



Appeal Decision

Inquiry held on 30 April, 1 & 2 May 2013

Site visit made on 2 May 2013

by Jane Miles BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 June 2013

Appeal Ref: APP/L3815/A/12/2188243

**Maudlin Nursery Hanging Basket Centre, Stane Street, Westhampnett,
West Sussex PO18 0PA**

- 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 City & Urban Securities Limited against the decision of Chichester District Council.
 - The application ref: WH/12/02360/OUT, dated 1 June 2012, was refused by notice dated 21 November 2012.
 - The development proposed is a community extension comprising of 100 new homes, including 40% affordable accommodation, a village hall, a village green and a restaurant/public house (Class A3/A4), with associated access, parking, amenity space and landscaping.
-

Decision

1. *The appeal is allowed and outline planning permission is granted for a community extension comprising of 100 new homes, including 40% affordable accommodation, a village hall, a village green and a restaurant/public house (Class A3/A4), with associated access, parking, amenity space and landscaping at Maudlin Nursery Hanging Basket Centre, Stane Street, Westhampnett, West Sussex PO18 0PA, in accordance with the terms of the application, ref: WH/12/02360/OUT, dated 1 June 2012, subject to the conditions listed at the end of this decision.*

Preliminary Matters

2. The application is made in outline but also includes, for consideration now, the location of vehicular and pedestrian/cycle access points into the development: all other matters are reserved for future approval. I have therefore had regard to the various illustrative plans as being for indicative purposes only.
3. By the close of the inquiry a Section 106 agreement (S106) was largely agreed, including (amongst other things) provisions for affordable housing and various contributions to mitigate the development's impacts. I allowed a short additional period to resolve one outstanding matter so the agreement could be completed. A final, executed, version was submitted in the agreed timescale. This addresses the Council's requirements, but some obligations are conditional on my finding they satisfy the tests in the *National Planning Policy Framework* and in Regulation 122 of the *Community Infrastructure Levy (CIL) Regulations 2010*. My findings in this respect are in the reasoning which follows.
4. The Council's refusal reasons refer to several policies in the South East Plan but, as the parties noted, this is no longer part of the development plan.

Reasons

Background & Main Issues

5. The appeal site, on the south side of Stane Street, comprises a commercial nursery and open paddocks which stretch from the eastern edge of the small village of Westhampnett eastwards as far as the even smaller village of Maudlin. In development plan policy terms, it is in the countryside outside the Westhampnett Settlement Policy Area, as defined in the Chichester District Local Plan (LP). Thus the appeal proposal would conflict with saved LP Policy RE1 which seeks to restrict 'development in the rural area generally'¹.
6. However the LP dates back to 1999, the Council is currently unable to demonstrate a 5-year supply of deliverable housing sites, and it is agreed that relevant development plan policies for the supply of housing (including LP Policy RE1) cannot be considered up-to-date. It is also agreed that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole². As these policies and principles include taking account of the different roles and character of different areas and recognising the intrinsic character and beauty of the countryside, the proposal's impacts in these respects must still be considered.
7. Accordingly the **main issue** is whether or not the proposed development is acceptable in this location, having regard to the development plan, the *Framework* and other material considerations. The latter include the proposal's effects in terms of character, appearance and heritage assets, the sustainability of the location in terms of facilities and services, and housing land supply.

Whether or Not an Appropriate Location

Character, appearance and heritage assets

8. A key element of the Council's case is that the proposed development would close an open gap between Westhampnett and Maudlin and would therefore have significant harmful effects, both generally in terms of the area's rural character and landscape, and specifically in terms of the individual character of each village. In this respect the Council relies in part on a 2005 landscape report³ carried out to input into a Core Strategy (CS)⁴. The Council also considers the hamlet of Maudlin to be an undesignated heritage asset.
9. The landscape report takes a structured and consistent approach to assessing the sensitivity to new housing development of the various landscape areas and character parcels that it identifies around Chichester. Inevitably, it also involves subjective judgements, and the rationale for some of those relating to the area around the appeal site is less than clear. 'West Westhampnett' and Maudlin are in different 'character parcels' and, for each parcel, the report recommends that any development should seek to maintain the character of the medieval hamlet and respect the setting of listed buildings. Additionally, in relation to the parcel including Maudlin, it recommends respecting the upper coastal plain's settlement pattern of small scale villages and hamlets.
10. However the delineation of these landscape character parcels is not especially helpful in assessing the overall effect this particular development proposal

