Garden that it is a small, reflective space. From my site visits and spending time in this community space I found it to be very peaceful, tranquil and from the northern bench, it provides an opportunity to enjoy a variety of short, medium and longer views of the wider countryside. The appeal scheme would introduce a permanent change. Future users of the Millennium Garden would see the car parking area and potentially a community building in short views followed by medium views of new housing. Even if the housing layout was designed to enable some longer views of the countryside, this would not be sufficient to mitigate the significant adverse impact that would arise.

⁹ CDD.2 – Landscape Statement of Common Ground, Table 1 (17 July 2023)

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27. The primary school is a sensitive receptor as it would share a boundary with the central section of the appeal site. Even with boundary vegetation the sense of change that would be experienced in this location from rural traditional agricultural field to built development would be a significant adverse change.
28. Church Lane is a rural lane bounded by a vegetated bank opposite the row of dwellings. The lane is at a lower level than the southern portion of the appeal site. From the proposed appeal site access, the roofline of dwellings on Church Lane to the south can be seen nestling and positively contributing to the rural landscape. Despite intervening field boundary vegetation from various points walking along Church Lane there is a strong sense of openness arising from the rural agricultural field and vistas across it. The topography of the southern field adds to the rural character and has a steep slope from northwest to southeast together with a more gentle valley slope in approximately half of the eastern side of the southern field which is the lowest point where it meets Church Lane. Although the appeal scheme would not aim to introduce built development into this southern field, the proposed change to a managed landscape would be significant and adverse.
29. From the mid-point of Church Lane, it is my opinion that the edge of the proposed built development on the central field would be likely to be perceptible between intervening vegetation when in leaf and more so during autumn/winter seasons or when vegetation has had pruning maintenance. From this section the primary school can be seen in the medium distance views and also the roofline of Inholmes Farmhouse outside the northern boundary of the appeal site in the longer views. From parts of Church Lane, new rooflines would be likely to appear as skyline development and would result in a harmful change to the character of the landscape.
30. Inholmes Farmhouse is an attractive large three storey dwelling which occupies a prominent position on Henfield Road. It currently acts a local focal point due to its siting and height. From the public highway outside Inholmes Farmhouse with some intervening vegetation the appeal site can be seen in wide open landscape scale views. From Henfield Road longer range views across the site to the South Downs can be seen. Residential development in the central section of the appeal site as proposed would completely obscure these longer-range views.
31. Allowing greater public access to the countryside in addition to the 2 footpaths is positive. My accompanied site visit enabled me to stand in a localised high point of the southern field which is not presently available to the public and experience the particularly fine views of Wolstonbury Hill and the South Downs ridgeline. Notwithstanding this particularly fine viewpoint spot that could become available, this opportunity must be balanced against the change in the experience that would arise from the appeal proposal as a whole.

Landscape Character Conclusion

32. Despite the outline form of the proposal and all of the Appellant's intentions that I have read and heard about producing a landscape led scheme, the current landscape is already attractive which does not require improvement. The change that would arise to the landscape character from the appeal proposal would be considerable, with the exception of the orchard which would remain largely unchanged. The adverse impact would be the greatest for

visual receptors which are closest to the appeal site. Although predominantly localised, other receptors would still experience change but to a lower level of significance and effect. The walkers near Albourne Place and near Lanehurst would experience a neutral change and similarly from the long-range receptors, the views from Wolstonbury Hill and Devil's Dyke, the change would also be neutral since the site is imperceptible without binoculars.

33. Even with landscaping measures to be submitted at the reserved matters stage, I am not satisfied that at year 15¹⁰ they could overcome the harm I find from the principle of the proposal in relation to the landscape character and the experience for users of both Footpaths 12_1A1 and 15_1A1 and the Millennium Garden.
34. Accordingly, the proposal conflicts with Policies DP6, DP12 and DP15 of the DP. As spatial policies which define the circumstances in which development will be permitted beyond the built-up area boundary, there is no dispute that the appeal scheme is contrary to all 3 policies. There would also be conflict with Policies ALC1 and ALH1 of the NP. Policy ALC1 seeks to conserve and enhance the character of the countryside and maintains or enhances the quality of the rural and landscape character. Policy ALH1 indicates that housing development would be supported immediately adjoining the built-up area where, amongst other things, the development is appropriate to a village setting in terms of scale, makes use of a brownfield site or infill and surrounded by existing development. The appeal proposal fails to comply with these criteria. In addition, the appeal proposal would not be supported by paragraph 174 (b) of the Framework.

Designated heritage assets

35. The appeal site lies adjacent or near to several designated heritage assets which would be affected by the proposal including the Albourne Conservation Area (ACA). There are no listed buildings within the appeal site. However, the Council contends that the appeal site falls within the setting of six Grade II Listed Buildings, namely *Hunter's Cottage*, *Bounty Cottage*, *Finches* and *Souches* on The Street which lie to the east of the appeal site; *Spring Cottage* on Church Lane to the south of the appeal site and *Inholmes Cottage* on Henfield Road to the north-east of the appeal site.
36. In addition to viewing all these properties and ACA from the public realm, during the accompanied site visit I had the opportunity to view the appeal site from within the gardens of *Finches*, *Souches* and *Bounty Cottage* on the western side of The Street. Also at the request of a third party I visited the property known as *Nortons Cottage* on the eastern side of The Street within the ACA.
37. Specific statutory duties arise in relation to designated heritage assets. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard should be had to the desirability of preserving the setting of Listed Buildings. This means that considerable weight and importance must be given to any harm caused to the Listed Buildings or their setting. Similarly, section 72(1) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of any buildings or other land in a Conservation Area. Unlike the setting of the listed

¹⁰ ID2 – Agreed Revised Comparison of Year 15 Effects on Visual Effects (13 August 2023)

buildings, the setting of Conservation Area is not protected by statute. Nevertheless, the same considerations will apply as a matter of policy in terms of weighing harm to significance against benefits.

38. The special interest of a heritage asset derives not only from its physical presence and historic fabric but also from its setting which comprises the surroundings in which it is experienced. The setting of a heritage asset can therefore contribute to the significance of the designated heritage asset.
39. The Glossary of the Framework suggests that the setting of a heritage asset is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. The word 'experienced' has a broad meaning, which is capable of extending beyond the purely visual, and could include, but is not limited to, economic, social and historical relationships, and considerations of noise and smell.
40. The Framework indicates that when considering the impact of a proposed development on the significance of the designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
41. The Council and Appellant agree that the appeal proposal would cause less than substantial harm to the setting of the Listed Building of *Finches* and to the ACA. Whilst they have a different viewpoint on the magnitude of harm when using a spectrum approach, any harm should be given weight in the decision-making process. There is no common ground between the main parties regarding the effect on the other 5 Listed Buildings.

