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## Appeal Decisions

Hearing held on 12 January 2016

Site visit made on 12 January 2016

**by Peter Rose BA MRTPI DMS MCMi**

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

**Decision date: 31 May 2016**

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### **Appeal A Ref: APP/D3830/W/15/3038217**

#### **Land at Broad Street, Cuckfield, Haywards Heath, RH17 5DY**

- 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 SDP Developers against the decision of Mid Sussex District Council.
  - The application Ref: 14/02426/OUT, dated 3 July 2014, was refused by notice dated 24 November 2014.
  - The development proposed is erection of 20 no. dwellings.
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### **Appeal B Ref: APP/D3830/W/15/3129329**

#### **Land at Broad Street, Cuckfield, West Sussex, RH17 5DY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by SDP Developers against the decision of Mid Sussex District Council.
  - The application Ref: DM/15/1412, dated 27 March 2015, was refused by notice dated 29 June 2015.
  - The development proposed is the erection of four detached houses with garages.
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## **Decisions**

1. **Appeal A** is dismissed.
2. **Appeal B** is allowed and planning permission is granted for the erection of four detached houses with garages at land at Broad Street, Cuckfield, West Sussex RH17 5DY, in accordance with the terms of the application Ref: DM/15/1412, dated 27 March 2015, and subject to the conditions set out in the attached schedule.

## **Procedural Matters**

3. In relation to **Appeal A**, the application is in outline form with all matters reserved for subsequent approval except for access. Although matters of appearance, layout, landscaping and scale are not formally submitted for determination as part of the appeal application, the submission is accompanied by illustrative details to which I have regard.
  4. At the hearing, a bi-lateral agreement made under section 106 of the Town and Country Planning Act 1990 was submitted in relation to **Appeal A** and has been signed and executed as a deed dated 11 January 2016. Both the main parties
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confirmed that the agreement satisfactorily addresses the matters of previous dispute identified in Reason 3 of the Council's decision notice.

5. In relation to **Appeal B**, the application is for full planning permission.
6. **Appeal B** is subject to a Unilateral Undertaking made under section 106 of the Town and Country Planning Act 1990 which was submitted to the hearing and which has been signed and executed as a deed dated 11 January 2016.
7. Whilst the appeals relate to very similar sites, the respective boundaries differ. In particular, **Appeal B** excludes a triangular area of land adjacent to the existing site access and flanked by the neighbouring property, Thorpedale, in Broad Street. This land does fall within the site boundary of **Appeal A**.
8. Although there are similarities in relation to matters of policy and other common site considerations, **Appeal A** and **Appeal B** are each assessed as separate and unrelated proposals and with reference to their own respective planning merits.
9. I consider the appeals on the above bases.

### **Main Issues**

10. The main issues in relation to **Appeal A** are:
  - (a) the effect of the development upon the character and appearance of the appeal site and the surrounding area, and;
  - (b) the effect of the development upon the rural character of the locality with particular regard to possible coalescence of settlements.
11. The main issues in relation to **Appeal B** are:
  - (a) the effect of the development upon the character and appearance of the appeal site and the surrounding area;
  - (b) the effect of the development upon the rural character of the locality with particular regard to possible coalescence of settlements, and;
  - (c) whether the scheme would make appropriate provision for affordable housing.

### **Reasons**

#### **Appeal A**

##### *Character and appearance*

12. The appeal site comprises an area of open land located immediately adjacent to the built-up area of Cuckfield. The site is accessed from Broad Street through a gate at its north-west corner. The site is adjacent to dwellings to the north and faces further houses on the opposite side of Broad Street to the west. The site is currently laid to grass and used as paddocks.
13. The site offers significant views east through the open area behind the gate. The main Broad Street site frontage is, however, largely enclosed by a substantial hedge along much of its length and which affords little ground level visual exposure of the site from the road. The appeal site forms the front