¹ As does the proposal for 25 houses on that part of the appeal site in use for the nursery business, which the Council has recently resolved to approve subject to completion of a Section 106 agreement

² Given there are no specific policies in the *Framework* indicating development (as proposed) should be restricted

³ 'The Future Growth of Chichester: Landscape and Visual Amenity Considerations'

⁴ Albeit that CS did not proceed to adoption: the Inspector's 2007 Report found the CS was not sound

would have on its immediate surroundings, where its visual impacts would be greatest. This is not least because neither that part of Westhampnett to the appeal site's western boundary nor land on the opposite (north) side of Stane Street, including the extensive Rolls Royce employment site, were included in any of the parcels that were assessed. Moreover the character of these adjacent areas has changed since 2005 with the completion of new housing developments at Tilemakers Close, abutting the appeal site's western boundary, and The Grange which is nearby on the north side of Stane Street.

11. Thus there is existing residential development to the west, north and east of the appeal site, the Rolls Royce development to the north, and a restored landfill site to the south which is open and green but subtly different from the more established countryside to the east of Dairy Lane. I therefore find the prevailing character of the appeal site's immediate surroundings to be semi-rural rather than wholly rural. A small part of the site, alongside Dairy Lane, is close to the countryside to the east but even so a short extension of the existing row of dwellings fronting onto this lane would not appear out of place. Given this overall context, and bearing in mind also the scope for new planting both within and around the proposed development, I find that it would have little if any adverse impact on the wider landscape setting.
12. More contentious is the nature and significance of the gap between Maudlin and Westhampnett. Various opinions have been expressed on this matter, and on whether or not the villages are already joined by virtue of the Rolls Royce development, all of which I kept in mind when viewing the site and surrounding area for myself. I appreciate that the large Rolls Royce buildings are only apparent from a relatively short stretch of Stane Street. Even so they have a strong presence, reinforced by the vehicle access and extensive parking areas, which is not wholly offset either by the buildings' sunken level or by the manicured landscaped embankment alongside the street.
13. Moreover, in views along Stane Street, built development in each village is clearly visible from the other and the intervening space includes numerous features such as street lighting, signage and bus stops as well as the Rolls Royce frontage. Thus I cannot agree with the Council's view that there is a clear sense of leaving one village before arriving at the other, or that the space between them is primarily rural in character.
14. It would of course result in development of an area that, at present, is mainly green and open and which, mainly from the western end, allows views out to open land beyond. That would be the case irrespective of matters such as the detailed site layout and the nature and extent of hedging alongside Stane Street. However the relatively low building density proposed together with the new village green and other sizeable areas of open space would create a spacious and attractive development, appropriate to its semi-rural context. There would be sufficient flexibility at the reserved matters stage to ensure some visual separation between new buildings and the inward-facing group of historic buildings at the heart of Maudlin, thereby preserving one of this village's key characteristics and preventing any undue harm to the individual character of either village. Overall I find the proposed development would result in no more than limited harm in terms of character and appearance.
15. Regarding designated heritage assets, there are Grade II listed buildings close to the appeal site in both villages but the Council raises no concerns about the proposal's impacts on these buildings. The appellant's heritage assessment examines their significance, concluding the proposal's impacts would be

negligible or, in the case of the two listed buildings in Westhampnett, positive⁵. I agree, and am satisfied that subject to an appropriate layout in the corner of the site adjacent to the listed Maudlin House/Maudlin Cottage⁶, there would be no adverse impacts on the settings of the designated heritage assets and no conflict with LP Policy BE4, so far as it is consistent with the *Framework*.

16. The hamlet of Maudlin is included in the Historic Environment Record. This, its medieval origins and reference to it having once been the location of a hospital for lepers appear to be the basis for it being treated as an undesignated heritage asset. However a medieval origin is not unusual, and the book extract provided says only 'it is more than likely' the hospital stood at the road junction in Maudlin: no specific location is identified, nor are there any visible remains.
17. In the absence of any assessment of the undesignated heritage asset's significance from the Council, this seems to stem from a general historic interest rather than specific features. As LP Policy BE4 is concerned with *buildings* of architectural or historic interest, its relevance to this particular asset is questionable, irrespective of consistency or otherwise with the *Framework*. In any event, and subject to the provisos already noted about a detailed layout, I find insufficient grounds to conclude that new development close to Maudlin would detract from its historical interest or significance. There would be no conflict with the *Framework* in this respect.