Albourne Conservation Area

42. The ACA abuts the appeal site boundary within the southern portion. The ACA is centred on the historic nucleus of development along the southern part of The Street and incorporating part of Church Lane. Historically, this area was known as Albourne Street and it contains a number of Listed Buildings. Although there is no Conservation Area Appraisal or equivalent, the Council's document 'Conservation Areas in Mid Sussex' (CDF.10) provides a high-level description which describes the character of The Street as an important feature. The Street is a sunken road in the core of the ACA which creates a sense of enclosure due to banks and retaining walls. The variety of vegetation provided a verdant appearance at the time of my site visit. The absence of a defined building line and pavement creates a rural meandering character and adds to the feeling of the ACA being informal.
43. It is common ground that the significance of the ACA lies in its status as a small, rural village which would have, historically, been surrounded by agricultural farmland. Furthermore, there is agreement that the surrounding landscape provided an agrarian based economy for the early development of the settlement which later diversified into dairy farming and market gardens. The siting, design and materials of a number of buildings within the ACA despite some alterations over time, still have an agricultural feel and therefore provide a historical link and relationship with the surrounding landscape.
44. The document 'Conservation Areas in Mid Sussex' (CDF.10) specifically identifies the attractive views to the west and south from ACA. As such it is common ground that the views to the west from the ACA includes the appeal

site. Accordingly, the appeal site provides one of the last substantive views to the west from the ACA of the agricultural landscape. This agricultural landscape in my judgement forms a fundamental part of the setting of the ACA which is integral to its significance.

45. The Appellant's stated intention would be to redevelop the southern portion of appeal site for a managed parkland area with defined planting, paths and potentially interpretation display boards. As public open space it could open up the whole area through the provision of a network of paths in addition to the retention of the existing rights of way.
46. Notwithstanding the outline nature of the application the appeal proposal would change the use and visual appearance of the land from agriculture to a more managed parkland open space and housing. This would represent a change in character and would result in the loss of the agricultural nature of the appeal site. As I have identified this agricultural character makes a substantial contribution to the setting of the ACA and it would therefore harm the significance of the ACA. Having regard to the Framework the harm would be less than substantial.
47. As indicated earlier, on my site visit I went to the property known as *Nortons Cottage* which lies within the ACA, but located on the eastern side of The Street and as such is slightly further away from the appeal site. In common with other properties within the ACA, *Nortons Cottage* occupies an elevated position in relation to the sunken road of The Street. From the front garden patio area, it was possible to see across to the appeal site, predominantly the southern portion. However, as a more glimpsed and corridor-style view in between *Finches* and its outbuildings on the western side of The Street, in my assessment the change arising from the appeal proposal would not directly impact on this property, although I have found harm to the ACA would arise.

Listed Buildings on The Street and Church Lane

48. In assessing the effect of the proposal on the Listed Buildings it would seem sensible to deal with them in groups where there are similarities to limit unnecessary repetition. As such *Hunter's Cottage*, *Bounty Cottage*, *Finches* and *Souches* are located side by side on the western side of The Street and in addition to their individual listing, in my view they also have a value as a collection of Listed Buildings. With the exception of *Hunter's Cottage*, all three have a similar plot depth and share a common boundary with the appeal site. The tithe map and apportionment schedule show there is some historic association between the appeal site and the dwellings on the west side of the Street. The Borrer family owned the land that comprises the appeal site at the time of the tithe survey for the parish in 1845. *Spring Cottage* lies to the south of the appeal site on Church Lane.

Finches

49. *Finches* is a Grade II Listed Building within the ACA. The significance derives principally from the historic and architectural interest of its physical fabric as a 17th century timber framed farmhouse, with 18th century alterations. It is recorded in the West Sussex Historic Farmsteads and Landscape Character Assessment as a historic farmstead of the post medieval period. A key part of *Finches'* significance lies in the degree of historic fabric in situ, its aesthetic value, and the way in which it illustrates the development of the traditional

farmstead. Within the curtilage, other buildings are present, and from their siting and design, contribute to, and reinforce, the understanding and appreciation of the historical farmstead.

50. Boundary landscaping vegetation can be ephemeral due to nature of the species and the seasons and often based on occupiers' preference. The rear boundary of *Finches* is maintained vegetation at a relatively low-level. This low-level boundary when combined with the elevated nature of the plot provides for a close physical association and strong visual connection with the appeal site to the west. As such there is clear intervisibility between the southern portion of the appeal site and various different positions within the rear garden area of *Finches*. Furthermore, there are also opportunities to see the northern portion of the appeal site and the indicative area of housing from several positions within the rear garden. *Finches* can be clearly seen from within the southern portion of the appeal site and the adjacent footpath 12_1A1. From the various points on footpath 15_1A1, it is also possible to see *Finches*.

Conclusion on Finches

51. As such the existing agricultural nature of the appeal site contributes to the setting of *Finches* and reinforces the value of the experience of the former farmstead in the rural landscape. This is an integral part of the significance of *Finches* as a Listed Building. The land use change arising from the appeal proposal would collectively lead to less than substantial harm to *Finches* as a designated heritage asset.

Souches and Bounty Cottage

52. *Souches* is a Grade II Listed Building within the ACA. The significance derives principally from the historic and architectural interest of its physical fabric and construction as a 17th century or earlier timber framed building. It is a good example of the local vernacular style and retains a high amount of historic fabric in situ. In particular, its timber frame contains information about the building's construction and evolution over the course of centuries. *Souches* and its relationship to the adjacent historic properties along The Street collectively illustrate the development of the historic settlement.
53. The rear garden is landscaped and as such during the year when the vegetation is in full leaf it naturally limits but does not completely eliminate the intervisibility between the appeal site including the footpath 15_1A1 and how the Listed Building can be experienced. The proposed change from an agricultural land use to a managed parkland open space would introduce change in my judgement that would alter the setting of this designated heritage asset.
54. *Bounty Cottage* is a Grade II Listed Building within the ACA. The significance derives principally from the historic and architectural interest of its physical fabric as a 17th century or earlier timber framed building. Whilst there have been later alterations, the original fabric remains discernible, and the building's architectural interest may still be appreciated. The building has historic interest as an example of the local vernacular, experienced as part of a group of buildings which contribute to an understanding of the historic development of the village. *Bounty Cottage* is predominantly visible from a number of vantage points from within the appeal site. The setting of this designated heritage

asset would also be changed by the introduction of managed parkland open space on the appeal site.

Conclusion on Souches and Bounty Cottage

55. The indicative land use plan¹¹ referred to extensively during the Inquiry suggests that the southern portion of the appeal site would be a managed open space. Whilst this could provide a more landscaped approach to the setting of the *Bounty Cottage* and *Souches*, in my judgement the change from the present agricultural field which provides the rural context for the Listed Buildings to a more managed parkland style area of open space would be detrimental to the setting of these designated heritage assets. I find that the appeal proposal would lead to a change which would result in less than substantial harm to these designated heritage assets.

Hunter's Cottage

56. *Hunter's Cottage* is a Grade II Listed Building and listed for group value within the ACA. The significance derives principally from the architectural interest of the physical fabric of the original portion as a 17th century or earlier cottage. A later red brick L-shaped wing was added to the south-west in the 19th century. It is a good example of the local vernacular style and together with the nearby historic properties along The Street contributes to the townscape in this part of the village.