- portion of a larger expanse of open land beyond extending towards Haywards Heath, and slopes down to the east away from Broad Street.
14. The site contains further hedgerows along its eastern and southern boundaries, but otherwise has few distinctive features. Although there is a ribbon of large residential properties on the opposite side of Broad Street, a marked transition from village to countryside is evident at this point on the eastern side of the road and the appeal site makes a significant contribution in that regard. The appeal site contributes to a distinctly open, rural setting to the east of Broad Street, albeit enclosed behind the hedgerow. The western side of Broad Street is residential in character, as is Broad Street to the north.
  15. The appeal site lies outside the Built-Up Area Boundary defined by the development plan where a restrictive approach to further development applies, and forms part of an area where landscape predominates. In this regard, the Cuckfield Landscape Character Assessment (the Character Assessment) accompanies the development plan and places the appeal site within Character Area 16 (CA16). CA16 is identified to be of moderate value, but of substantial sensitivity and of low capacity for change. In contrast, CA17, which includes the nearby residential properties, is seen as slight value, of substantial sensitivity, and as offering low/medium capacity for change. The Character Assessment describes CA16 as a rural, relatively tranquil landscape, inconsistent with the existing form of Cuckfield.
  16. The proposed development would involve a relatively enclosed and physically distinct development of 20 dwellings served from the existing single point of access. The scheme would be set behind the largely retained hedgerow but would afford significant public exposure, particularly through its proposed access from Broad Street and in views above the hedgerow.
  17. Whilst only indicative, the scheme shows dwellings and associated access spread across the site but with an undeveloped and enhanced open area parallel to Thorpedale adjacent to the entrance. Despite the retained presence of that open land, I consider the proposed dwellings would be significantly visible from Broad Street.
  18. Notwithstanding other backland developments in the vicinity of Cuckfield, and the relatively low density of the development proposed, the scheme would contrast markedly with the immediate existing residential character of this part of Broad Street. Although nearby dwellings are of various forms and styles, they are typically characterised by main frontages to Broad Street, and those opposite are set behind substantial front gardens. The scheme would effectively introduce a substantial and largely self-contained development which, in townscape terms, would have little resonance with this immediate distinctive character and appearance.
  19. The extent of the application site would allow for relatively low densities, and the appellants' illustrative drawings show well-spaced properties in significant landscaped plots. I do not therefore find that the character of the scheme would necessarily be unduly cramped, but it would certainly be in stark contrast to the more conventional and established arrangement of dwellings to the north and west. Further, the scheme would be likely to present a fairly solid frontage to Broad Street visible above the hedgerow, and with an exposed sweep of the access road from the north.

20. Map 5 of the Cuckfield Neighbourhood Plan Submission Plan May 2014 (the NP), defines external views from Cuckfield and this includes View 9 which identifies the outlook east from the site entrance in Broad Street. I further note that the site is one of few field gaps in Broad Street.
21. The illustrative drawings indicate that the proposed built form would be likely to constrain the margins of the existing view southwards from the entrance, but the immediate outlook directly east from the entrance would be similar to that existing. Nevertheless, views south would be interrupted and the existing overall perception of countryside immediately adjacent to the Broad Street frontage would be lost to the physical presence of the development.
22. Reference has been made to a previous appeal decision Ref: APP/D3830/A/12/2176416 dated 6 December 2014 and relating to a single detached dwelling at the appeal site. Whilst noting that the single dwelling would read as an isolated, incongruous and obtrusive encroachment into public views of the open countryside, the decision found the scheme to lack any significant cohesion with neighbouring properties in terms of separation, building line and footprint, in which aspects it departed markedly from the established street scene. I draw similar conclusions in relation to the discordant character of the current appeal scheme which, albeit of a considerably larger scale, fails to respect the same considerations. A visually dominant access and self-contained layout would be features out-of-keeping with the distinctive character of the area and would impose an unduly urbanised built form relative to the existing countryside setting.
23. Whilst the appeal decision also makes reference to the general need for planning to ensure an efficient use of land through an appropriate intensity of development, such considerations would still need to be balanced against any other relevant considerations of character and appearance. I have also had regard to Policy 24A of the Mid Sussex District Plan 2014-2031 Focussed Amendments to the Pre-Submission Draft November 2015 (the DP) to which similar considerations apply. This seeks, amongst other matters, to promote higher, minimum densities of development in specified circumstances in order to make efficient use of land.
24. The appellants also suggest the scheme would effectively transfer the character of the site from CA16 to that of CA17, but I find the harmful implications of that change for character and appearance as identified would still remain.
25. There would be some change to views looking back towards Broad Street from the Local Nature Reserve to the east but, given the intervening distance and the context of neighbouring built form, I do not find that particular impact to be harmful.
26. In summary, I find the scheme would introduce a harmful change in the character and appearance of the site from an open rural setting to a highly urbanised one, and one jarring in its physical form with the existing immediate pattern of built development.
27. Taking the above factors together, I therefore conclude that the proposed development, by reason of its likely form and extent, would be harmful to the character and appearance of the appeal site and the surrounding area. Accordingly, the development would be contrary to Policies B1 and C1 of the

Mid Sussex Local Plan May 2004 (the LP), to Policies CNP1 and CNP5 of the NP, and to Policy DP10 of the DP.

