



Department for
Communities and
Local Government

Our Ref: APP/P1425/W/15/3133436

Mr S Brown
Woolf Bond Planning
The Mitfords
Basingstoke Road
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RG7 1AT

19 September 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY CROUDACE HOMES LTD
LAND AT BROYLE GATE FARM, LEWES ROAD, RINGMER, EAST SUSSEX, BN8 5NE**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Mr David Prentis BA BPI MRTPI, who held an inquiry on 10-12 May 2016 into your client's appeal against the decision of Lewes District Council ("the Council") to grant planning permission for up to 70 dwellings (including affordable housing), a sports and community building, tennis courts, synthetic turf playing pitch, amenity open space, LEAP, formation of vehicular access, parking and associated landscaping in accordance with application ref: LW/14/0947, dated 11 December 2014.
2. On 6 October 2015 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it relates to residential development over 10 units in an area where a qualifying body has submitted a neighbourhood plan.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation and dismisses the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy and statutory considerations

4. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan for the area comprises the Joint Core Strategy (JCS) (May 2016) and the Ringmer Neighbourhood Plan (RNP)

made in February 2016 (IR3.1). The Secretary of State considers that the development plan policies of most relevance to this case, including those saved from the Lewes District Local Plan 2003, are those described at IR3.2-3.7 and IR10.3-10.6.

5. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').
6. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal scheme or their settings or any features of special architectural or historic interest which they may possess.

The development plan

Planning boundaries and site allocations

7. For the reasons given at IR10.7-10.8, the Secretary of State agrees that the scheme as a whole should be regarded as being in conflict with JCS Policy CT1 and therefore with RNP Policy 4.1 insofar as there would be an adverse effect on the countryside or rural landscape and the benefits of the proposals would not outweigh the adverse effects. The Secretary of State also agrees with the Inspector (IR10.9) that, while there is no numerical cap in the RNP on housing numbers, it is necessary to consider that in the context of the development plan as a whole.
8. For the reasons given at IR10.10-10.14, the Secretary of State agrees with the Inspector at IR10.14 that, as JCS Policy RG3 and RNP Policy 7.4 both allocate the entire appeal site for sport and recreational use, the residential element, which is clearly in conflict with these allocations, forms a very substantial element of the scheme as a whole. In coming to this conclusion, he has taken account of the fact (IR10.11) that the Council and the appellant agree that the sports and leisure element should be regarded as being compliant with RNP Policy RG3.

Landscape and visual impact

9. For the reasons given at IR10.15-10.23, the Secretary of State agrees with the Inspector's conclusions at IR10.24 that the proposal would result in landscape and visual harm which, while not posing an overriding objection to the scheme, is a negative factor to which moderate weight should be attached and which would represent an "adverse effect on the countryside or the rural landscape" for the purposes of RNP Policy 4.1. In particular, the Secretary of State agrees with the Inspector at IR10.16 that the appeal scheme would result in a wholesale change in the character of the site, giving rise to a moderate adverse landscape impact. He also agrees with the Inspector's conclusion at IR10.18 that the visual impacts should be regarded as being more than minor. Furthermore, while recognising that the RNP does not contain a "green gap" policy (IR10.21) the Secretary of State also agrees with the Inspector's conclusion at IR10.19 and IR10.21 that the scale of development proposed would have a harmful effect by eroding the existing clear sense of separation between Ringmer and Broyle Side. The Secretary of State also agrees with the Inspector at IR10.22 that light pollution is a matter to be considered at the reserved matters stage and, for the reasons given at IR10.23, that the specific impact of the appeal scheme on the South Downs National Park does not add further weight to the general landscape impacts identified.

Village scale

10. For the reasons given at IR10.25-10.27, the Secretary of State agrees with the Inspector that, although RNP Policy 6.3 does not contain a numerical cap and the appeal scheme falls below the scale of the strategic allocations made in the JCS, the proposed scheme would represent a substantial addition to the settlement which would not respect the village scale and would therefore conflict with RNP Policy 6.3.

Biodiversity

11. The Secretary of State notes that there are no nature conservation designations affecting the appeal site and, for the reasons given at IR10.28-10.31, he agrees with the Inspector at IR10.31 that the effect of the scheme on biodiversity is not a factor which adds materially either to the case for the appeal or to the case against it. In coming to this conclusion, the Secretary of State has noted in particular that an ecological mitigation plan would be prepared and secured by condition, and that the measures proposed in relation to the populations of Great Crested Newt are likely to require an application to Natural England for a European Protected Species Licence (IR10.28-10.29).

Other development plan issues

12. For the reasons given at IR10.32 –10.33, the Secretary of State agrees with the Inspector's conclusion at IR10.34 that there is no evidence to support a conclusion that the appeal scheme would prejudice the future development of Ringmer Community College or the primary school and that the proposal would not therefore conflict with RNP Policy 5.4. The Secretary of State also agrees with the Inspector's conclusion at IR10.35 that, as the appeal site is not allocated for residential development in the RNP, RNP Policy 6.4 is not applicable and, for the reasons given at IR10.36, that the scheme cannot be said at this outline stage to be in conflict with RNP Policy 9.2.

Conclusions on the development plan

13. For the reasons given at IR10.37-10.38, the Secretary of State agrees with the Inspector that the conflicts with saved policies CT1 and RG3 and with RNP Policies 6.3 and 7.4 are of sufficient importance to conclude that the appeal scheme would conflict with the development plan as a whole. He also agrees that the conflict with RNP Policy 4.1 needs to be weighed in the overall balance and, for the reasons given at IR10.82, he agrees that the proposal would conflict with that policy.

Whether relevant policies for the supply of housing are up-to-date

14. Having carefully considered the Inspector's arguments at IR10.39-10.48, the Secretary of State agrees with his conclusion at IR10.42 and IR10.48 that JCS Policy CT1 should be regarded as up-to-date for the purposes of this appeal.

Delivery of housing

15. For the reasons given at IR10.49-10.50, the Secretary of State agrees with the Inspector that, while additional supply is to be welcomed in circumstances where the supply is tight, the housing requirement set out in the very recently adopted JCS reflects a balance between housing needs and what is achievable within the constraints affecting the district and has been found to be sound through the examination of the JCS. The Secretary of State gives significant weight to that; whilst also noting that the delivery of 40% of the dwellings as affordable units would provide an important benefit (IR10.51) and that there would be wider benefits to the local economy (IR10.52).