Whether or not a sustainable location

18. The Council maintains that development of the scale proposed would be unsustainable given the limited range of facilities in Westhampnett. From the various documents and the submissions made, and roughly in chronological order, I note the following points.
19. Firstly, the Council's 'Assessment of Community Facilities' (ACF, produced in 2006) used several measures to rank settlements in terms of their facilities. As explored at the inquiry, no score was given to Westhampnett (in Table 3) for the substantial Rolls Royce site which was then (and still is) undoubtedly a significant 'local employment facility'⁷ within the specified distance threshold (5000m). It appears the public house in Maudlin was also within the relevant distance threshold (800m), although it is unclear exactly when the pub ceased trading. The measure of accessibility by public transport used in the ACF was a 'more than hourly bus service (Monday to Friday)'.
20. Secondly, the inclusion of 'Westhampnett/Maudlin' as a location for minor expansion in the CS was rejected in the Inspector's 2007 Report because of its low score in the ACF⁸. In any event, bearing in mind also the time that has elapsed and the development that has occurred since 2006/7, I give limited weight to the ACF and to the Inspector's finding about 'Westhampnett/Maudlin'. It is noteworthy however that during that period the two small villages appear to have been considered by the Council as a single settlement.
21. More recently, the Council produced an 'Interim Policy Statement on Housing – Facilitating Appropriate Development' (FAD)⁹. It acknowledges the *Framework* and the implications of the lack of a 5-year housing land supply, and seeks to provide guidance for development proposals on land outside the 1999 LP's

⁵ It suggests a development based on the illustrative layout, replacing the existing nursery buildings on the appeal site with a new village green, would enhance the setting of the listed buildings on the opposite side of Stane Street

⁶ Which could be addressed at the reserved matters stage

⁷ The list in Table 2 suggests 'industrial estate' and 'local employment site' are interchangeable

⁸ The Inspector also noted, in paragraph 3.3, some shortcomings in the ACF as a whole

⁹ Initially in 2011, but then updated three times in 2012

Settlement Policy Areas. The guidance is primarily in the form of 17 criteria that may need to be satisfied. The FAD is neither part of the development plan nor a supplementary planning document, and thus the weight it can be given is limited. Even so, in principle, and where consistent with the *Framework*, it has some merit as an approach in the short-term to what is, in effect, a housing policy vacuum at the local level.

22. However, as well as expecting sustainability in transport terms, the FAD also expresses a preference for sites to be within easy walking distance of a range of facilities, which is a less flexible approach than that in the *Framework*. The *Framework* promotes sustainable transport generally, and refers to minimising the need to travel and maximising the use of sustainable transport modes, but it also promotes achieving a balance of land uses within an area with the aim of minimising journey lengths. As it does not suggest most journeys should be made on foot there is a lack of consistency here with the FAD.
23. Turning then to the current situation in Westhampnett and Maudlin, existing facilities within or adjacent to the two villages (excluding the business on the appeal site) include a primary school, church, the Rolls Royce employment site and a vehicle repair garage (on a relatively large site). Given the Council's recent refusal of an application to convert the vacant public house in Maudlin to a dwelling, that pub might perhaps also be mentioned as a village facility, even though it has not functioned as such for several years.
24. Between Westhampnett and the centre of Chichester are a watersports facility, a Sainsbury's supermarket and other retail outlets, providing opportunities for employment as well as shopping and leisure. The city centre with its wide range of facilities and services is less than 5 kilometres away, which was the distance accepted in the 2007 Inspector's Report on the CS as a sound approach to measuring a settlement's sustainability. Significantly, Stane Street is part of a regular bus route with half hourly services to and from Chichester. Notwithstanding the Council's view to the contrary, I find this to be a good level of service for a semi-rural area such as this. In short, despite the limited range of facilities within Westhampnett and Maudlin, the villages are sustainably located with easy access to a wide range of the facilities necessary to meet residents' needs, even if some short journeys are made by car.
25. Moreover the appeal scheme as submitted proposes additional community facilities in the form of a village green, village hall and a pub/restaurant, which would all add to the villages' combined facilities. Despite its initial objections, the Parish Council's current position is one of support (subject to concerns about drainage being addressed). In particular the Parish Council has engaged with the appellant in relation to the village hall proposal, albeit it seems increasingly likely that this would be built on a site opposite the village school rather than on the appeal site. However, as the S106 provides for a financial contribution in this eventuality, a village hall would still be provided.
26. With regard to the proposed pub/restaurant, on the one hand the Council queries whether this would be viable but, on the other hand, its recent refusal of a proposal to convert the vacant pub in Maudlin to residential use appears, in part, to be due to insufficient evidence to demonstrate that pub is not viable. In any event, although the appellant has produced evidence of some interest in developing the new pub/restaurant on the appeal site, no specific operator is yet involved. Thus the weight to be attached to this as an additional community facility is limited accordingly.