28. Policy C1 of the LP places a restrictive approach to development outside the defined built-up area boundaries. Such areas are classified as a Countryside Area of Development Restraint where the countryside will be protected for its own sake and where proposals to extend the built-up area boundaries will be resisted. Policy B1 requires all proposals to demonstrate a sensitive approach to urban design which respects the character of the locality, and including with regard to a proposal's sense of place.
29. Policy DP10 of the DP similarly seeks to protect the countryside in recognition of its intrinsic character and beauty and to restrict development outside the built-up area boundaries.
30. Policy CNP 1 of the NP encourages high quality development which responds to the distinctive character and reflects the identity of the local context of Cuckfield. Policy CNP 5 states that priority will be given to protecting and enhancing the countryside from inappropriate development outside the Built Up Area Boundary. It further identifies a range of circumstances in which development may be permitted. These include where a scheme would not have a detrimental impact on, and would enhance, areas identified in the Cuckfield Landscape Character Assessment, would not have an adverse impact on the landscape setting of Cuckfield, and would maintain distinctive views of the surrounding countryside from public vantage points, and particularly those defined in Map 5.
31. The scheme would also be inconsistent with the National Planning Policy Framework (the Framework) which identifies the legitimacy of promoting or reinforcing local distinctiveness, seeks to encourage high quality design, and which establishes a core principle to recognise the intrinsic character and beauty of the countryside. The Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, and the Minister of State for Housing and Planning's letter dated 27 March 2015 affirms the importance of the impact of development upon landscapes outside designated areas.

#### *Coalescence of settlements*

32. The appeal site lies within an area of strategic gap defined by both the LP and NP.
33. The Character Assessment identifies the presence of CA16 within the strategic gap policy area. Significantly, the Character Assessment also identifies the same in relation to CA17 which displays a more developed form and character. In this regard, the Character Assessment states that, despite the presence of existing dwellings which limit rurality within CA17, the area prevents coalescence of denser development between Cuckfield and Haywards Heath. The LP similarly identifies existing residential properties in Broad Street and, therefore, by implication, also infers that areas of existing residential development are not inconsistent with the function of the gap.
34. I recognise the site does provide a significant green finger up to the developed edge of the village extending between Cuckfield and Haywards Heath and that

the scheme would occupy undeveloped land and would thereby bring built development within the site itself closer to Haywards Heath to the east.

35. Nevertheless, the scheme would not generally intrude beyond the existing closest point of Cuckfield to Haywards Heath which lies to the north but would instead broadly follow the sweep of the rear property boundaries of those existing dwellings. Accordingly, I do not consider the scheme would materially harm the overall relationship between the two settlements by increasing their physical proximity.
36. I accept the scheme would undoubtedly lead to some loss of openness and would increase density within the curtilage of the appeal site itself, and I have had regard to those matters in my consideration of character and appearance. Nevertheless, given the particular physical disposition of the appeal site and its relationship to the closest part of Haywards Heath as described, I do not find the scheme would contribute to a materially greater physical coalescence of the two settlements. Accordingly, it would not be harmful by reducing their respective identities or amenity.
37. I therefore find that the proposed development would not be harmful to the rural character of the locality with particular regard to coalescence of settlements. Accordingly, the development would not be contrary in that regard to Policy C2 of the LP or to Policy CNP 3 of the NP.
38. Policy C2 of the LP seeks to retain a defined strategic gap between Haywards Heath and Cuckfield with the objective of preventing coalescence and retaining the separate identity and the amenity of settlements. The supporting text refers to a need to retain a clear visual break between the settlements in order to give them a reasonable structure. It states that strict control will be applied to ensure that the openness of the strategic gap will not be compromised by the cumulative impact of such developments.
39. Policy CNP 3 of the NP states that development will not be permitted outside the Built Up Area Boundary if it would increase coalescence between Cuckfield and Haywards Heath or reduce their separate identities by reducing the intervening gap or by increasing the density of development within existing curtilages.