57. *Hunter's Cottage* does not share a boundary with the appeal site. From the appeal site there is no direct visual link with *Hunter's Cottage* due to existing vegetation, however, its presence is experienced from The Street and the entrance to footpath 15_1A1. *Hunter's Cottage* has less of a direct relationship to the surrounding countryside than the other Listed Buildings to the south. As such its setting is predominantly the village street scene context. The appeal proposal may well alter the perception of openness experienced from within the garden to the cottage. However, I find that the appeal proposal would have an overall neutral effect on this designated heritage asset.

Spring Cottage

58. *Spring Cottage* is a Grade II Listed Building within the ACA. The significance derives principally from the historic and architectural interest of its physical fabric as a 17th century or earlier timber framed building and its association with an adjacent spring. An inset stone on the chimney indicates the historical association with the manor and a right to fetch water from its adjacent spring which suggests there was also a communal value. From within the narrow lane, *Spring Cottage* is experienced as an attractive historic property within its own domestic curtilage, enclosed by hedging and timber panel fencing along the roadside.

59. Due to the topography, *Spring Cottage* is set down from the appeal site enclosed within a well-defined hard boundary of closed boarded timber fencing and brick walls. A substantial amount of vegetation on the opposite side of Church Lane gives this section of the lane a strong sense of enclosure. Therefore, despite its physical proximity to the appeal site there is not a strong visual connection to the agricultural land, and it is more a perception of openness. If built development were to be introduced into the southern portion

¹¹ Drawing reference 3117/A/1201/PR/C

of the appeal site then the perception of openness within the setting would be lost, but the proposed open space would not lead to a perceptible change. Although in winter when the deciduous vegetation is not in leaf, any form of development on the appeal site would become discernible. I find that the impact on this designated heritage asset and its setting would be neutral and therefore its significance would be preserved.

Inholmes Cottage

60. *Inholmes Cottage* is a Grade II Listed Building within the ACA. The significance derives principally from the historic and architectural interest of its physical fabric as a 17th century building. Modern development to the west and north has considerably diminished the setting but it is still possible to see some of its relationship with surrounding older buildings associated with the small settlement of Albourne Green which had open fields to three sides.
61. There is a visual link between *Inholmes Cottage* and the appeal site. At the time of my site visit the existing mature deciduous boundary vegetation to the Albourne Court site did limit the visual connection to the appeal site. However, this would change during the autumn and winter seasons when the trees would not be in leaf as the photograph of view 3 from March 2022 contained within the submitted LVIA addendum does illustrate. The visual link and therefore the part of the appeal site which could be associated with the setting of this property would be predominantly the proposed access and some of the proposed built development. In my opinion, such a change would not materially alter the setting of *Inholmes Cottage* and how it is currently experienced and understood. Retention of hedgerow and orchard adjacent to the northern end of the appeal site could be satisfactorily controlled and this would be sufficient to mitigate the presence of the appeal proposal and enable the impact to be neutral. Accordingly, I do not agree with the Council that harm would arise to the setting of this designated heritage asset.

Heritage Conclusion

62. The appeal proposal would lead to harm to the setting of some of those designated heritage assets which have been identified to me in this case, namely the ACA, *Finches*, *Souches* and *Bounty Cottage*. Although I do not find harm to *Hunter's Cottage*, *Spring Cottage* or *Inholmes Cottage*. As such there is conflict with Policies DP34 and DP35 of the DP. Policy DP34 seeks to protect listed buildings and their settings and conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the character and quality of life of the District. Policy DP35 seeks, amongst other things, for development to protect the setting of the ACA and in particular views into and out of the area.
63. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal as set out in paragraph 202 of the Framework.
64. In this case the public benefits include the delivery of up to 120 new homes including affordable homes, additional land for the primary school, provision of car parking, provision of a community building to include a shop and public open space within the southern field.

65. Having regard to my statutory duties I attach considerable weight and importance to the harm to the setting of the designated heritage assets. Although it amounts to less than substantial harm, I find that harm to be significant and towards the upper end of a spectrum within the scale of less than substantial harm. Therefore, whilst a number of public benefits would arise, in my opinion they do not individually or cumulatively outweigh the less than substantial harm. As such on heritage grounds, the appeal proposal would conflict with the development plan and the Framework.

Housing land supply

66. The Framework in paragraphs 60 and 74 indicates that to support the objective of significantly boosting the supply of housing local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing including a buffer associated with the Housing Delivery Test (HDT), against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
67. In this case, the DP reached its fifth anniversary in March 2023. As such, it is agreed between the main parties that by operation of paragraph 74 and footnote 39 of the Framework, the Council's housing requirement has to be determined by reference to the standard methodology, rather than by the adopted strategic Policy DP4 in the DP.
68. The 5-year period for calculating the housing land supply (HLS) is 1 April 2023 to 31 March 2028. Using the standard method, the 5-year minimum requirement is 5,450 dwellings. With reference to the HDT results published in January 2022, it is agreed that it is appropriate to apply a 5% buffer to the requirement. Consequently, the agreed 5-year minimum requirement with buffer is 5,723 dwellings.
69. The dispute between the parties is whether or not the Council can demonstrate a deliverable 5-year HLS. The Council claims a deliverable supply of 5,770 dwellings (5.04 years) with a 47-dwelling surplus¹² whereas the Appellant claims a revised supply calculation¹³ of 4,917 (4.3 years) resulting in an 806-dwelling shortfall.
70. The Framework Glossary defines 'deliverable' as sites that, amongst other things, have a realistic prospect of housing being delivered within 5 years. The Glossary goes on to identify two types of sites, A and B. Category A sites are those which do not involve major development and have planning permission, and all sites with detailed planning permission. As such this should be considered deliverable unless there is clear evidence that homes will not be delivered within 5-years. Category B sites are those that have outline planning permission for major development, are allocated in a development plan, have a grant of planning permission in principle, or are identified on a brownfield land register. These sites should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5-years.
71. There is no definition of what constitutes 'clear evidence.' Paragraph 007¹⁴ of the PPG indicates that 'robust, up to date evidence needs to be available to

¹² CDD.5 - Statement of Common Ground: Five Year Housing Land Supply (24 July 2023)

¹³ ID10 - Appellant's Updated Five Year Housing Land Supply Position (16 August 2023).

¹⁴ Ref ID: 68-002-20190722

support planning decisions.’ It suggests some examples in an open list of evidence to demonstrate deliverability may include current planning status including any planning performance agreements, firm progress being made towards the submission of an application or site assessment work or clear relevant information about site viability, ownership constraints or infrastructure provision. I note the view of Inspector Stephens in that securing an email or completed pro-forma from a developer or agent does not in itself constitute clear evidence¹⁵ (my emphasis). However, it is perfectly reasonable for this to be part of the evidence if it is up to date.