27. As to the value of a new pub, it is well-established that public houses are amongst the facilities that contribute to the well-being and sustainability of residential communities. Economic realities are such that most pubs now have to rely on at least some trade from outside the immediate locality, but that does not necessarily negate their value as a local community facility. Nor does paragraph 70 of the *Framework* suggest to me that new community facilities should provide only for local needs. Thus it follows that I also find the restrictive approach of LP Policy RE17¹⁰ inconsistent with the positive approach advocated in the *Framework*, and the lack of any assessment to show that a local need exists does not weigh against the proposal.
28. Moreover, in this instance, new development in Westhampnett since 2007, supplemented by the current proposal, could strengthen the local demand for a pub/restaurant and possibly for other local services or facilities. As such the appeal proposal could help to enhance and maintain the community's vitality, thereby according with paragraph 55 of the *Framework*. I appreciate there is some local concern about the amount of development proposed in this scheme, in addition to recent developments, but it could help to maintain the identity of Maudlin and Westhampnett, albeit as a single village, as a separate settlement from Chichester. Overall I find the appeal site would be a sustainable location for the scale of development proposed, and there would be no material conflict with the *Framework* in this respect.
29. Indeed, the Council's concerns about the villages coalescing and about the appeal proposal's scale appear to be at odds with the strategic allocation currently being considered under Policy 18 of the Council's 'Draft Local Plan Key Policies – Preferred Approach'. It appears this mixed development, including up to 500 houses, would be planned as an extension to Westhampnett, to be well integrated with the village, even though it would comprise some five times as many dwellings as the appeal proposal and would almost certainly link the village more closely with the urban area of Chichester. However, as this emerging plan is still at an early stage it carries very little weight.

Housing land supply

30. It is common ground the Council cannot currently demonstrate a 5-year supply of deliverable housing sites, that there has been persistent under-delivery in previous years and thus, to accord with the *Framework*, a 20% buffer is also required. The Council and appellant also now agree that the relevant 5-year requirement is 3,444 dwellings (equivalent to some 689 per annum). However the calculations of the available supply differ: at the start of the inquiry the Council's figure was 3.6 years whereas the appellant's was 2.1 years. Whilst the inquiry was in progress the Council resolved to grant outline permission for a major development of 500 dwellings at Shopwyke, subject to completion of a S106. If issued in due course, that permission would change the 5-year supply figures to 3.9 years and 2.4 years respectively.
31. It was also agreed at the inquiry that little would be gained in this case by more detailed examination of the numerical calculations. However, as the differences result from the two parties' approaches to what should, or should not, be included, some general principles were explored. With regard to whether sites without permission should be included, the key guidance is in Footnote 11 to paragraph 47 of the *Framework*: this clearly sets out availability, suitability in terms of location, achievability and viability as the