### **Overall planning balance- Appeal A**

#### *Five-year housing land supply*

40. The Framework requires the local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its full objectively assessed needs for market and affordable housing.
41. The Council accepts it is unable to demonstrate a five-year supply of housing land. The Council does not have an agreed housing target that has been assessed through local plan examination, although the emerging DP identifies a housing requirement for 11,050 homes up until 2031. I also note that, since 2006, the Council has been unable to meet the previous South East Plan annual target of 855 dwellings and that a 20% buffer would also need to be applied to any future supply.

42. In the absence of a five-year supply of deliverable housing land, it follows, by virtue of paragraphs 47 and 49 of the Framework, that relevant policies in the development plan for the supply of housing are to be considered out-of-date. Further, by virtue of being out-of-date, relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the Framework are also engaged, should the scheme be found to constitute sustainable development.
43. I also have regard to the judgment of the Court of Appeal in *Suffolk Coastal District Council and Hopkins Homes Limited and the Secretary of State for Communities and Local Government, and Richborough Estates Partnership LLP and Cheshire East Borough Council 2016* (EWCA Civ 168), and to the subsequent representations received from both the main parties.
44. LP Policy C1, DP Policy DP10 and NP Policy CNP 5 are all settlement boundary policies which seek to impose a general restriction on development, including housing, outside defined limits. They thereby act as a constraint to future housing supply by presuming against housing development outside development boundaries. Policies C1, DP10 and CNP 5 are therefore policies relevant to the supply of housing for the purposes of the Framework, and I have noted references made to other relevant Court judgements in this regard. As the Council is unable to demonstrate a five-year supply of housing land, it follows that, for the purposes of paragraph 49 of the Framework, these policies are to be considered out-of-date insofar as they constrain the supply of housing. Further, and in any event, the same would also apply to policies constraining housing development within the strategic gap.

*Other Matters*

45. I have had regard to all other matters raised in relation to both appeals, both at the hearing and in written evidence, and including references made to various other planning decisions. In this regard, whilst recognising the importance of consistency for fairness and other considerations in planning decisions, the particular planning circumstances of all cases will be different, and each balance of judgement will vary accordingly. The same consideration also applies in relation to concerns regarding possible matters of precedent.
46. I also have regard to the local significance of the recently made NP to the Cuckfield community, and to the support it enjoys. I particularly note the concerns expressed by both the Parish Council and the local planning authority that these appeals are seen to represent serious challenges to the NP. My decision is about assessing the possible effects of these specific schemes relative to the policies of the NP and other constituent parts of the development plan as a whole, and relative to the procedures and requirements of the Framework and section 38(6) of the Planning and Compulsory Purchase Act 2004 (the Act). It is not about the particular merits of the NP, and the provisions of the Framework as they relate to sustainable development and the implications of five year housing land supply apply to the NP in the same way as they apply to other parts of the development plan.
47. I note that the scheme has been assessed by the authority as not to involve Environmental Impact Assessment development. It is common ground between the main parties that the site is of low overall ecological value.

48. I have also noted the planning history of the site and the various references made to pre-application discussions and consultations.

*Section 106 agreement*

49. The section 106 agreement makes commitments to various matters to mitigate the impact of the development, including contributions to various community facilities, and a commitment to provide 6 affordable dwellings in accordance with Policy H4 of the LP, and Policy DP29 of the DP and Policy CNP 8 of the NP.
50. Whilst the Parish Council suggests provision should also be made for traffic management, this is not identified as a matter for objection by the local planning authority, and I have little reason to find the scheme would be harmful in that regard.
51. Both the local planning authority and West Sussex County Council have provided evidence of compliance with the relevant provisions set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 and this is not disputed. I have also had regard to the Framework, and to the relevant advice of both the government's Planning Practice Guidance (the Guidance), and of the Planning Inspectorate's Procedural Guide Planning Appeals - England 23 March 2016.
52. I find the agreement to be generally fit-for-purpose.
53. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

*Sustainable development*

54. The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development.
55. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in paragraphs 18 to 219 taken as a whole. At the heart of the Framework in paragraph 14 is a presumption in favour of sustainable development. The Framework further identifies economic, social and environmental dimensions to sustainable development.
56. The scheme would undoubtedly provide considerable housing benefits, in terms of both affordable and market provision, and such benefits would be consistent with the social dimension of sustainable development. The investment represented by the development would also be consistent with the economic dimension. The undisputed economic benefits would include investment in construction and related employment for its duration. Benefits would also include an increase in local household expenditure and demand for services, and the financial contributions to the Council through New Homes Bonus payments.
57. In environmental terms, however, the scheme would incur loss of an open field and some open public views across the site. Moreover, it would impose a considerable extent of discordant built development upon open countryside contrary to the Framework's aspirations for planning to recognise the intrinsic character and beauty of the countryside, and to promote local distinctiveness and high quality design.