Delivery of sports facilities

16. Having given careful consideration to the Inspector's discussion at IR10.53-10.61, the Secretary of State agrees with his conclusions that the appeal scheme is not closely aligned with the type of sports facilities recently identified through the NP process as being needed (IR10.62); that the evidence does not support a conclusion that the appeal scheme is the only way of delivering such facilities (IR10.63); and that therefore only moderate weight should be attached to the benefit of providing sports facilities as part of the appeal scheme (IR10.64).

Effect on heritage assets

17. The Secretary of State has taken account of the fact that the development would be to the east and south of Broyle Gate Farmhouse and the associated farm buildings, which are all Grade II listed (IR10.65-10.66). The Secretary of State agrees with the Inspector that there would be less than substantial harm to their setting and significance but, like the Inspector, he gives considerable weight to this less than substantial harm which he goes on to weigh against the benefits of the proposal (see paragraphs 22 and 23 below).

18. The Secretary of State also agrees with the Inspector that, for the reasons given at IR10.67, although there would be some impact on the setting of Little Thatch Cottage, it adds little further weight to the case against the appeal.

Other matters

19. For the reasons given at IR10.68, the Secretary of State agrees with the Inspector that the fact that the appeal scheme would bring the total provision for growth in Ringmer above the minimum of 385 dwellings determined in the JCS, this is not a matter which weighs significantly against the appeal scheme. The Secretary of State also agrees with the Inspector (IR10.69-10.70) that transport issues should not weigh against the scheme and that the matters considered at IR10.71-10.75 do not add materially to the case for or against the appeal.

Planning conditions

20. The Secretary of State has given consideration to the recommended conditions set out at Annex C to the IR, to the Inspector's analysis at IR9.8-9.12 and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at in the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

Planning obligations

21. Having had regard to the Section 106 Agreement dated 12 May 2016 and submitted at the Inquiry, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State agrees with the Inspector's conclusion that, for the reasons given at IR9.13, the Agreement complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and would be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for deciding that the appeal should be dismissed. The Secretary of State has also noted (IR9.14) that the CIL charge now in place renders contributions to education and public rights of way unnecessary.

Planning balance and overall conclusion

22. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with JCS policies CT1 and RG3 and with RNP Policies 4.1, 6.3 and 7.4, and is not in accordance with the development plan as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan. However, the development plan is up-to-date and no reasons have been identified to reduce the weight to be attached to any of the policies relevant to this appeal. Nevertheless, the Secretary of State attaches significant weight in favour of the appeal to the delivery of housing, including affordable housing, and moderate weight to the delivery of sports and leisure facilities. Against this, he weighs the harm to the setting of listed buildings which, although less than substantial, is nevertheless a matter of considerable importance; and the Secretary of State also attaches moderate weight to the harm to the landscape.
23. Overall, while recognising the benefits of the scheme in terms of the economic and social roles of sustainable development (as defined by the Framework), the Secretary of State considers that there would be harm to the environmental role in relation to heritage assets and landscape as well as harm to the social role in terms of the conflict with the RNP. He therefore concludes that the other material considerations weighing in favour of the appeal scheme are not sufficient to outweigh the conflict with the development plan together with the other material considerations weighing against the appeal; and that the balance of other considerations, taken together, is not sufficient to indicate that the appeal should be determined other than in accordance with the development plan.

Public Sector Equality Duty

24. In making this decision, the Secretary of State has had due regard to the requirements of Section 149 of the Public Sector Equality Act 2010, which introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In this regard, and in coming to his decision, the Secretary of State considers that there would be some positive impact on protected persons arising from the affordable housing.

Formal decision

25. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for up to 70 dwellings (including affordable housing), a sports and community building, tennis courts, synthetic turf playing pitch, amenity open space, LEP, formation of vehicular access, parking and associated landscaping in accordance with application ref: LW/14/0947, dated 11 December 2014.

Right to challenge the decision

26. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for

leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

27. A copy of this letter has been sent to Lewes District Council and Ringmer Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Richborough Estates

Report to the Secretary of State for Communities and Local Government

by David Prentis BA BPI MRTPI

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

Date: 15 June 2016

TOWN AND COUNTRY PLANNING ACT 1990

LEWES DISTRICT COUNCIL

APPEAL MADE BY

CROUDACE HOMES LTD

Richborough Estates

Inquiry opened on 10 May 2016

Land at Broyle Gate Farm, Lewes Road, Ringmer, East Sussex BN8 5NE

File Ref: APP/P1425/W/15/3133436

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Richborough Estates

File Ref: APP/P1425/W/15/3133436

Land at Broyle Gate Farm, Lewes Road, Ringmer, East Sussex BN8 5NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Croudace Homes Ltd against the decision of Lewes District Council.
- The application Ref LW/14/0947, dated 11 December 2014, was refused by notice dated 7 May 2015.
- The development proposed is the erection of up to 70 dwellings (including affordable housing), a sports and community building, tennis courts, synthetic turf playing pitch, amenity open space, LEAP, formation of vehicular access, parking and associated landscaping.

Summary of Recommendation: that the appeal is dismissed

PROCEDURAL MATTERS

- 1.1 The Inquiry sat for 3 days from 10 to 12 May 2016. I carried out an unaccompanied visit to the site and surroundings on 9 May 2016 and there was an accompanied visit on 12 May 2016.
- 1.2 The application was in outline with all matters other than access reserved for subsequent consideration.
- 1.3 The appeal was recovered for determination by the Secretary of State by letter dated 6 October 2015 for the following reason:

The reason for this direction is that the appeal relates to residential development of over 10 units in an area where a qualifying body has submitted a neighbourhood plan.

- 1.4 The Council refused outline planning permission for the following reasons:
 - (1) The site lies outside of any defined settlement boundary where CT1 of the Local Plan, which is to be retained and carried forward in the emerging Joint Core Strategy, seeks to control unplanned development proposals except in certain circumstances, none of which are met by these proposals. Furthermore the site is allocated in its entirety by Policy RG3 of the Local Plan for formal and informal recreation and community facilities only. This allocation is reinforced by policy 8.4 of the emerging Ringmer Neighbourhood Plan which seeks to ensure that the entire site comes forward to meet the identified shortage of outdoor sports facilities in Ringmer. The Council is able to show within its most recent housing land supply figures, dated 1 April 2015, that Lewes District has a five year supply for housing, which includes an additional buffer of 5%, as required by paragraph 47 of the NPPF. On the basis that the applicants have failed to provide a detailed financial viability assessment of the proposals to demonstrate that this scale of development is necessary to 'enable' the proposed sports and community facilities to be delivered, the application is considered contrary to current development plan Policies CT1 and RG3 of the Lewes District Local Plan, the National Planning Policy Framework, particularly paragraphs 11, 183 to 185 and 196, and the emerging policies and aspirations of the Neighbourhood Plan.
 - (2) Had the overriding planning objections set out in Reason 1 not applied, the Local Planning Authority would have sought the completion of a Section

106 Obligation to secure financial contributions towards education, rights of way, recycling, affordable housing and highway provisions as set out in the delegated report. In the absence of such an agreement the application conflicts with Policy ST1 of the Lewes District Local Plan and Core Policy 1 of the emerging Joint Core Strategy.