72. Deliverability does not mean certainty or probability, rather it is part of the exercise of planning judgement to reach a conclusion as to the realistic prospect of delivery. That said, the use of the words ‘clear, robust and up to date’ demonstrates that the judgement on deliverability would need to be underpinned by an assessment of clearly articulated evidence.
73. The Appellant disputes the delivery assumptions made by the Council and contends that there is insufficient evidence that the quantum of housing would be deliverable within the 5-year period. From the Appellant’s revised position (ID10) it is now common ground that the two sites known as *Firlands, Church Road* and *Hanley Lane, Cuckfield* should be included within the HLS calculation, I concur and therefore do not need to consider these further. There are 11 sites in dispute, 2 falling within Category A and the remainder within Category B. I will now assess each in turn.

Land West of Freeks Lane, Burgess Hill.

74. This category A site with reserved matters permission for 460 dwellings was approved in December 2019. As such this site should be considered deliverable unless there is clear evidence that homes will not be delivered within the 5-year period. Work commenced on site preparation during 2020 with 50 dwellings completed and occupied during the 2022/23 monitoring period. Whilst the Appellant accepts this site is deliverable, they contend it is not delivering as expected and there is no evidence that delivery would exceed 50 dwellings per annum which is the average on similar sites in Mid Sussex. The Appellant’s site visit in July 2023 indicated no further completions in the intervening months of the 2023/2024 monitoring year. I am not satisfied that the Appellant has provided clear evidence that the anticipated housing will not be delivered during the 5-year period.
75. The evidence in SoCG¹⁶ between the Council and Homes England contains relevant and up-to-date information on this site and others within Brookleigh (which is the marketing name for the Northern Arc). Whilst there has been some delay to the provision of significant infrastructure which is required to support this site and the wider Northern Arc which is a flagship strategic development. The latest position is that this will be completed by Autumn 2023 and the Council advised that the junction onto Isaacs Lane will follow on by early 2024. Homes England is a public body whose remit is to deliver housing and I give weight to their stated position in the SoCG.

¹⁵ CDI.10 – APP/Q3115/W/20/3265861 (25 June 2021)

¹⁶ Mid Sussex District Council and Homes England, Statement of Common Ground on Delivery at Brookleigh, Burgess Hill (5 July 2023), Proof of Evidence, Mr Roberts at Appendix 1.

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76. There is a contractual arrangement between Homes England and the national housebuilder to deliver a minimum of 8 dwellings per month (96 per annum). As the Council explained there are various mechanisms and levers within the contract and this site has a minimum acceleration clause which can be used by Homes England to ensure delivery with the ultimate action being termination and transfer to another developer.
77. As such, I am satisfied that although there may have been some slippage, given the contractual arrangement there is nothing substantive before me to suggest that this site would not deliver the remaining 410 dwellings within the 5-year period, and as such it should remain within the HLS calculation. It is in my view, appropriate to base the delivery rates for the strategic sites on the Homes England contractual arrangements and not simply past averages of similar sites in Mid Sussex.

Brookleigh phase 1.5 and 1.6, Isaacs Lane, Burgess Hill.

78. This is another category A site with planning permission for a total of 249 dwellings. Work has not yet commenced on site, but it is scheduled to commence during 2023/24¹⁷. Again, the Appellant questions the realism of delivery rates as amongst other things, the infrastructure associated with Isaacs Lane is impinging on the build programme.
79. From the discussion about the discharge of conditions for this site, it demonstrated to me that the Council is taking a methodical approach with dedicated officer resource for this site and the wider Northern Arc. As such I have no reason to doubt that the applications relating to the remaining conditions for this site would not be progressed in a timely manner. The Appellant's contentions in relation to this site do not demonstrate the clear evidence required by the Framework to indicate that housing will not be delivered during the 5-year period.
80. The contractual arrangement between Homes England and the national housebuilder requires 6 dwellings per month (72 per annum). This site is subject to the same contractual obligations as *Freeks Lane*. As such, even if there were to be some slippage in the expected delivery timescale, given the contractual build rate requirements this site would still deliver within the 5-year period, and as such all 249 dwellings should remain within the HLS calculation.

Linden House, Southdowns Park, Haywards Heath.

81. This is a category B site with outline planning permission for a 14-unit apartment block granted in 2021. The Appellant argues that without any evidence relating to the submission of reserved matters, this site should not be included in the HLS. I do not find this argument persuasive as a starting point given that it is based predominantly on a general perspective rather than the individual circumstances of each site. The Appellant uses the same argument for many of the contested sites.
82. A revised application for 17 units is currently awaiting a decision. The Council indicated that there were no fundamental matters outstanding. As the scheme is for an apartment block it would be expected to be delivered in one phase. From CDD.5¹⁸ there is still time for the submission of reserved matters on the

¹⁷ CDD5 - Housing Land Supply Position including 5 year Housing Land Supply Statement (July 2023)

¹⁸ Ibid.

existing outline permission if wanted. Consequently, there is a clear intention and progress towards the delivery of this modest scheme. It would seem reasonable to include the 14 units within the HLS calculation.

Northern Arc, Burgess Hill.

83. This is a category B site with outline permission for a comprehensive mixed use to include 3,040 dwellings. As a large strategic allocated site, it will be divided into 5 parcels with delivery agreements to be drawn up between Homes England and the delivery partners; 2 of the 5 are in place and they are at an advanced pre-application stage working towards reserved matters applications later this year. The Appellant suggests that the delays in delivery has led to expected build rates being reduced at regular intervals. With only 2,298 dwellings being the latest anticipated yield. As such the Appellant is challenging the delivery rates.
84. As a phased development, the Council is relying upon 752 units within the next 5 years. I am mindful that housing delivery for this strategic site was considered in the Bolney appeal¹⁹ and also assessed through the Examination process for the recently adopted Site Allocations DPD²⁰ and found sound. I attach significant weight to the finding of the Inspector who examined the issue of housing delivery in the Site Allocations DPD. Substantive evidence has not been provided to me to indicate that at this early stage the housing delivery trajectory envisaged in the DPD is flawed.
85. Whilst it will require higher build out rates than other sites in Mid Sussex, the Lichfields research²¹ indicates that greenfield sites do build out at a higher rate. Given the strategic significance of the Northern Arc which is a flagship site for Homes England with public investment to deliver infrastructure and open up the area for development, along with the contractual mechanisms, I am satisfied that at this stage there is clear evidence that this site will deliver the 752 dwellings within the 5-year period and so should be retained within the HLS calculation.

Land West of Selsfield Road, Ardingly.