58. In summary, the scheme would offer considerable benefits consistent with the Framework. Of particular weight would be 20 new homes in a District which is unable to demonstrate a five-year housing land supply. The associated affordable housing benefits would also be significant. Nevertheless, the harmful impact upon character and appearance arising from the scale and form of development proposed and the particular sensitivities of the land to be lost as recognised by the Character Assessment would be considerable. On balance, I find that the adverse impacts of the proposal would significantly and demonstrably out-weigh the benefits such that the scheme would not constitute sustainable development.

### **Summary- Appeal A**

59. I therefore conclude that the proposed scheme would not be sustainable development and, with regard to section 38(6) of the Act and to all material considerations and other matters raised, that planning permission should be refused.

### **Appeal B**

#### *Character and appearance*

60. The scheme would involve four dwellings set back from Broad Street but facing towards the road and served by a separate single access to the front. The properties would include very substantial rear gardens and the existing hedgerow fronting Broad Street would be largely retained.
61. The form of development would provide an extension to the general grain of the conventional ribbon development in Broad Street to the north and west. It would be separated by an existing wedge of open land to the north-east which forms part of the application site for **Appeal A** but is excluded from **Appeal B**. As with **Appeal A**, public views of the open fields from this point extending east towards Haywards Heath would be retained.
62. In terms of its character and appearance, the impact of the scheme would be materially different to **Appeal A**. In particular, the four units would have some similarities in scale and overall form with existing dwellings in Broad Street and the size of the gardens would be such that only a relatively small proportion of the appeal site would be occupied by buildings. As such, the scheme would have some consistency with the distinctiveness of existing housing in the vicinity and with the wider setting. Existing planting would remain, except for an element of the hedgerow to the north to afford necessary access.
63. As with **Appeal A**, the scheme would still involve creation of a more exposed and formalised access as a prominent feature of the scheme to Broad Street.
64. Whilst outside the defined built-up area boundaries referred to in Policies C1, DP10 and CNP 5 and involving development of countryside, the scheme would offer a reasonably sensitive approach to urban design which respects the mixed residential/rural character of the immediate locality as described, and with due regard to the proposal's sense of place as required of Policy B1 and CNP 1.
65. The limited intensity and extent of built form would also mean that some higher level views east from Broad Street would be retained between the frontages of the four dwellings.

66. Views from the Local Nature Reserve would change, but I do not consider these would be materially harmed by the buildings proposed given their limited mass and form, the intervening presence of open land, the strong planted boundaries proposed, and the adjacent built context, particularly to the north.
67. Notwithstanding sensitive aspects of the design, and the relatively open form and character of the site reflecting its low density, I still find that the proposed development would be harmful to the character and appearance of the appeal site and the surrounding area. In particular, the scheme would still involve some loss of countryside and its associated intrinsic rural character contrary to the expectations of the Framework.

*Coalescence of settlements*

68. For the reasons set out in **Appeal A**, I find that the proposed development would not be harmful to the rural character of the locality with particular regard to coalescence of settlements. Further, given the substantial extent of rear gardens, the scheme would only incur a limited impression of development in views from Haywards Heath, and the limited intensity of development would not present a particularly solid frontage in main views from Broad Street.

*Affordable housing*

69. Policy H4 of the LP generally requires 30% of the total dwellings proposed to be provided as affordable housing. It further states that, in certain circumstances, the local planning authority may consider accepting a commuted payment towards provision elsewhere, but this will only be where there are exceptional reasons preventing provision on the site or where the Council is satisfied that there is substantially greater need in another part of the District which can be better met by provision on an alternative site. Policy DP29 of the DP makes a similar requirement for affordable housing, as does Policy CNP 8 of the NP.
70. The particular need for affordable housing is not disputed. The Council has a District-wide need, and I also heard evidence of the Council's particular local housing need and of the numbers of people in need with connections to the Cuckfield Parish. I also noted the Council's explanation that delivery of affordable housing is more difficult through commuted payments rather than through on-site provision.
71. At the hearing I was advised that the Council would not require one of the four proposed dwellings as affordable housing. Rather, the requirement would be for a smaller unit of accommodation to be provided. Such a proposal is not before this appeal, however, whether it be a modified arrangement of the proposed four dwellings or provision of an additional unit. Irrespective of possible issues of viability, I also heard evidence from the appellants of the justification, in townscape terms, for the particular number and configuration of dwellings as proposed and, for the reasons already indicated, I recognise the benefits of the scheme's particular form and design. I also heard how a previous scheme for six dwellings had been withdrawn in response to concerns around issues of density.
72. Given that the current scheme cannot accommodate the Council's affordable housing requirements, but that the Council is also in significant need of future housing, both in terms of the absence of a five-year housing land supply and in terms of identified local need for affordable housing, I find that exceptional