- 1.5 The development plan has moved on since this decision. The Ringmer Neighbourhood Plan (RNP) was made in February 2016. The numbering of the made version differs from earlier versions such that the policy referred to in the first reason for refusal is now Policy 7.4. The Lewes District Council Local Plan Part 1 – Joint Core Strategy (JCS) was adopted by the Council during the course of the Inquiry, on 11 May 2016¹.
- 1.6 The position in relation to infrastructure contributions has also moved on with the adoption by the Council of a Community Infrastructure Levy (CIL) charging schedule. It is no longer necessary for contributions to education or public rights of way to be secured by planning obligations as new housing at the appeal site would be subject to a CIL charge² which would take account of these matters.
- 1.7 An Agreement under s106 of the Town and Country Planning Act 1990 (the Agreement) between the Council, East Sussex County Council, the appellant and the land owner was completed during the course of the Inquiry. The Agreement makes provision for financial contributions relating to: (1) auditing the travel plan, (2) recycling, (3) bus stop enhancements and (4) junction improvements. The contribution to junction improvements relates to the junction of the B2192 Lewes Road with the A26, to the west of Ringmer. A s106 Agreement in connection with development recently permitted at Bishops Lane, Ringmer already makes provision for works to this junction. The contribution in the appeal Agreement is in effect a contingency in the event that the Bishops Lane scheme does not go ahead before the appeal scheme. It would not be necessary if the Bishops Lane scheme does go ahead.
- 1.8 The Agreement also contains provisions for the phasing and delivery of 40% of the dwellings as affordable housing, for the implementation of the travel plan and for the implementation of highway works at the site access and bus stop enhancements³. At the Inquiry the Council confirmed that the Agreement, together with its CIL charging arrangements, would resolve the second reason for refusal. The Council submitted written evidence that the Agreement would be compliant with regulations 122 and 123 of the CIL Regulations⁴ and further evidence was provided at the Inquiry⁵. No party at the Inquiry disagreed with the Council's evidence on these matters and I see no reason to take a different

¹ The JCS was adopted insofar as it applies to that part of the District outside the South Downs National Park, including the appeal site and the settlement of Ringmer. A separate decision to adopt the JCS will be taken by the national park authority at a later date

² There would be no CIL charge for the affordable units

³ The developer would have the option of carrying out the bus stop enhancements under a s278 agreement or making a financial contribution for the work to be done by the highway authority

⁴ LDC3

⁵ Inspector's note – in answer to my questions the Council confirmed that the junction improvement contribution would not breach the limit on pooled contributions set out in regulation 123

view. Accordingly, I have taken account of all of the obligations contained in the Agreement in my recommendations.

- 1.9 The first reason for refusal refers to the absence of a financial viability assessment to demonstrate that the scale of the proposed development is necessary to enable the proposed sports and community facilities to be delivered. However, the appellant subsequently confirmed that the housing element of the appeal scheme is not put forward on the basis that it is enabling development. The appellant's case is that the proposed housing is acceptable, and indeed beneficial, in its own right. On that basis, the Council did not pursue its objection in relation to the lack of a viability assessment.
- 1.10 The Council has issued a screening opinion confirming that Environmental Impact Assessment would not be required for the proposed development⁶.
- 1.11 Ringmer Parish Council (the Parish Council) was given Rule 6 status and was represented at the Inquiry.

THE SITE AND SURROUNDINGS

- 2.1 The site lies within a predominantly open area, interspersed with some buildings, between the village of Ringmer to the west and the smaller settlement of Broyle Side to the east. The boundary of the South Downs National Park (SDNP) is about 0.4km to the south. The site comprises two grass fields on the southern side of Lewes Road extending to approximately 6ha. On the opposite side of the road there is a public house, some houses fronting Lewes Road and open fields. The site is bounded to the east by Chamberlaines Lane. To the south is a further open field and playing fields associated with Ringmer Community College (RCC). The buildings of RCC adjoin the western site boundary.
- 2.2 The site is bounded by mature hedgerows and the two fields are separated by a hedgerow. These hedgerows are important features in terms of their landscape, heritage and biodiversity value. There are numerous trees contained within the hedgerows and a small number of good individual trees. There is a pond adjacent to the access from Lewes Road.
- 2.3 The buildings formerly associated with Broyle Gate Farm adjoin the north west corner of the site. Broyle Gate Farmhouse is Grade II listed and the associated farm buildings are separately listed, also at Grade II. The farm buildings have been converted to residential use. Little Thatch Cottage, one of the buildings facing the site on the northern side of Lewes Road, has been identified as a non-designated heritage asset.

PLANNING POLICY

- 3.1 The development plan includes the Lewes District Local Plan Part 1 – Joint Core Strategy (May 2016) (JCS) and the Ringmer Neighbourhood Plan (RNP) which was made in February 2016. The JCS is a strategic plan for the whole of the District, including that part which lies within the SDNP. The Council will be producing a Site Allocations and Development Management Policies Development Plan Document providing non-strategic policies in Part 2 of the