86. This is a category B site with outline planning permission for 35 dwellings granted in March 2023. The Council's evidence indicates that the developer promoted the site through the development plan process and pursued it through the permission stage. The Appellant contends that having an outline permission is insufficient to demonstrate deliverability. I note the reference to the Nantwich appeal decision,²² however, it is not clear from that decision what the anticipated timescale for reserved matters would be for outline permissions in Nantwich or the wider Cheshire East area. As such I cannot be satisfied that the position adopted in that appeal is relevant to Mid Sussex and this case.
87. In this case, the Council has the baseline analysis to understand their housing and infrastructure delivery lead in and build out times. This analysis indicates that for a site of this size, the reserved matters would be forthcoming within 2.4 years and a build out rate of 30 dwellings per annum. Given that the

¹⁹ CDI.5 – APP/D3830/W/19/3231996 and APP/D3830/W/19/3231997 (16 December 2019)

²⁰ CDE.21 – Inspector's Report for Site Allocations DPD (dated 30 May 2022)

²¹ CDI.21 – Start to Finish – What factors affect the build-out rates of large scale housing sites? Second Edition, Lichfields Insight (February 2020)

²² CDI.11 – APP/R0660/A/13/2197532 and APP/R0660/A/13/2197529 (15 July 2020)

outline has only recently been granted there is nothing to indicate that reserved matters would not be forthcoming within a timescale similar to the Council's baseline analysis. It is a modest number of dwellings which remains capable of being delivered within the 5-year period and as such the 35 dwellings should remain within the HLS calculation.

Hurst Farm, Hurstwood Lane, Haywards Heath.

88. This is a category B site and allocated in the Haywards Heath Neighbourhood Plan for a mixed-use development including approximately 350 dwellings. The position at the time of the Inquiry²³ was that the Council had resolved to grant outline permission for up to 375 dwellings, 215 dwellings would be delivered within 5-years. The Appellant's revised position at this Inquiry is that only 100 dwellings should be counted.
89. The SoCG²⁴ with Homes England provides written evidence of the future of this site, the SoCG anticipates delivery from 2025/26. Homes England acquired the site and will use contractual arrangements to ensure delivery at higher-than-normal delivery rates through the use of modern methods of construction on the site. Based on the written evidence before me, I have no reason to doubt that this site would not be delivered within the 5-year period and as such the 215 dwellings should be included in the HLS calculation.

Land South and West of Imberhorne Upper School, East Grinstead.

90. This is a category B, allocated site for 550 dwellings. The Appellant contends that, as there was no update on progress given at the round table session of the Inquiry, this site fails the delivery test. The Council tendered written correspondence²⁵ for the timescale for the delivery of this site confirmed by the developer, including the submission of a hybrid application. The construction of the residential phases is indicated to commence in mid-2025. The Council is only relying upon 75 dwellings for this current 5-year supply period. It was assessed through the Examination process including in relation to delivery rates in the recently adopted Site Allocations DPD²⁶ and found sound. As dwellings from this site would be built out towards the end of the 5-year period, I see no reason to doubt at this very early stage that the anticipated 75 dwellings would be delivered within the 5-year period and so should be retained within the HLS calculation.

Southway, Woodfield House, Hammerwood Road and the Old Police House.

91. These are all category B sites and allocated in the Site Allocations DPD. The Appellant contends that as there was no update on progress given at the round table session of the Inquiry, these 4 sites fail the deliverability test for the same reasons.
92. These sites have been assessed through the Examination process for the recently adopted Site Allocations DPD and found sound. The Council indicated that there has been some progress on some of these sites since Examination. In relation to *Woodfield House*, pre application discussions are in progress and

²³ ID7 – Recent permissions in Mid Sussex, email from Mr Roberts (14 August 2023) and ID15 – Hurst Farm Planning Position – Note by the Council (handed up 18 August 2023)

²⁴ Appendix 2, Council's Housing Land Supply Proof of Evidence (Mr Roberts)

²⁵ ID14 – Land South and West of Imberhorne Upper School - Inquiry Note and email exchange between developer and the Council (17 August 2023)

²⁶ CDE.2 – Mid Sussex District Council Site Allocations Development Plan Document, Adoption Version June 2022

there is now a SoCG with Homes England. The owners of *Hammerwood Road* have identified a housebuilder. The housebuilder in control of the *Old Police House* has requested pre-application advice. As such in relation to these 3 sites I do not accept the argument that there has been no progress towards delivery. Progress is underway and having regard to the evidence on delivery timescales in Mid Sussex I am satisfied that delivery within the 5-year period is reasonable. These 3 sites and their anticipated unit yield should remain within the HLS calculation.

93. In relation to *Southway*, the Council acknowledge limited progress as part of the housing trajectory, however, given the modest quantum of 30 dwellings and the time remaining, it would not be unreasonable at this very early stage to include it within the HLS calculation. Even if the limited progress on *Southway* was to persist, it would serve to reduce the surplus of 47 dwellings down to 17 dwellings.
94. The Appellant contends the unmet housing need from within the Crawley Borough Council area should be taken into account in the housing land supply calculation. It has been put to me that Crawley can only meet 42% of its own predicted housing needs during the 2024-2040 plan period. As such the remaining unmet housing need from Crawley will need to be considered in the plan making processes of other authorities within the Housing Market Area which includes Mid Sussex. The Framework in paragraphs 61 and 66 both specifically refer to the legitimacy of providing for needs that cannot be met within neighbouring areas. However, it is for the respective plan making process to determine the details as part of a strategic approach to planning for all types of housing need and not any individual appeal. Plan making is underway in Mid Sussex and I have no reason to doubt that this will continue. I note that the Draft Crawley Borough Local Plan²⁷ has not yet been examined and its suggested housing figure and proposed method of meeting that figure including any cross-boundary reliance has yet to be tested.

Housing Land Supply Conclusion

95. From the Council's evidence it is clear that Mid Sussex has a history of housing delivery and it is not an area with a record of persistent under delivery of housing. I am confident that the Council understands and acknowledges its obligations under the HLS and HDT. The Site Allocations DPD has allocated more land for housing than the DP required, and the Council approaches the issue of housing in a positive and proactive manner.
96. Overall, I find that the Council has taken and continues to take a proactive approach to housing delivery at both plan making and decision making. From the evidence to this Inquiry and in particular the summary contained within the Housing Land Supply Position including 5-year Housing Land Supply Statement (CDD.5), the Council is effectively using a variety of tools and mechanisms to ensure housing can be delivered in a timely manner. Plan making progress as acknowledged by the Appellant is commendable and is positive and continuing to progress. The use of dedicated planning officer resources for the Northern Arc, the use of both statements of common ground and Planning Performance Agreements and also planning conditions to reduce the timescales for submission of some applications is all positive. There is a methodical and

²⁷ ID11 – Draft Crawley Borough Local Plan 2024 – 2040, Submission Publication Consultation May 2023, paragraph 12.39

robust analysis of lead in times and build out rates and therefore in my opinion, the Council has a good understanding of housing and infrastructure delivery within their administrative area.

97. I therefore conclude that the Council has demonstrated that it can identify a supply of specific deliverable sites sufficient to provide a minimum of 5-years' worth of housing against the standard method.