¹⁰ This policy relates to community facilities in the rural area

- requirements for a site to be considered deliverable, without any mention of planning permission. A second, separate, sentence advises that "sites with planning permission should be considered deliverable until permission expires".
32. An Inspector in one of the various recent appeal decisions drawn to my attention found the reference to planning permission in the second sentence sufficient to imply that no site without permission should be considered deliverable¹¹. Inspectors in other decisions did not express such a clear-cut view. It seems to me there is a subtle but important distinction between a 'permitted' site where some previously unforeseen problem has precluded implementation, such that the permission has expired, and a site which a local authority currently considers capable of meeting all the Footnote 11 criteria, such that it might reasonably be expected that permission would be granted and thus the site would be deliverable.
33. Related points concern the inclusion of SHLAA¹² sites and LP allocations without permission, and whether or not to apply a discount to extant permissions. The appellant is right to note that inclusion in a SHLAA does not guarantee a permission will follow, and also that a discount of 10% is often applied to large sites with extant permissions. However circumstances can and do vary between local authorities, not least in the level of detail in housing land supply assessments and the frequency with which they are updated.
34. In this case it would appear from the Council's written evidence that large (6+ dwelling) sites have been assessed individually within the last year or so, in terms of availability, developers' intentions, constraints and likely phasing. Provided such information is updated accurately and regularly it should be sufficient to judge, for each site, whether the comprehensive Footnote 11 criteria are met, including the criterion of being available 'now', potentially obviating the need to apply a discount.
35. With regard to including specialist housing for older people, it seems to me that this too will vary depending on the nature and use of particular schemes. An increasingly varied range of products, from independent units in retirement villages (with some communal facilities) through 'extra care' to those with the highest levels of care, means that distinctions between Classes C2 and C3¹³ are not now always clear cut. Even where age restrictions are imposed, individual self-contained residential units for older people help to meet the needs of different groups in the community. I am not therefore convinced that, as a generality, they must be excluded from housing supply calculations.
36. However, notwithstanding the general points of principle considered above, there is currently a shortfall in this Council's 5-year housing land supply. That the development of 500 dwellings at Shopwyke would add only some 0.3 years to the current supply serves to demonstrate the severity of the shortage. The appeal proposal would be beneficial in addressing the shortfall, which is a material consideration weighing heavily in favour of it.

Conclusions on main issue

37. In summary, the proposed development would join the villages of Maudlin and Westhampnett to a greater extent than is currently the case, resulting in the loss of some open land that currently provides a green and/or relatively open link to the wider rural landscape. Thus, given the *Framework's* guidance

¹¹ Appeal ref: APP/H1033/A/11/2159038, dated 23 August 2012

¹² That is, a Strategic Housing Land Availability Assessment

¹³ Of the Town and Country Planning (Use Classes) Order 1987 (as amended)

concerning the countryside's intrinsic character and beauty, the proposal would result in some limited harm to the area's character and appearance. I find however that it would not cause material harm to the significance or setting of heritage assets (designated or otherwise) and that the appeal site is a sustainable location for the scale of development proposed.

38. The Council cannot demonstrate a 5-year (plus 20%) supply of housing land, such that LP Policy RE1 must be considered out-of-date. With little evidence to show that applying the FAD criteria is improving supply, and the emerging Local Plan at an early stage, there appears little prospect of an early resolution of this serious shortfall.
39. The appeal scheme could be developed in a timely manner, helping to reduce the deficit, and I find this to be a significant material consideration. It would also be beneficial in providing new housing, including affordable housing, public open space and some improvement to community facilities. In these respects it would accord with the economic, social and environmental dimensions of sustainable development, despite some limited harm to the character and appearance of the wider area. I conclude the proposal's benefits would outweigh this harm and any conflict with those elements of development plan policies that are consistent with the *Framework*.

Other Matters & Overall Conclusion

40. I have noted the various local concerns including, in particular, concerns about the adequacy of drainage infrastructure and about parking provision, given existing problems in relation to both of these matters. With regard to surface and foul water drainage, whilst it would be unreasonable to require a developer of new housing to resolve existing problems, it would not be prudent to allow development that would worsen such problems. In this case however the indications are that adequate provisions could be made for the proposed development, albeit this could involve some off-site works, and this is a matter to be addressed by conditions.
41. Concerns about parking stem from on-street parking that currently occurs on Stane Street, said to be largely as a result of inadequate off-street provision within The Grange development. However an appropriate level of parking provision could be required on the appeal site at the reserved matters stage. In addition, the S106 includes a contribution to facilitate a Traffic Regulation Order (TRO) to introduce waiting restrictions on Stane Street.
42. The S106 includes various requirements to facilitate the provision of a village hall (including, as previously noted, a financial contribution if the Parish Council decides to proceed with a hall on a different site), village green, other amenity space and a restaurant/public house, all of which are part of the development proposal. It includes obligations relating to the provision of 40% affordable housing, together with a mechanism for a viability assessment to re-assess the proportion, if necessary, to ensure the scheme as a whole remains viable. It also provides for a contribution to mitigate the development's impact on local primary school facilities. Neither these nor the obligation relating to the TRO are disputed by the appellant and, taking account of the information provided, I find that they meet the tests in the *Framework* and/or CIL Regulation 122.
43. In addition the S106 includes obligations to mitigate the development's impacts in relation to the Chichester Harbour Special Protection Area (SPA). I note Natural England's comments in this respect and find that these obligations meet the relevant tests. This is because, without them, I would be unable to