⁶ CD13

- Local Plan (LPp2)⁷. On adoption, the JCS replaced a number of previously saved policies of the Lewes District Local Plan 2003 (LP03). Other policies have been retained for the time being and will be reviewed through the LPp2.
- 3.2 Table 2 of the JCS describes a settlement hierarchy in which the Primary Regional Centres of Brighton and Eastbourne and the Secondary Regional Centre of Haywards Heath are located outside Lewes District. The highest level centres within the District are the four towns of Seaford, Lewes, Newhaven and Peacehaven/Telscombe. Two settlements, Ringmer and Newick, are described as Rural Service Centres. These are regarded as sustainable locations with a number of key services and facilities that meet many day to day needs of their residents and those from a wider rural hinterland.
- 3.3 Spatial Policy 1 states that in the period between 2010 and 2030 a minimum of 6,900 dwellings will be provided, equivalent to approximately 345 net additional dwellings per annum. Spatial Policy 2 deals with the distribution of housing. After making allowances for completions, commitments, windfalls and rural exception sites there is a balance of 3,597 dwellings required. This balance is to be met from three sources – strategic site allocations identified in the JCS, planned growth at specified levels in identified settlements and about 200 units in locations to be determined. The planned growth in identified settlements is to be provided for either in LPp2 or in Neighbourhood Plans. The remaining 200 units are to be identified in LPp2.
- 3.4 Spatial Policy 2 states there will be a strategic allocation for 110 units at Bishops Lane, Ringmer plus further planned growth of a minimum of 215 units at Ringmer and Broyle Side. Table 5 sets out the planned level of housing growth by settlement. At Ringmer and Broyle Side the total planned provision, allowing for completions, commitments, the strategic allocation and further allocations of 217 units amounts to 385 dwellings⁸.
- 3.5 Amongst the saved policies from LP03 which are retained by the JCS, there are two which are of particular relevance to the appeal. Policy CT1 is a countryside protection policy which defines settlement boundaries, shown on the Proposals Map. Outside those boundaries development is restricted to various specified types of development, none of which are relevant to the housing element of the present case. Policy RG3 allocates the appeal site for sports and recreation facilities including an indoor sports hall, a pitch and clubhouse/stand for Ringmer Football Club (RFC), a pitch and pavilion for Ringmer Cricket Club, community sports pitches including an all-weather surface and a youth centre.
- 3.6 The RNP sets out 4 key principles which aim to maintain the village feel of Ringmer, regain its sustainability, return to being a balanced, healthy and inclusive community and support the purposes of the SDNP. Policy 4.1 seeks to restrict development outside planning boundaries which would have an adverse effect on the countryside or the rural landscape. Policy 4.10 seeks to ensure that development proposals consider their impact on biodiversity, including provisions to ensure biodiversity is maintained or where possible enhanced.

⁷ LPp2 will apply to the area outside the SDNP

⁸ Inspector's note - the discrepancy between the figure of 217 in the table and the figure of 215 in the policy arises because the policy figures are rounded. At the Inquiry no party suggested that this discrepancy is of any consequence

Policy 4.11 seeks to minimise light pollution. Policy 5.4 supports further development of RCC within its site and expansion of associated recreational activities onto the adjoining RG3 site.

- 3.7 Policy 6.1 states that the plan allocates land for at least 240 dwellings. Policy 6.3 requires development to respect the village scale. Policy 6.4 sets out the proposed phasing of residential development. Policy 7.4 allocates the appeal site to meet the identified shortage of outdoor sports facilities in Ringmer. Policy 9.2 states that housing developments must make good use of available land and that housing densities outside 20 – 30 units per hectare will require special justification.

THE PROPOSALS

- 4.1 The application is in outline with only the means of access into the site from Lewes Road to be determined at this stage. Appearance, landscaping, layout and scale are reserved for subsequent determination. There would be a single point of access from Lewes Road. The highway layout would be altered in the vicinity of the access to create a right turning lane for traffic entering the site and a pedestrian crossing facility is proposed adjacent to the site entrance.
- 4.2 Illustrative layouts were submitted with the application and with the appeal. The most recent of these⁹ showed the bulk of the housing located in the eastern field with a small amount of low density housing in the northern part of the western field. Car parking and a sports and community building of about 850sqm would be located adjacent to the boundary with RCC with the greater part of this field being used for an all-weather sports pitch, a junior pitch and two tennis courts and a children's play area.
- 4.3 The application was supported by a number of technical reports including a landscape and visual impact assessment, a transport assessment, a heritage assessment, various ecological surveys and a tree survey¹⁰. The landscape assessment¹¹ notes that the site is not subject to any landscape designations and that its attractive unspoilt character has been eroded by the proximity of built form. The level landform and mature boundary hedgerows result in a site which is quite self-contained in its local context. The foot of the scarp slope of the South Downs is about 1km to the south and there are views of the site from this higher ground. The assessment states that the built form proposed would be discernable from these higher viewpoints.
- 4.4 The illustrative layout shows that development could be set back from the Lewes Road frontage with an intervening band of open space. Development would be carried out within the existing landscape compartments created by the historic field boundaries. The existing hedgerows and trees could be retained and supplemented with new planting. There is also an opportunity to establish a new pond and to improve the condition of the existing pond. The assessment concludes that the initial landscape effect would be a moderate adverse effect although this would diminish over time as a result of the proposed landscape strategy. The visual effects are assessed as being minor for receptors on nearby

⁹ 21994A/11B at CH2, appendix 19

¹⁰ There is a full list of the supporting reports at paragraph 3.7 of LDC/CH1

¹¹ Bundle A, tab 7

highways and public footpaths, with the most notable visual effect likely to be experienced by pedestrians on the elevated areas of the South Downs. This change is ranked as a slight/moderate adverse effect initially with some mitigation from year 10 onwards.

- 4.5 The transport assessment¹² notes that the proposed access would be a priority junction onto Lewes Road. Visibility splays would be provided in accordance with the highway authority's requirements. Facilities within Ringmer would be accessible on foot and by cycle. There are bus stops within 150m of the site access providing services to facilities in Lewes and other centres. As noted above, the Agreement makes provision for bus stop enhancements. No significant network impacts are identified in the transport assessment. The Agreement makes provision for a contribution to improvements at the junction of the B2192 Lewes Road with the A26, to the west of Ringmer, in the event that these works have not already been funded by a previous s106 agreement in connection with development at Bishops Lane, Ringmer.
- 4.6 Although there are no designated heritage assets within the site, the heritage assessment¹³ identifies various heritage assets in the locality. It concludes that those likely to be affected are Broyle Gate Farmhouse and the associated farm buildings, which are listed at Grade II, and Little Thatch Cottage, which has been identified as a non-designated heritage asset. Broyle Gate Farmhouse is described as a well-preserved farmhouse in a vernacular style dating from the 17th century. The farm buildings date from the 18th century.
- 4.7 The development would result in the loss of farmland formerly associated with this farm group. The buildings have all been converted to residential use so there is no longer any functional link to the land. Nevertheless, the assessment finds that the immediate setting of the listed buildings would be altered such that a newly created extension of Ringmer would encircle the listed buildings. The assessment concludes that this would cause some harm to the significance of the listed buildings although this would be less than substantial harm, as defined in the National Planning Policy Framework (the Framework). Due to the limited inter-visibility between Little Thatch Cottage and the appeal site the proposals are assessed as having a neutral impact on the setting and significance of this building.
- 4.8 The ecological appraisal¹⁴ states that there are no statutory or non-statutory nature conservation designations affecting the site, nor are there any within 2km. It notes that the site comprises a limited range of common and widespread habitats. Except for the hedges, these were found to be of value within the immediate context of the site only. However, five of the hedgerows were classified as 'important' in the terms of the Hedgerow Regulations 1997. The hedgerows are also considered to be important to the diversity of plant species within the site and, in addition, they provide important shelter and movement corridors for wildlife.