Other Matters

Infrastructure Contributions – s106 by Agreement

98. Policy DP20 of the DP sets out the principle for infrastructure contributions and is supported by an adopted Supplementary Planning Document (SPD) - Development Infrastructure and Contributions. Policy DP31 of the DP sets out the affordable housing requirement and is also supported by an adopted SPD.
99. The first s106 is made by way of an Agreement between the District Council, County Council, Appellant and Landowner. It provides for index linked financial contributions for formal sport, play space, kickabout, community building (village hall), local community infrastructure, police, health, primary and secondary education, libraries and transport. Associated administration/monitoring costs are also included. It also secures the provision for on-site affordable housing. The Council's submitted Infrastructure Statement sets out the justification for the infrastructure contributions and affordable housing provision. All of the requested contributions in line with the SPD requirements have been included within the s106 Agreement. As these comply with the policy requirements, I am satisfied that they are necessary and appropriate.
100. In addition to the requested contributions the s106 Agreement also includes provisions on site of a community orchard, locally equipped area of play space (LEAP) on site within the public open space, and a community building to include a shop. The orchard already exists on site and by securing it as a community orchard would integrate it into the site, ensure its ongoing maintenance and contribution towards biodiversity. The provision of the LEAP would meet Policy DP24 of the DP.
101. The s106 Agreement contains an obligation to provide a community building in an agreed location, to an approved specification as part of a future reserved matters application. Policy DP25 of the DP requires on site provision of new community facilities on larger developments, where practicable and viable, including making land available for this purpose. Neither Policy DP25 nor the SPD appears to define what is meant by larger development in this context. The Council does not set out that Albourne needs an additional community building when there is already an existing village hall. The Parish Clerk confirmed at the Inquiry that the village hall has a range of current users. There is no evidence that the village hall is oversubscribed and cannot meet the local needs arising from the development to the extent that a second community building would be practical or viable.
102. The s106 Agreement identifies that within the 100 square metres community building, not less than 75 square metres would be for a shop. How the remaining space, potentially a maximum of 25 square metres, would be used is unclear. The Albourne Neighbourhood Plan (NP) sets out an aspiration for a

shop. However, since the NP was made, a shop has been secured as part of a number of facilities to be provided within the approved extra care scheme on the former Hazelden Nurseries site. As such, the NP aspiration will be satisfied if the Hazelden Nurseries site comes forward as expected.

103. There is no evidence that a second shop in Albourne would be required. A community shop is already available in nearby Sayers Common and a wider range of shops can be found within nearby Hurstpierpoint. Consequently, I am not persuaded that the provision of a shop within the community building is necessary to make the development acceptable in planning terms. It is not directly related to the proposed development or fairly and reasonably related in scale and kind to the development.
104. Examining the policy basis and rationale for each of these obligations within the s106 Agreement, as set out in the evidence and discussed as necessary at the Inquiry, I am satisfied that, with the exception of the community building incorporating the shop, they meet all of the relevant tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, as repeated in Paragraph 57 of the Framework.

Infrastructure contributions – s106 by Unilateral Undertaking

105. A second planning obligation by way of unilateral undertaking between the Landowner and Appellant to the County Council in respect of additional school land, woodland school land and land for school car park. These obligations would be included within a future reserved matters application and take effect following their approval.
106. The additional land to enable the Albourne Church of England Primary School to physically expand is not required to accommodate the potential additional pupils arising from the appeal proposal. A financial contribution for additional facilities at the school has already been sought and secured under the first s106 Agreement.
107. The County Council's position as the Education Authority was clear in that they did not consider that the offer of land met the tests and, in any event, would not be able to accept the land without an option agreement following their due diligence process.²⁸ The introduction of the cascade mechanism inserted into the final signed version would enable a sequence of other school related bodies to be offered the land, one of whom is the Hurst Education Trust which the Appellant indicated that they would be pleased to receive the land as they have confirmed that they consider additional land to be a benefit.²⁹ Consequently, I am not satisfied that this obligation is fairly and reasonably related to the development proposed or necessary to make the development acceptable.
108. The woodland school land would be an area of land in the southern portion of the appeal site, within the potential public open space, for use by the primary school. The Appellant argues that there is insufficient playing field space for the current pupils and that the appeal development would exacerbate this shortfall. It is established practice that a planning obligation should not be used to address an existing deficiency. The siting of the suggested woodland school would have to be determined and assessed as part of the details of a

²⁸ ID16 – Email exchange between Croudace and the County Council (16 and 17 August 2023)

²⁹ Planning Proof of Evidence (Mr Brown), Appendix SB1 – Letter from The Hurst Education Trust (29 June 2023)

reserved matters application. Even if it were to be located at the closest part of the southern portion of the appeal site to the school, I have reservations about the operational suitability of such a proposal. I am not satisfied on the evidence before me that the woodland school land would be suitable additional playing field space in any event. Consequently, I am not satisfied that this obligation provision is fairly and reasonably related to the development proposed or directly related to the development, or necessary to make the development acceptable.

109. The offer of land for school car parking is not directly related to the proposed development as the school is located in close proximity to the development site. Therefore, it would not be unreasonable to expect pupils to be walked to the school. Although I acknowledge that the NP has identified traffic congestion around the school and operationally some more land to potentially assist with this could be of wider benefit, it is not the role of planning obligations to address existing problems. Consequently, I am not satisfied that this obligation is fairly and reasonably related to the development proposed or directly related to the development, or necessary to make the development acceptable.
110. From examining each of these obligations, as set out in the evidence and discussed as necessary at the Inquiry, I am not satisfied that the obligations set out in the unilateral undertaking meet all of the relevant tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, as repeated in Paragraph 57 of the Framework.
111. In addition to the main issues and infrastructure requirements, a range of other matters have been raised by interested parties including highway safety, environmental and ecological impact including trees, use of agricultural land, noise, air and water pollution, flooding and drainage.
112. Access is a matter for determination at this stage. From the submitted plans relating to access, the absence of objection from the Highway Authority³⁰ and subject to suitable planning conditions and financial contributions secured through the s106 Agreement, the proposal would not result in a significant impact on the operation of the local highway network to the extent that permission should be refused.
113. An Ecological Impact Assessment was submitted as part of the application with suitable mitigation measures being proposed where applicable to address potential impact on protected species. Such mitigation measures together with other enhancement measures, including a full tree planting schedule could be secured through suitable planning conditions and examined further as appropriate at the reserved matters stage. The Council's Ecology Consultant has considered the information submitted and raised no objection subject to the imposition of conditions on any approval. The Biodiversity Net Gain Assessment indicates that the proposal would deliver a 54% biodiversity net gain and that could be secured through appropriate planning conditions.
114. The submitted Arboricultural Impact Assessment confirms that no trees are proposed to be removed. Whilst concerns have been raised regarding a very large Oak tree, I note that this tree is not within the site boundary. Any