circumstances do exist to justify an alternative commuted payment in lieu. An agreed sum is identified in the Unilateral Undertaking.

73. I have also had regard to the current advice regarding planning obligations in relation to affordable housing as set out in the Guidance.
74. I therefore find that the proposed development would make appropriate provision for affordable housing. Accordingly, the development would not be contrary to Policy H4 of the LP, to Policy DP29 of the DP, or to Policy CNP 8 of the NP. It would also be consistent with the expectations of the Framework in seeking to deliver a wide range of quality homes.

### **Overall Planning Balance- Appeal B**

#### *Five-year housing land supply*

75. My findings in **Appeal A** with regard to the implications for Policies C1, DP10 and CNP 5 similarly apply to **Appeal B**.

#### *Other Matters*

76. I have carefully considered all other matters as raised in **Appeal A**, and find no other material harm arising from the proposed scheme in those regards.

#### *Unilateral Undertaking*

77. The Undertaking makes a commitment to pay £89,000 which would be acceptable to the Council if the principle of off-site provision were to be appropriate. I find the undertaking meets the necessary statutory and other tests set out in **Appeal A**. I find the agreement to be generally fit-for-purpose and, accordingly, have regard to its terms as a consideration of my decision.

#### *Sustainable development*

78. The scheme would provide significant housing benefits consistent with the social dimension of sustainable development. There would also be economic benefits similar to **Appeal A** but of a correspondingly smaller scale.
79. Given the extent and form of built development proposed, which reflects a modest number of dwellings and large landscaped plots sympathetic to the distinctiveness of the existing setting, I find the adverse environmental impact of the scheme, including loss of countryside, would be limited. Relative to the scale of the economic and social benefits arising, I find, on balance, that the proposal would be sustainable development.
80. Paragraph 14 of the Framework states that, unless material considerations indicate otherwise, planning permission should be granted where the development plan is absent, silent or relevant policies are out-of-date, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
81. In light of the required status of Policies C1, DP10 and CNP 5 and all other relevant considerations as identified, I find that the adverse impacts of the scheme would not significantly and demonstrably out-weigh the benefits, when assessed against the policies in the Framework taken as a whole, and with regard to the development plan as a whole.

### **Summary- Appeal B**

82. I therefore conclude that the proposed scheme would be sustainable development and, with regard to section 38(6) of the Act and to all material considerations and other matters raised, that planning permission should be granted.

### **Conditions- Appeal B**

83. I have considered the list of conditions put forward by the Council, and the appellants' response. In assessing such matters, I have regard to the advice set out in both the Guidance and in the Framework in terms of both the need for individual conditions and of appropriate wording.
84. For the avoidance of doubt and in the interests of proper planning, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings. For further clarity, full details of existing and proposed site levels are also required to be submitted to and be approved by the local planning authority prior to commencement of development.
85. Whilst the drawings accompanying the application to be approved set out general principles of the access, full details of its design remain to be submitted and are required for agreement by the local planning authority.
86. To ensure a satisfactory character and appearance, details remain to be approved by the Council in relation to external materials, boundary treatments, and hard and soft landscaping. Protection is also required of existing planting during the works.
87. To ensure the free and safe movement of vehicles and pedestrians, details are required to be approved of lighting, and of road and other surfaces, and a condition requires provision of parking and related facilities in advance of site occupation.
88. To promote sustainable transport, a condition requires arrangements to be made for cycle parking.
89. To safeguard the living conditions of future and neighbouring occupiers, conditions require details to be agreed of surface and foul water drainage.
90. Whilst I have little immediate evidence of site contamination, it is still necessary to safeguard the living conditions of future occupiers of the development by ensuring that appropriate arrangements are made for identification and treatment of any on-site contamination which may be present.
91. To ensure sustainable development, it is necessary for the submitted Sustainability/Energy Efficiency Statement to be updated to reflect the subsequently adopted new national technical standards, and for the development to be carried out in accordance with the revised details as approved.
92. To safeguard the ecological value of the site, a condition requires the development to be implemented in accordance with the mitigation measures identified in the submitted Extended Phase 1 Habitat Survey and Great Crested Newt Survey.