¹² Bundle A, tab 8

¹³ Bundle A, tab 9

¹⁴ Bundle A, tab 17

- 4.9 The protected species survey¹⁵ identified badger activity within the site, although no setts were found. Four species of bats were identified commuting and foraging over the site and some trees were found to have the potential to be used as bat roosts. Overall, the level of bat activity was found to be low. Populations of Great Crested Newt (GCN) were found in the pond on site and in other nearby ponds. The site contains suitable terrestrial habitat for GCN and it is likely that the population within the site forms part of a wider population in the locality with the hedgerows being used for commuting, shelter and foraging. Low populations of reptiles were recorded on the site.
- 4.10 It is proposed that a detailed ecological mitigation plan would be prepared and secured by a planning condition. The ecological reports set out the scope of the mitigation and enhancement measures that could be included in such a plan. Measures are proposed in relation to badgers, bats, GCN, reptiles and breeding birds. All UK species of bats and GCN are European Protected Species (EPS). The measures proposed in relation to GCN include an exclusion/capture process, with translocation to a suitable receptor site. In addition, it was noted that the pond is choked by an invasive species and its biodiversity value is likely to decrease over time. The recommendations include removal of the invasive species and restoration of the pond together with the creation of an additional pond to provide breeding habitat for GCN whilst the existing pond is being restored. It is envisaged that these measures would be subject to an application to Natural England (NE) for an EPS licence.

MATTERS AGREED BETWEEN THE COUNCIL AND THE APPELLANT

- 5.1 There was extensive common ground between the Council and the appellant, set out in two Statements of Common Ground (SoCG)¹⁶. The following planning issues are not in dispute between the Council and the appellant. However, they are not all agreed by the Parish Council.
- the provision of community based sport and recreation facilities would be in line with the aspirations of saved Policy RG3 and RNP Policy 7.4
 - that the Council is able to demonstrate a 5 year supply of deliverable housing land as of October 2015
 - that the housing requirement in the CS is expressed as a minimum
 - that there is a need for the provision of additional sports and recreation facilities in Ringmer
 - ecology
 - trees and landscaping
 - heritage and archaeology
 - flood risk and drainage
 - s106 contributions and CIL

¹⁵ Bundle A, tab 17

¹⁶ Planning SoCG (LDC/CH1) and Transport SoCG (LDC/CH2)

- 5.2 Agreement on the above matters was on the basis that various impacts could be adequately mitigated by the imposition of appropriate conditions.
- 5.3 The Council and the appellant agreed the following in relation to highways and transport matters:
- the accessibility of the site which is within walking distance of local facilities and services in Ringmer and is served by off-road cycle routes connecting Ringmer to Lewes and by bus services to Lewes, Brighton and Eastbourne
 - the means of access including visibility splays
 - the trip rates and distribution contained in the transport assessment
 - that the scheme is acceptable in terms of highways considerations.

THE CASE FOR THE APPELLANT – CROUDACE HOMES LTD

- 6.1 The appeal site lies outside but adjacent to the settlement boundary as drawn in saved LP03 Policy CT1. It is subject to a site specific allocation for recreational open space under saved LP03 Policy RG3 and by a similar recreational allocation under Policy 7.4 of the RNP. It is common ground with the Council that the recreational proposals accord with and would deliver the requirements of policies RG3 and 7.4¹⁷.
- 6.2 The Council refused the application for two reasons, the principle of the development and a lack of a s106 obligation. Following the signing of the Agreement, the Council has confirmed that the second reason for refusal is no longer in dispute. Whilst the principle of the development is in dispute, this does not extend to the recreational proposals. These are seen by the Council as a positive element in that they would deliver policies RG3 and 7.4.

The development plan

- 6.3 The development plan comprises the JCS, adopted on the second day of the inquiry, and the made RNP. The JCS incorporates certain previously saved policies of the LP03 (including RG3 and CT1), subject to review in the LPPT2. As the RNP pre-dates the adoption of the JCS, it is subject to the operation of s38(5) of the 2004 Act, namely that where any of the RNP policies are inconsistent with the later JCS, any conflict is to be resolved in favour of the JCS. As a matter of law, therefore, the JCS takes precedence over inconsistent RNP policies. This is particularly pertinent in respect of housing provision within the two documents.
- 6.4 The RNP allocated land to provide at least 240 units¹⁸. It did so recognising that it was the task of a neighbourhood plan to provide for housing of a number equal to or higher than the number in the corresponding Local Plan¹⁹. However, as the LP03 only ran to 2011, and the RNP was proceeding ahead of the JCS,

¹⁷ LDC/CH1 at paragraphs 4.35 - 4.38 and 6.1; LDC1 at 9.28-9.33

¹⁸ CD12, Policy 6.1.

¹⁹ LDC2, appendix 9, at paragraph 7.1.3

the RNP had to make an assessment of what that figure might be. It plumped for allocations of 240, plus existing commitments.

- 6.5 This allocation has been overtaken by the JCS and Spatial Policy 2 which, together with the accompanying Table 5, states that Ringmer is to provide a minimum 385 dwellings. Of these, 6 are completions, 52 are commitments, 110 are the strategic allocation at Bishops Lane and there is to be a minimum allocation of 217²⁰. It is agreed that the net result is that the RNP allocations undershoot the JCS minimum requirement by around 33 units²¹. As a result of the operation of s38(5), this shortfall is to be resolved in favour of the JCS. The mechanism for identifying the location of the additional housing sites will be the LPpt2, which has yet to be formulated. The Council alleges no prematurity objection in relation to the LPpt2²².
- 6.6 JCS Spatial Policy 2 contains a 'floating' figure of about 200 net additional units in locations to be determined. Whilst the process for their identification is through LPpt2, it can be expected that these units will be directed to sustainable locations, of which Ringmer is one. Indeed, Ringmer is one of the most sustainable settlements in the District²³. Moreover, the JCS figure for Ringmer is expressed as a minimum, as indeed is the 6,900 district-wide figure, (an average of 345 dwellings per year), from which it is derived. This reflects the fact that the district-wide target is very significantly below the range of accepted objectively assessed need (OAN) for the District, which is put at 460-520 dwellings per year²⁴.
- 6.7 In addition, the Strategic Housing Land Availability Assessment (SHLAA) had put affordable housing needs at some 389 affordable dwellings per year, outstripping the housing target (for all tenures) of 345 dwellings per year²⁵. As a result, while the JCS Inspector accepted that the constraints of the sea and the SDNP justified a housing target well below the OAN or affordable housing need, it should always be expressed as a minimum and is to be exceeded wherever possible.
- 6.8 It follows that, by operation of s38(5), the under-provision of housing by the RNP must be remedied and additional development must be provided for at Ringmer. As a minimum, that must be in the order of an additional 33 dwellings. However, there is no policy objection to providing a greater number, with the concomitant benefits that come from more housing. The Council does not allege any harm arising from the appeal proposal by virtue of it being for 70 dwellings rather than 33. More housing would bring more social and economic benefit, whilst no countervailing environmental harm has been identified.
- 6.9 The development of housing beyond the land allocated in the RNP is not, in itself, in conflict with the RNP. This is because the RNP expressly states that