³⁰ CDD.4 Highways Statement of Common Ground

- relationship between the proposed layout and any potential canopy overhang into the site could be assessed at the reserved matters stage.
115. The appeal site comprises mostly agricultural land. Agricultural Land is classified into grades of quality numbered 1 (excellent) to 5 (very poor). The Framework in Annex 2 indicates that the best and most versatile land is grades 1, 2 and 3a. Approximately 24%³¹ of the agricultural land on the appeal site is classed as subgrade 3a (good) with the majority of the land quality being either subgrade 3b (moderate) or Grade 4. Whilst the proposal would result in the loss of some agricultural land, it is a minority proportion of the site which is considered to be the best and most versatile land and its potential loss would not on its own be a reason to resist development.
116. A range of concerns regarding noise, site and water pollution have been raised. However, from the submitted evidence there would be no substantive impact either individually or cumulatively from these matters which could not be satisfactorily addressed by a wide range of potential planning conditions.
117. To manage potential flood risk and drainage concerns, a flood risk assessment and outline drainage strategy have been submitted. The Council's Drainage Engineer and County Council's Flood Risk Team have raised no concerns in principle. As such further matters of water management could be secured through suitable planning conditions if the appeal was allowed.
118. My attention has been drawn to other appeal decisions within the evidence and Core Documents. Across all of these decisions, various decision-makers have both granted and refused planning permission. Having taken these into account, I do not find that they provide justification in themselves for making a decision either way. I note the approaches taken, but ultimately, I have determined the appeal scheme on the basis of the evidence put before me.
119. Having regard to the submitted copy of the extra care scheme on the Former Hazelden Nurseries appeal decision.³² From the wording of the Inspector's decision I am satisfied that this scheme was allowed on the basis of other considerations including the significant level of unmet need for this type of accommodation.
120. As part of the standard procedure for appeals the main parties suggested thirty planning conditions for my consideration in the event of the appeal being allowed. These were discussed in detail during the Inquiry, and I have considered each of these in light of the tests for planning conditions as set out in paragraph 56 of the Framework. Many of these conditions would deal with matters of detail which are common to many planning applications. However, they would not in aggregate lead me to a different conclusion to that which I reach below and so, I do not discuss them further.

Planning Balance and Conclusion

121. It is the Appellant's case that this is a development plan where the most important policies for determining this appeal are out of date by being based upon an out-of-date assessment of need, failing to demonstrate a deliverable 5-year housing land supply and the relevant development management policies are inconsistent with the Framework.

³¹ Planning Proof of Evidence (Mr Brown), paragraph 7.154 and CDA.34, Table 2: Agricultural Land Classification.

³² CDI.20 – Site of the former Hazeldens Nursery, London Road, Albourne (APP/D3830/W/19/3241644), dated

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122. The Council and the Appellant consider that Policies DP6, DP12 and DP15 of the DP together with ALC1 and ALH1 of the NP should be considered most important for this scheme. Whether these policies are considered out of date in terms of paragraph 11d) of the Framework will depend upon their degree of consistency with its policies.
123. Policy DP6 establishes a settlement hierarchy which derives its spatial application through the use of built-up area boundaries. Establishing boundaries is often argued as being a mechanism of constraint if there are no circumstances identified in the policy which would allow exceptions. In this case Policy DP6 is a permissive policy because it does establish the circumstances where settlement expansion would be supported to meet local needs. Policy DP15 allows for new homes in the countryside where special justification exists which focus on the usual established criteria (rural workers; exceptional design or rural exception sites providing affordable housing). It also cross refers to the need to meet the requirements of Policy DP6.
124. It was accepted by the Council during cross-examination that Policies DP12, DP34 and DP35 were not entirely consistent with the Framework. Policy DP12 does not reflect the conceptual structure and policy tests of paragraphs 174(a) and (b) of the Framework. Policy DP12 use the word 'protection' in a more overarching sense whereas the Framework now only uses this in relation to valued landscapes in paragraph 174 (a) as part of a more structured and sub-divided policy approach. I do not find that this would render the policy out-of-date since it remains a positive policy and does not impose a blanket ban on development and it recognises the countryside for its character and beauty which is what the Framework refers to within paragraph 174 (b). As such my findings are in line with Inspector Hockley in the Bolney case³³ and Inspector Downes in the former Hazelden Nurseries site appeal case³⁴ neither of whom found Policy DP12 out of date for decision making purposes.
125. It was common ground that Policies DP34 and DP35 of the DP relating to heritage matters did not reflect the conceptual structure and policy tests of paragraphs 201 and 202 of the Framework. It is established practice that policies of the Framework should not be repeated in a development plan. There is a cross reference to the Framework in Policy DP34, however, this is only in relation to heritage assets excluding Listed Buildings. Both heritage policies give effect to the statutory duties in relation to designated heritage assets and it is appropriate to have regard to the Framework in relation to all heritage assets.
126. I am satisfied that policies DP12, DP34 and DP35 have broad consistency with the Framework. There has not been such a fundamental shift in Government policy in relation to either of these topics which would render these policies out of step and therefore out of date. They are still capable of leading the way for decision making. In any event in decision making in relation to designated heritage assets regard must be had to the relevant statutory duties and to the Framework which is what I have done.
127. Policy ALC1 seeks to maintain and where possible enhance the quality of the rural and landscape character of the Parish. Overall, its terms seem to me to be similar to Policy DP12. Policy ALH1 generally supports development on land

³³ CDE.5 - APP/D3830/W/19/3231997 and APP/D3830/W/19/3231997 (16 December 2019)

³⁴ CDE.20 - APP/D3830/W/19/3241644 (11 September 2020)

immediately adjoining the built-up boundary, whereas policy DP6 permits such development if it is contiguous with an existing built-up area. Policy ALH1 also has the added requirement that other than a brownfield site the development must be infill and surrounded by existing development. These provisions are more restrictive than Policy DP6 in the DP which was adopted after the NP and therefore represents the more up to date policy of the two.

128. Whilst it is common ground that Policy DP4 which contains the housing requirement is out of date. It does still provide the context for other important policies, like DP6, DP12 and DP15 of the DP together with ALC1 and ALH1 of the NP. Policy DP4 is not in itself directly related to individual proposals because its role is as a strategic policy. I have found that the Council has a demonstrable 5-year HLS against the standard method. Policy DP4 has not prevented this higher annual figure from being achievable in the HLS.
129. From the above, I have found that the most important policies are not out of date, furthermore I do not consider that the policy basket overall is out of date either. Paragraph 11 of the Framework sets out the approach to decision making within the context of the presumption in favour of sustainable development. In this case there are development plan policies relevant to the determination of this scheme and overall, I conclude that they are not out-of-date. I have found the Council can demonstrate a 5-year deliverable HLS. Paragraph 11d) is therefore not engaged. Consequently, the appeal case is determined on the standard planning balance.
130. There would be significant harm to landscape character including the two footpaths and other identified receptors. For the reasons I have given, this harm would be from specific locations but not as widespread as the Council has suggested.
131. There would be material harm to the significance of designated heritage assets. The harm would be less than substantial but nevertheless the harm should be given considerable importance and weight. In my judgement, I did not find that the public benefits test in the Framework would individually or cumulatively outweigh the harm as part a heritage balance exercise.
132. Where a proposal is contrary to the development plan it is necessary to examine whether or not there are material considerations which could outweigh the harm and therefore justify granting planning permission. A range of benefits have been presented to me by the Appellant, some of which would be secured by planning conditions or obligations and/or a future reserved matters application.
133. The provision of market housing in principle is a benefit and would add to the planned and expected housing within Mid Sussex both of which contribute to the Government's intention of significantly boosting supply. The provision of affordable housing in an area where such provision is needed also attracts significant weight.
134. There would be economic benefits arising from the development. These would include construction jobs and future spending. However, it would be the case that any housing schemes of this magnitude would deliver similar benefits and as has been identified in evidence, such other developments are underway. Accordingly, I attribute this only moderate weight.