- conclude the scheme would not be likely to have a significant effect on the features of interest for which the SPA has been designated.
44. The Council seeks a contribution of £85,645 towards unspecified sports and leisure facilities, albeit it is noted this could be added to the provisions for the village hall should that include sports facilities. However I heard the Council does not have an up-to-date assessment of the District's sport and recreation needs, nor could it confirm there is a programme in place to secure new or improved facilities. Moreover the appeal scheme includes more amenity/open space than the Council would normally require and, as noted above, the S106 includes appropriate obligations to facilitate provision of that space. In these circumstances I am not satisfied the sports and leisure contribution is necessary to make the development acceptable in planning terms.
 45. With regard to an item of public art, I understand the rationale for this and agree such an item could add to the quality and thus the benefits of the scheme. However, it is not 'infrastructure' of the kind envisaged in saved LP Policy BE11 or in the County and District Councils' adopted Supplementary Planning Guidance¹⁴ (SPG). Largely because this requirement does not stem from policy or guidance that has been subject to public consultation I find it is not necessary to make the development acceptable in planning terms.
 46. In addition to the TRO and education contributions, the County Council seeks contributions towards libraries, the fire and rescue service, and 'total access demand' (TAD). It is explained that Chichester library (which would be used by occupiers of the development) is of insufficient size to cope with those occupiers. Additional facilities to help speed up throughput are suggested, as a means of increasing the library's capacity to mitigate this proposal's impact. This would meet the test of being directly related to the development but, to be fairly and reasonably related to it in scale and kind, the sum should be no greater than necessary to provide the facilities specified. As neither the number nor cost of the electronic terminals needed in this case is explained, and notwithstanding that the contribution is calculated from a formula in the SPG, I cannot conclude that this latter test is met.
 47. The TAD contribution seeks to address a development's impact on transport infrastructure and/or promote sustainable transport modes, with the latter being a key objective of national policy. The requested sum of £216,700 is calculated from the SPG formula which, although somewhat unusual, is a consistent method of ensuring contributions are fairly and reasonably related to the scale of development. Three schemes to promote the use of more sustainable modes of travel in the appeal site locality are listed by the County Council. No costs are given but these examples are sufficient to demonstrate that a realistic programme of schemes is in place to mitigate the proposal's impacts in transport terms and contribute to a key planning objective. Thus I am satisfied all the relevant tests are met in relation to this contribution.
 48. The contribution for the fire and rescue service would be applied to several projects intended to benefit the area as a whole, rather than the appeal site in particular, on the basis that the service's various facilities are used flexibly across its area. The projects are identified and their costs are incorporated into the formula for calculating the contribution. Thus I am satisfied all the relevant tests are met in relation to this contribution.

¹⁴ 'The Provision of Service Infrastructure Related to New Development in Chichester District', 2004

49. In summary, therefore, I find the relevant tests are met for all the obligations except those relating to public art, sports and leisure facilities and libraries which I have not taken into account in making my decision. I have had regard to all other matters raised, but have found nothing sufficient to alter or outweigh my conclusions on the main issue. These indicate the appeal should succeed and planning permission should be granted, subject to conditions.