²⁰ Inspector's note – I have commented above on the discrepancy between the policy and the table. The inquiry proceeded on a figure of 217

²¹ LDC1 at 7.38: 295 (RNP allocations and completions) – 86 (Bishops Lane) – 26 (commitments/completions) = 184. 217 (JCS Table 5) – 184 = 33

²² Inspector's note – confirmed by Mrs Sheath in answer to questions from Mr Boyle

²³ LDC/CH1 at paragraph 2.3

²⁴ CD6, at paragraph 21

²⁵ CD6, at paragraph 23

*'The Neighbourhood Plan does not seek to limit the amount of housing to be built in the Neighbourhood Area during the plan period.'*²⁶ These words derive from a modification required by the RNP Examiner. The RNP was proceeding ahead of the establishment of up-to-date strategic housing numbers. The Examiner's modification implicitly recognises that setting a limit to housing growth would not be positive planning, nor would it meet the basic conditions. By not imposing a cap, the RNP has had regard to the presumption in favour of sustainable development set out in the Framework. The Council's witness accepted that developing housing outside the allocated sites would not be contrary to the RNP and that paragraph 6.1.1 is as much a part of the aspirations of the community as any other part of the RNP²⁷.

6.10 Saved policies CT1 and RG3 have been retained under the JCS²⁸ but both are expressly subject to review under LPpt2. As the Council accepted, the JCS Inspector did not find them sound per se. He found the whole JCS sound, with those policies retained, subject to their review. The CT1 boundaries were established in 2003 and will need to alter to accommodate the levels of development required by the JCS. Policy RG3 will need to be reviewed for its continuing justification and evidence of deliverability²⁹.

The first main issue – the principle of development

6.11 The first reason for refusal falls into four parts: (1) the site lies outside the settlement boundary drawn by Policy CT1; (2) it is wholly allocated for recreational purposes under policies RG3 and 7.4; (3) the Council can demonstrate a five year housing land supply and (4) the appellant has not led viability evidence on an enabling basis.

6.12 The Council now accepts that the scheme is not put forward on an enabling basis so viability is not a relevant matter for this appeal. The scheme is put forward on the basis that it delivers the requirements of policies RG3 and 7.4, (which is agreed by the Council), and that the balance of the land is acceptably to be developed for housing, which is not agreed by the Council.

6.13 With regard to item (3), the Council accepts that the ability to demonstrate a five year housing land supply does not act as a bar to additional housing in suitable locations³⁰. This must be right, given that the housing requirements against which the supply is judged are expressed as a minimum and that the need for affordable housing is acute and will get worse as the plan period progresses. The only relevance of item (3) is to indicate that paragraph 49 of the Framework is not engaged – a point which the appellant accepts. Nevertheless, it should be noted that the JCS Inspector concluded that the Council could only just show a five year supply, which was therefore *'tight'* and offered *'very little flexibility'*³¹. This emphasises the need to grant residential

²⁶ CD12, paragraph 6.1.1

²⁷ Inspector's note – agreed by Mrs Sheath, in answer to questions from Mr Boyle

²⁸ CD18, appendix 2, pages 139-140

²⁹ Inspector's note – in answer to questions from Mr Boyle, Mrs Sheath agreed that, in the context of the examination of LPpt2, if Policy RG3 was found not to be deliverable, it would not be found to be sound

³⁰ Inspector's note – agreed by Mrs Sheath in answer to questions from Mr Boyle

³¹ CD6, paragraphs 41 - 43

planning permissions in suitable locations. The appeal site is identified as being suitable for housing in the SHLAA and in the Strategic Housing and Employment Land Availability Assessment (SHELAA)³².

Recreation

- 6.14 Turning to item (2), it is to be noted that the Council accepts that the proposals would deliver policies RG3 and 7.4. Consequently, although the reference to Policy RG3 in the refusal for reason reads as a complaint, in truth the Council welcomes the delivery of RG3 and 7.4. As such, it is acknowledged by the Council that positive weight should be accorded to the leisure components of the appeal scheme. Policy RG3 lists five items, three of which would be delivered by the appeal scheme. The Council accepts that the other two, relating to RFC and the cricket club, no longer need to be provided at the appeal site. The Council therefore accepts that the whole of the need set out in Policy RG3, insofar as it is still relevant, can be met in the western field.
- 6.15 The Parish Council sought to argue that the cricket club needed new facilities at the appeal site and that proposals to relocate RFC to the RCC site would be undermined by the appeal scheme. These assertions were not supported by evidence. In fact, the reverse is the case. The cricket club has written as recently as April to support the proposal³³. RCC has similarly written in support of the scheme³⁴. Ringmer Rovers, a youth football club, has endorsed recreational provision as part of a residential application on the appeal site³⁵.
- 6.16 The Council also accepts that the appeal scheme delivers what is required under RNP policy 7.4. Again, this can be accommodated in its entirety on the western field. The Parish Council argued that the site should provide additionally for rugby, hockey, athletics and off-road cycling. The evidence base relied on for this argument³⁶ contains no such justification – two of the documents cited saying nothing at all on the subject³⁷ and the third³⁸ indicating no need for rugby, hockey or athletics provision. In any event, the western field could provide for rugby, hockey or athletics, if those were considered desirable or necessary at reserved matters stage. The Parish Council had been misinformed that all-weather pitches were unsuitable for these sports. Sport England guidance³⁹ indicates that they are all able to be played on such surfaces. There is ample space to accommodate a rugby-sized pitch if that were considered appropriate⁴⁰.
- 6.17 Item (2) is therefore a factor in favour of the grant of permission. The appeal scheme delivers the entirety of the need reflected in policies RG3 and 7.4 but

³² CD8, page 111; CD9, page 27

³³ CH2, appendix 9

³⁴ Consultation response on planning application from Mr David Collins, a Governor of RCC, dated 21 January 2015

³⁵ CH2, appendix 8, part 1, page 12, in relation to policy 7.4

³⁶ LDC2, appendix 9, section 8.4

³⁷ CH5 - the 2005 informal recreation space study; CH6 - the 2009 Village Plan strategy

³⁸ CD15 - the 2004 Lewes District outdoor playing space review

³⁹ CH9

⁴⁰ CH10 and the oral evidence of Mr Brown, which was not disputed

needs only part of the site to do so. This frees the balance of the site to be put to other uses.