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135. A number of proposed community facilities are proposed, including provision of a community building to accommodate a shop, together with the land for the primary school and land for school car parking. Greater public access to the countryside in the form of a community orchard and the managed parkland open space would be provided. I acknowledge that these elements constitute benefits, however for the reasons I have set out, they are not necessary to make the development acceptable. Collectively they attract limited weight, except for the community orchard and managed parkland open space which in my view should attract moderate weight.
136. I have acknowledged that significant net gain in biodiversity would result from the development. The retention of existing trees and hedgerows is a neutral factor. It has been suggested that environmentally sustainable housing would be provided, however, as an outline scheme the details are not for assessment at this stage. Overall, I find the environmental benefits to be moderate at the most.
137. Whilst a wide range of financial contributions are provided through the s106 Agreement which address the impact of the scheme, they would not be necessary if the proposal were not to go ahead. As such they can be afforded a neutral weight in the balance.
138. The appeal proposal would be contrary to the development plan as a whole. I have carefully considered all arguments presented by the Appellant and have taken account of all other matters raised in the representations and in the oral evidence to the Inquiry in my assessment of this scheme. Having regard to all matters it is my overall conclusion that the benefits that weigh in favour of the proposal would not be sufficient to overcome the conflict with the development plan and the harm that I have identified. In such circumstances, material considerations do not indicate that a decision should be reached otherwise than in accordance with the development plan.
139. Even if my conclusions in relation to the housing land supply were incorrect such that there was not a demonstrable five-year housing land supply, in my judgement, none of the other considerations individually or cumulatively would outweigh the harm that I have identified and the conflict with the development plan when taken as a whole.
140. Consequently, the appeal is dismissed.

Rachael A Bust

INSPECTOR

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APPEARANCES

FOR THE APPELLANT:

Mr Christopher Boyle, of King's Counsel, instructed by Woolf Bond Planning LLP

He called:

Mr Thomas Copp BA(Hons) MA IHBC Associate	Director of Built Heritage RPS Group
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Ms Catherine Ritson BL(Hons) CMLI	Director Allen Pyke Associates Ltd
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Mr Steven Brown BSc(Hons) DipTP MRTPI	Principal Woolf Bond Planning LLP
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Also present for the housing land supply session:

Mr Graham Ritchie BSc(Hons) DipTP MRTPI	Associate Woolf Bond Planning LLP
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Also present for the planning obligations and conditions session:

Mr Ben Hunter BA DipMS	Associate Director, Education Facilities Management (EFM) Ltd
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FOR THE LOCAL PLANNING AUTHORITY:

Mr Paul Brown, of King's Counsel, instructed by Legal and Democratic Services, Mid Sussex District Council

He called:

Mr Robert Browne BSc(Hons) MA CMLI	Landscape Associate Place Services, Essex County Council
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Ms Emily Wade MA Hons, MSc	Conservation Officer Mid Sussex District Council
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Mr Alex Roberts BSc(Joint Hons) AssocRTPI MIED	Director of Planning, Regeneration & Infrastructure Lambert Smith Hampton
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Ms Mary-Jane O'Neill BA(Hons) MATP MRTPI FRSA	Head of Planning Lambert Smith Hampton
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Also present for the planning obligations and conditions session:

Mrs Joanne Fisher BSc(Hons) MATP MRTPI	Senior Planning Officer Mid Sussex District Council
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Appendix 4

Appeal Decision APP/D3830/W/23/3319542

Ms Vanessa Cummins LLB(Hons) Schools Planning Officer
West Sussex County Council

Mr Iain McClean Clerk to Albourne Parish Council

INTERESTED PERSONS:

Mr Geoffrey Zeidler Local resident and
District Councillor for Downland Villages Ward

Ms Kirsten Rottcher Local resident

CORE DOCUMENTS

Available on the Council's Online Public Register [AP/23/0035 | midsussex.gov.uk](https://www.midsussex.gov.uk/AP/23/0035)

DOCUMENTS SUBMITTED AT THE INQUIRY

ID1. Landscape and Visual Clarification Note, Revision A, Ms Ritson dated August 2023

ID2. Comparison of year 15 effects on visual receptors plan, Ms Ritson dated 13/08/2023.

ID3. Mid Sussex District Council Planning Permission DM/20/4692, dated 1 Aug 2023.

ID4. Mid Sussex District Council Planning Permission DM22/22/3049, dated 26 Jul 2023.

ID5. Draft Minutes of Mid Sussex District Planning Committee relating to full planning application DM/23/0002, dated 13 July 2023.

ID6. Appeal Decision APP/F2545/Y/22/3303353, dated 11 August 2023.

ID7. Email relating to Hurst Farm (DM/22/2272) and NCP Car Park, Harlands Road (DM/22/0596) from Mr Roberts to Mr S. Brown and others, dated 14 August 2023.

ID8. Opening statement on behalf of the Appellant.

ID9. Opening statement on behalf of the Local Planning Authority.

ID10. Appellant's Updated Five Year Housing Land Supply Position Statement by Mr S Brown, dated 16 August 2023.

ID11. Extract from Draft Crawley Borough Local Plan 2024-2040 Submission Publication Consultation May – June 2023.

ID12. Mid Sussex District Council Albourne Conservation Area Boundary Plan with Public Rights of Way Extract at 1:1250 scale, dated 17 August 2023.

Appendix 4

Appeal Decision APP/D3830/W/23/3319542

ID13. Census 2021 Profile for Albourne.

ID14. Developer confirmation of expected timescales for Land South and West Imberhorne Upper School, East Grinstead, dated 17 August 2023.

ID15. Hurst Farm Planning Position Note.

ID16. West Sussex County Council email confirming position in relation to a land offer, dated 17 August 2023.

ID17. Written transcript of Mr Zeidler's statement read out on 15 August 2023.

ID18. Revised s106 planning obligation by agreement, submitted 18 August 2023.

ID18a. Further Revised s106 planning obligation by agreement, submitted 21 August 2023.

ID19. Revised s106 planning obligation by unilateral undertaking, submitted 21 August 2023.

ID20. Note of Croudace Housing Delivery 2018-2023, dated 17 August 2023.

ID21. Closing submissions on behalf of the Local Planning Authority, dated 22 August 2023.

ID22. Closing submissions on behalf of the Appellant, dated 22 August 2023.

Submitted after the end of the Inquiry:

ID23. Signed s106 planning obligation by agreement, dated 29 August 2023.

ID24. Signed s106 planning obligation by unilateral undertaking, dated 29 August 2023.

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