Conditions

50. This is an outline application and thus, as discussed at the hearing, it is not necessary to require compliance with the illustrative plans: I shall however specify the drawing showing the access points into the development site as an approved plan, for the avoidance of doubt and in the interests of proper planning. Further conditions relating to the accesses are needed in the interests of highway safety. To ensure the proposed housing is provided sooner rather than later, I agree with the Council's suggested reduction of the timescale for commencing development.
51. With regard to the reserved matters of layout and landscaping (including existing trees/hedging) it is reasonable and necessary to expand on the details required, to ensure a high standard of design and a development that will sit comfortably in its semi-rural context. In doing so I shall include reference to the village green and other public open space, given their importance to the layout as a whole, even though there are provisions for them in the S106. Conditions relating to details of levels and cross-sections, and also height limits for the proposed dwellings, are also necessary for similar reasons.
52. Conditions relating to contamination, including any landfill gas issues, are needed to ensure the site is safe and suitable for the permitted development. Also to ensure the site is developed satisfactorily, and bearing in mind the concerns about drainage infrastructure, conditions relating to foul and surface water drainage are essential. However detailing the developer's responsibilities in these conditions is not necessary, and it would be ultra vires to impose a condition requiring the developer to enter into an agreement with a third party (Southern Water). Given the scale of the development and the proximity of existing housing, it is reasonable and necessary to require a construction method statement to minimise disruption during the construction period.
53. A condition requiring some archaeological work is warranted to ensure that any features of historic interest or significance are properly investigated and recorded. I note the Council's preference for a condition requiring the development to accord in all respects with its 'Interim Statement on Planning and Climate Change'. However, following discussion at the inquiry, I am satisfied that conditions requiring that the dwellings achieve Level 3 of the Code for Sustainable Homes and the provision of a Travel Plan, together with a sustainable surface water drainage system, would be sufficient to meet the objective of addressing climate change. Conditions to specify the permitted uses of the proposal village hall and pub/restaurant are reasonable and necessary for the avoidance of doubt.
54. Details of external materials and of bin storage at individual dwellings should logically be provided at the reserved matters stage: if they are not, the Council will be able to request them at that stage. With regard to housing mix, the S106 includes provisions for affordable housing and, bearing in mind also that needs and circumstances may change, I am not convinced it is necessary to specify the current preferred mix by condition. As the S106 also covers mitigation in relation to Chichester Harbour SPA, it was agreed at the inquiry

there is no need for a condition to address this. I recognise the desirability of introducing waiting restrictions on Stane Street, close to the main access into the development, to be achieved by TRO as previously noted. However I am not persuaded the need for this is so significant as to justify a Grampian-style condition precluding any development until a TRO has been made.

55. The conditions I shall impose follow from the Council's suggestions, discussion at the inquiry, and guidance in *Circular 11/95 (The Use of Conditions in Planning Permissions)*. Outline planning permission is granted subject to the following conditions:

- 1) Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission. The development hereby permitted shall begin before the expiration of one year from the date of approval of the last of the reserved matters to be approved.
- 3) No development shall commence until further details of vehicular and pedestrian accesses into the site, in the positions shown on drawing no. 100/002 approved herewith, have been submitted to and approved in writing by the local planning authority. The details shall include means of closure of the existing vehicular access onto Stane Street; design and construction details of the new vehicular access into the development hereby permitted; driver and pedestrian visibility splays to that access; provisions to prevent surface water draining onto the public highway; a timetable for implementation.
- 4) The vehicular and pedestrian access works shall be carried out in accordance with the details approved pursuant to condition 3 above. The visibility splays to the vehicular access shall be retained thereafter and kept clear of any obstruction exceeding 0.6m in height above adjoining carriageway.
- 5) The layout and landscaping details submitted pursuant to condition 1 above shall include:
 - i) details of the village green, other areas of amenity/public open space, footpath links and children's play area, to accord with the principles and quantum indicated in the submitted Design and Access Statement dated May 2012;
 - ii) a plan showing existing hedging and trees to be retained together with details of measures for their protection, during the course of development;
 - iii) the species, number, sizes and position of new trees, shrubs and hedging to be planted and details of any grassed or other planted areas, including seeding with an appropriate Native British Wildflower Flora mix;
 - iv) measures to enhance biodiversity;
 - v) a programme for implementation;
 - vi) a landscape management plan.

Any trees, shrubs or hedging plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise approved in writing by the local planning authority.