- 6.18 The residential component of the appeal scheme would unlock and deliver an aspiration which has been unfulfilled for 13 years. The Council sought to argue that there is now a mechanism to deliver policies RG3 and 7.4 through CIL. This proposition plainly departs from reality. No landowner is obliged to bring forward a land use simply because his land is designated for that purpose. He can only be compelled to release the site by compulsory purchase, for which compensation is payable.
- 6.19 The measure of compensation is judged in what is called the 'no scheme world'. That is one which ignores the effect on value of the scheme for which public powers are being used – here delivery of the recreation allocation under policies RG3 and 7.4. To the extent that these policies are said to stand in the way of housing being permitted on this site, the 'no scheme world' development value would include the prospect of housing. No party has suggested that there is enough in the CIL coffers to pay for this site at housing land value.
- 6.20 Moreover, in order to justify a compulsory purchase order, it is necessary to demonstrate a compelling case in the public interest. In this appeal the Council has accepted that the appeal scheme delivers all of the requirements of policies RG3 and 7.4 on the western field. In these circumstances it would not be possible to show a need to acquire the eastern field to safeguard it for a use already provided to its full extent on the western field. Even if the funds needed to acquire the land were available, the case for acquiring the eastern field would come nowhere near the high threshold for the use of compulsory powers.
- 6.21 Not only would the appeal scheme deliver policies RG3 and 7.4, which is itself a weighty positive factor, it is the only way to deliver these policies. In the absence of the appeal scheme, the prognosis for a recreational allocation on this site is poor. RNP policy 7.4 is superseded by saved policy RG3 by virtue of s38(5). However, policy RG3 is to be reviewed under LPp2 and the evidence base for that review is as yet unwritten. The evidence base for RNP Policy 7.4 is a misleading mélange which does not justify it. Neither policy can show how it will be delivered, a key test of soundness. At the same time, more housing is needed at Ringmer to achieve the requirements of Spatial Policy 2 and the appeal site has already been identified as suitable for residential development by the SHLAA and the SHELAA. Recreational provision on this site has entered the last chance saloon.
- 6.22 In the light of the above, item (2) is a proposition in support of the appeal. Whilst the whole site is allocated for recreation, that can be provided in full on part of the site thereby releasing the balance for residential use which is the only way of allowing the recreational use to come forward.

Settlement boundary – Policy CT1

- 6.23 The Framework sets out three dimensions to sustainable development: economic, social and environmental⁴¹. The '*presumption in favour of sustainable development*' is a '*golden thread*' running through the entire Framework. The

⁴¹ Paragraph 7 of the Framework

Council accepts that the scheme scores positively in the economic and environmental roles⁴². Indeed, it could not do otherwise, given the economic benefits identified by the appellant⁴³ and its own acceptance of the lack of environmental harm and/or the benefits arising in terms of landscape, transport, flooding, ecology, trees, heritage, contamination, noise, residential amenity and the accessibility of the location⁴⁴.

6.24 With regard to the social role, the Council accepted that meeting policies RG3 and 7.4 would score positively. The provision of housing, including affordable housing, would also be positive factors which must be given significant weight given that the JCS housing target is below the OAN and also having regard to the acute affordable housing position. Further, when one looks to the specifics of the social role set out in the Framework, the Council accepts that the site will provide a high quality living environment and is accessible to services and facilities⁴⁵.

6.25 There is therefore a positive score against all three of the dimensions of sustainable development. Even if retained Policy CT1 was up-to-date and of full weight, it would be manifestly outweighed by the positives of the scheme across all of the three dimensions. However, Policy CT1 is by no means up-to-date, at least as far as its settlement boundaries are concerned, and so cannot be accorded full weight for the following reasons:

- (1) Policy CT1 dates from 2003 and only sought to provide for development needs to 2011
- (2) those development needs were judged on a pre-Framework basis and have no relevance to today's planning situation. LP03 Policy RES1 has rightly been recognised by the Council as not according with the Framework and has not been retained by the JCS⁴⁶
- (3) development needs to 2030 are now set out in JCS Spatial Policy SP2. There is no dispute that those needs cannot be accommodated within the 2003 boundaries shown in Policy CT1. To retain Policy CT1 unaltered would be to fail to deliver today's objectively judged needs, contrary to the requirements of the Framework
- (4) the retention of Policy CT1 by the JCS is expressly on the basis that it will be reviewed in LPpT2⁴⁷. This recognises that an unchanged LP03 boundary would not accommodate JCS levels of development needs and so would not be sound
- (5) at Ringmer the JCS has already allocated a strategic site, and the RNP has also allocated sites, outside the CT1 boundary. The process will be continued by the LPpT2 which will need to reflect those allocations as well

⁴² LDC/CH1, paragraph 6.1, 5th bullet point

⁴³ CH1, paragraph 7.15 - 161 jobs and £1.78 million spend per annum

⁴⁴ LDC/CH1, paragraphs 2.3, 2.4, 2.13 and 6.1

⁴⁵ Inspector's note – these points were agreed by Mrs Sheath in answer to questions from Mr Boyle and/or in the Planning SoCG (LDC/CH1)

⁴⁶ CD18, Appendix 2, page 139 – Policy RES1 set out the housing requirements for the LP03 plan period

⁴⁷ CD18, paragraph 1.7

as finding the additional non-strategic sites needed to meet the residual figure from the Spatial Policy 2(2) minimum, as well as looking for sustainable locations for the 'floating' 200 in Spatial Policy 2(3)

- (6) Policy CT1 has been expressly found out of date in two recent appeal decisions at North Chailey⁴⁸ and Wivelsfield⁴⁹, as well as implicitly by the Inspector and Secretary of State at Bishop's Lane, Ringmer.⁵⁰

6.26 The only negative in the planning balance set out in the first reason for refusal is a conflict with an out of date settlement boundary which is in the course of being reviewed. The second bullet of paragraph 14 of the Framework is therefore engaged. Moreover, it cannot rationally be said significantly to outweigh the positives listed above. Item (1) of the reason for refusal ought to be re-written as follows: 'The site lies outside the out-of-date settlement boundary from the superseded LP03, contained in Policy CT1, which is to be reviewed by LPpt2, in order to be able to accommodate the development needs set out in JCS Spatial Policy 2'.