93. To protect the living conditions of neighbouring occupiers during construction, it is necessary to limit the hours of external construction works and for the works to be undertaken in accordance with a Construction Management Plan.
94. A condition is not necessary to retain the existing open space area to the north of the existing entrance as this area falls outside the application boundary and is not proposed for development as part of the scheme.

### **Conclusions**

95. For the above reasons, I conclude that **Appeal A** should be dismissed and that **Appeal B** should be allowed.

*Peter Rose*  
INSPECTOR

Richborough Estates

## **SCHEDULE OF CONDITIONS- APPEAL B**

### **General**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings: 1503/PL.01, 1503/PL.02, 1503/PL.03, 1503/PL.04, 1503/PL.05, 1503/PL.06A, 1503/PL.07, 1503/PL.08, 1503/PL.09, 1503/PL.10, 1503/PL.11, 1503/PL.12, 1503/PL.13, 1503/PL.14, 1503/PL.15A, 1503/PL.16, 1503/PL.17, 1503/PL.18, 1503/PL.19, 1503/PL.20A, 1503/PL.21, 1503/PL.22, 1503/PL.23, 1503/PL.24, 1503/PL.25, 1503/PL.26, and 1503/PL.27.

### **Pre-commencement**

3. Prior to the commencement of any development, full design details of the proposed access into the site based upon the drawings hereby approved, and including all associated works and proposed materials, shall be submitted to and be approved in writing by the local planning authority. The development shall be undertaken in accordance with the details as approved and the access shall be provided and completed in accordance with an agreed programme.
4. No development shall take place until full details of existing and proposed site levels have been submitted to and been approved in writing by the local planning authority, and the development shall be implemented in accordance with such details.
5. No development shall take place until full details of materials and finishes to be used for external walls and roofs of all proposed buildings have been submitted to and been approved in writing by the local planning authority and the development shall be undertaken in accordance with the details as approved.
6. No development shall take place until details of proposed boundary treatments have been submitted to and been approved in writing by the local planning authority and such boundary treatments and associated works shall be completed in accordance with the details and an accompanying programme as approved.
7. No development shall take place until a scheme of landscaping has been submitted to and been approved in writing by the local planning authority. The scheme shall include details of soft and hard landscaping, including any tree removal/retention, planting plans, written specifications (including cultivation and other operations associated with tree, shrub and hedge or grass establishment), and schedules of plants noting species, plant sizes and proposed numbers/densities. The scheme shall also include measures for the protection of existing planting during the course of the works and the development shall be carried out in accordance with such measures as approved. All soft and hard landscaping work shall be completed in full accordance with the approved scheme prior to the first occupation of any

dwelling hereby approved or in accordance with such other programme as may be agreed in writing by the local planning authority. Any trees, shrubs or plants provided in accordance with this condition which are removed, die or become damaged or diseased within five years of planting shall be replaced within the next planting season by trees or shrubs of the same size and species.

8. No development shall take place until details of the materials to be used on the surfaces of the roads, footpaths and parking areas have been submitted to and been approved in writing by the local planning authority and the development shall be undertaken in accordance with the details as approved.
9. No development shall take place until full details of proposed arrangements for foul and surface water drainage and means of disposal have been submitted to and been approved in writing by the local planning authority. No dwelling shall be occupied until all the approved drainage works in connection with that dwelling have been carried out in accordance with the approved details. The details to be submitted shall include a timetable for implementation and a management and maintenance plan for the lifetime of the development which shall specify arrangements for adoption by any public authority or statutory undertaker and any other arrangements necessary to secure the operation of the scheme throughout its lifetime.
10. No development shall take place until a site investigation of the nature and extent of any contamination has been carried out in accordance with a methodology which has previously been submitted to and been approved in writing by the local planning authority. The results of the site investigation shall be made available in writing to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and be approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and in accordance with an agreed programme. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and be approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures in accordance with details and a programme of works to be approved in writing by the local planning authority.
11. No development shall take place until an updated version of the submitted Sustainability/Energy Efficiency Statement dated March 2015 has been submitted to and been approved in writing by the local planning authority, and the development shall be carried out in accordance with the details as approved. On completion of the development, an independent final report shall be prepared and submitted to the local planning authority to demonstrate that the proposals in the revised Statement have been implemented.
12. No development shall take place until a Construction Management Plan has been submitted to and been approved in writing by the local planning

authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall include details of the following matters:

- a) the anticipated number, frequency and types of vehicles used during construction
- b) the method of access and routing of vehicles during construction
- c) the parking of vehicles by site operatives and visitors
- d) the loading and unloading of plant, materials and waste
- e) the storage of plant and materials used in construction of the development
- f) the erection and maintenance of security hoardings
- g) the provision of wheel washing facilities and other arrangements required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders)
- h) measures to control the emission of dust and dirt during construction
- i) lighting for the purposes of construction and security
- j) details of public engagement both prior to and during construction works.

#### **Other**

- 13. No dwelling hereby approved shall be occupied until covered secure cycle parking spaces have been provided for the dwelling in accordance with details to be submitted to and be approved in writing by the planning authority.
- 14. The dwellings shall not be occupied until the parking spaces, turning areas and garages shown on the submitted plans have been provided and constructed. The areas of land so provided shall not thereafter be used for any purpose other than for the parking, turning and garaging of vehicles as shown on the drawings hereby approved.
- 15. Prior to the occupation of the dwellings hereby permitted, details of the lighting for the internal access road shall be submitted to and be approved in writing by the local planning authority, and the lighting shall be implemented in accordance with the approved details prior to any occupation.
- 16. The development hereby permitted shall be implemented in accordance with the mitigation measures identified in the submitted Extended Phase 1 Habitat Survey and Great Crested Newt Survey by PJC Ecology dated June 2014.
- 17. No external work for the implementation of the development hereby permitted shall be undertaken on the site on Public Holidays or at any other time except between the hours of 08.00 hours and 18.00 hours Mondays to Fridays and between 09.00 hours and 13.00 hours on Saturdays.



## **APPEARANCES**

### FOR THE APPELLANT:

Christopher Boyle of Queen's  
Counsel, instructed by Rodway  
Planning Consultancy

Tim Rodway

Rodway Planning Consultancy

Ian Newton

Hyland Edgar Driver

Paul Hewett RIBA

Chartered Architect

### FOR THE LOCAL PLANNING AUTHORITY:

Andy Watt BSc (Hons), MTPL,  
MRTPI

Senior Planning Officer

Emma Shuttleworth

Housing Enabling Manager

### FOR CUCKFIELD PARISH COUNCIL:

Martin Sambrook

Vice Chair, Cuckfield Parish Council

Tony Fullwood

Tony Fullwood Associates

Richborough Estates

**DOCUMENTS SUBMITTED TO THE HEARING:**

**BY THE COUNCIL:**

1. Notification letters dated 28 August 2015 and 9 December 2015
2. Map 10: Cuckfield, from the DP
3. Map 2: Cuckfield Built Up Area Boundary, from the NP
4. Inset 34: Haywards Heath/Lindfield/Cuckfield, from the LP
5. HDA 1: Settlement Context and Landscape Structure, from the Character Assessment
6. HDA 2: District Landscape Character and Capacity Areas, from the Character Assessment
7. HDA 3: Landscape Character Areas, Designations and Policy, from the Character Assessment
8. Cuckfield Landscape Character Assessment, April 2012
9. Cuckfield Neighbourhood Plan Built Up Area Boundary Assessment, July 2012
10. Policies DP10, DP24A and DP29 from the DP
11. Planning Obligation - Written Justification by Mid Sussex District Council dated 12 January 2016
12. List of suggested planning conditions
13. Appeal decision Ref: APP/D3830/A/12/2176416 dated 6 December 2014 and relating to single detached dwelling at the appeal site

**BY THE APPELLANT:**

14. Unilateral Undertaking dated 11 January 2016 relating to **Appeal B**
15. Site Layout drawing Ref: 1503/PL.04 relating to **Appeal B**

**JOINTLY BY THE COUNCIL AND THE APPELLANT:**

16. Statement of Common Ground dated 11 January 2016
17. Section 106 agreement dated 11 January 2016 relating to **Appeal A**