- 6) No development shall take place until details of finished ground and floor levels, together with cross-sections to illustrate how the buildings will be set into the ground, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until a desk-top study to identify and evaluate all potential sources and impacts of land and/or groundwater contamination, including the potential for any landfill gas to reach the site, has been carried out in accordance with a methodology that has first been submitted to and approved in writing by the local planning authority. The written results shall be submitted to the local planning authority on completion of the study.
- 8) In the event that the desk-top study identifies the need for site investigations and/or remedial measures, no development shall take place until the site investigations have been carried out, in accordance with a methodology that has first been submitted to and approved in writing by the local planning authority, and a report documenting the results and specifying any necessary measures to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority.
The site shall be remediated in accordance with the approved measures before development begins. Should any contamination be encountered that has not previously been identified, details of it and of measures to address it shall be submitted to and approved in writing by the local planning authority and the measures shall be carried out as approved.
A verification report confirming that all remediation has been carried out as approved shall be submitted for the local planning authority's written approval on completion of the remediation works and before any dwelling is occupied.
- 9) No development shall take place until details of all measures necessary to cater for the disposal by sustainable methods of surface water from the development hereby permitted have been submitted to and approved in writing by the local planning authority. None of the development hereby permitted shall be brought into use until provision has been made for surface water disposal in accordance with the approved details.
- 10) No development shall take place until details of all measures necessary to cater for the disposal of foul water from the development hereby permitted have been submitted to and approved in writing by the local planning authority. None of the development hereby permitted shall be brought into use until provision has been made for foul water disposal in accordance with the approved details.
- 11) No development shall take place until a programme of archaeological work, to include the recording of findings and subsequent publication of results, has been carried out in accordance with a written scheme of

investigation which has first been submitted to and approved in writing by the local planning authority.

- 12) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
- i) vehicle parking for site operatives and visitors, and on-site turning space;
 - ii) loading and unloading of plant and materials;
 - iii) storage of construction plant and materials;
 - iv) erection and maintenance of security hoarding, including decorative displays and facilities for public viewing as appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) the location of any site huts/cabins/offices.

The Statement as approved shall be adhered to at all times throughout the construction period.

- 13) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 14) The maximum height of the dwellings hereby permitted shall not exceed 8.3-9m for two storey dwellings; 9.5-10m for two and a half storey dwellings; 10-12m for three storey dwellings.
- 15) No part of the development shall be occupied until a Travel Plan, including a timetable for implementation and periodic review, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented as approved.
- 16) The village hall hereby permitted shall not be used other than for purposes falling within Class D2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
- 17) The public house/restaurant hereby permitted shall not be used other than for purposes falling within Classes A3 and A4 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Jane Miles

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jeremy Cahill QC Instructed by Icen Projects Limited

He called

Philip Russell-Vick Enplan
DipLA CMLI

James Waterhouse Icen Projects Limited
BA DipTP MRTPI

FOR THE LOCAL PLANNING AUTHORITY:

Eian Caws of Counsel Instructed by Nicola Golding, Solicitor,
Chichester District Council

He called

John Saunders Assistant Planning Manager, Development
BA (Hons) DipTP Management, Chichester District Council
MRTPI

Robert Davidson Principal Planning Officer, Planning Policy,
BA MA Chichester District Council

INTERESTED PERSONS:

Andrew Blanchard Local resident

Bob Hull Representing Westhampnett Parish Council

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Mr Waterhouse's 'memo' dated 29 April, commenting on Mr Davidson's supplementary note (relating to housing land supply)
- 2 The Council's list of suggested conditions
- 3 Mr Saunders' summary proof
- 4 Mr Davidson's summary proof
- 5 Mr Cahill's opening statement
- 6 Extract (pp 100-105) from the Council's 'Draft Local Plan Key Policies – Preferred Approach – March 2013'
- 7 Revised Appendix 1 to Mr Davidson's supplementary note
- 8 Mr Blanchard's statement
- 9 Set of complete Figures 6.1, 6.2, 6.3 & 6.4 from the 2005 landscape study
- 10 Copy of draft Section 106 agreement, as at end 1 May

- 11 Copy of 'Supplementary Planning Guidance – The Provision of Service Infrastructure Related to New Development in Chichester District – Part 2' (December 2004)
- 12 Copy of e-mails dated 30 April and 1 May relating to progress on the Section 106 agreement
- 13 Closing submissions for the Council
- 14 Closing submissions for the appellant

Richborough Estates