6.27 The Council accepted that, on a district-wide basis, the CT1 boundary would have to be altered to accommodate current development needs. The Council's argument that the policy was not out-of-date for Ringmer rested on its assertion that it is not inevitable that it will have to change, beyond the changes resulting from the strategic allocation and the RNP allocations. However, inevitability of change is not the litmus test for a policy being up-to-date. It is the inevitability of review which is the key thing – if a policy was up-to-date, there would be no need for review. Here, review of the CT1 boundary is both inevitable and expressly required by the JCS in order to bring it up-to-date.

6.28 Furthermore, the Council's suggestion that it was not inevitable that the CT1 boundary would change at Ringmer required it to demonstrate how the missing 33 units from Spatial Policy 2 could be accommodated without such a change. This relied in turn on assertions about the likely dwelling yield from Caburn Field. The Council suggested that the 40 unit allocation in retained LP03 Policy RG1 would be replaced by a 70 unit delivery. Unfortunately, as the Council acknowledged, there was no evidence placed before the Inquiry which the Inspector or Secretary of State could rely on in order to reach that conclusion⁵¹. As such, it is not a conclusion open to the Secretary of State in this case and the only conclusion available is that the JCS requirement for Ringmer will have to be accommodated by altering the CT1 boundary. The CT1 boundary for Ringmer is out-of-date, just as it is for the district as a whole.

The aspirations of the community

6.29 This point leads on to the final twist in the evidential tale for the Council. The Council had acknowledged that the economic and environmental dimensions of

⁴⁸ CH3, paragraph 9 (APP/P1425/W/15/3138509)

⁴⁹ CH4, paragraph 16 (APP/P1425/W/15/3135335)

⁵⁰ CD17, paragraph 17 of decision letter and paragraphs 11.71 and 12.4 of the Inspector's report (APP/P1425/W/14/3001077)

⁵¹ Inspector's note – Mrs Sheath, in answer to questions from Mr Boyle, agreed that the Secretary of State would have no way of judging the acceptability of such an increase in dwelling yield. She added that the proposals for Caburn Field were the subject of pre-application discussions with officers.

sustainability were met by the scheme. It had acknowledged that the positive contribution in terms of recreation and housing provision scored within the social dimension. The Council had already assessed, through its SHLAA and SHELAA, that this was a suitable site for residential development and should indeed be delivering houses by now⁵². Faced with this, it appeared that the Council's witness balked at suggesting that the LP03 settlement boundary would justify refusal. Instead, she sought to suggest that the real factor that led to refusal was the fact that the site was not allocated in the RNP and so its development would be contrary to the aspirations of the community. That phrase has something of a totemic significance given its similar usage by the Secretary of State when refusing permission for schemes in conflict with neighbourhood plans. However, the Council's use of it overlooked two factors.

- 6.30 First, the public had expressed a strong preference for the appeal site over any other development site in Ringmer⁵³. It was the RNP Steering Group who rejected that endorsement of the site by the community, preferring its desire to designate the land as part of a green gap⁵⁴. The green gap policy was later rejected by the RNP Examiner and has now been removed from the RNP⁵⁵. The RNP Steering Group's other objections to allocating the appeal site for residential development have all been overcome, through this appeal scheme, to the satisfaction of the Council. Further, whilst the RNP Examiner did not swap the green gap designation for a housing allocation, he was working prior to confirmation of the higher housing requirements of the JCS. Similarly, the RNP referendum was conducted on the basis that allocations of 240 were all that was required, whereas it is now known that more will be needed if the JCS requirements are to be met.
- 6.31 The second factor is that paragraph 6.1.1 of the RNP means that it is not contrary to the plan to develop housing outside the allocated sites. That paragraph, which has been endorsed by the community through the referendum, is as much a manifestation of the aspirations of the community as any other part of the RNP.
- 6.32 The community is to be commended for this approach. Neighbourhood planning is supposed to be about positive planning. It was not the Government's intention that neighbourhood plans should be hijacked by persons determined to stop development. On the contrary, as the Housing and Growth Ministerial Statement made clear: *'with this power comes responsibility: a responsibility to meet their needs for development and growth, and to deal quickly and effectively with proposals that will deliver homes, jobs and facilities'*⁵⁶. By endorsing the text at paragraph 6.1.1 and ensuring that there is no cap on development, the community has followed the Framework's requirement to plan

⁵² CD8, page 111; CD9, page 27

⁵³ CH2, appendix 8, *Ringmer to 2030 – what do you think?*

⁵⁴ CH2, appendix 8, *Draft Ringmer Neighbourhood Plan – Summary of Consultation responses*, page 4, response regarding Policy 4.5 (Green Gap) (as it then was); CH2, appendix 8, *Comments received and amendments proposed to the RNP in the light of representations received to the Regulation 14 consultation*, page 20; LDC2, appendix 9, paragraphs 7.10.12 and 8.4.10

⁵⁵ CD11, page 17

⁵⁶ Quoted at CH1, paragraph 3.64

positively. It follows that it is not in conflict with the RNP to develop outside the site allocations, nor is it contrary to the aspirations of the community.

Conclusion on the first main issue

- 6.33 The Secretary of State can conclude that this is a scheme which, by proposing recreational use, would deliver the aspirations of the RNP as expressed in Policy 7.4. There is little, if any, prospect of delivering these aspirations otherwise. The residential component of the scheme is not contrary to the aspirations of the RNP as expressed in paragraph 6.1.1. Further, this is a scheme which would deliver the requirements of retained policy RG3, now contained in the recently adopted JCS. There is also little, if any, prospect of delivering these aspirations otherwise. The residential component of the scheme would deliver the requirements of JCS Spatial Policy 2 which, as a matter of statute, now takes precedence over the housing numbers in the RNP.
- 6.34 These are weighty positive factors. The housing element alone was classed as an '*imperative*' by the Inspector and Secretary of State in the appeal decision at Bishop's Lane, Ringmer⁵⁷. Weighed against these factors, a conflict with the LPO3 CT1 boundary cannot rationally be said to justify a conclusion that the principle of development proposed is unacceptable. The first main issue is, therefore, answered in favour of the grant of permission.

The second main issue – infrastructure

- 6.35 The second main issue has been resolved through the Agreement. Although the Parish Council sought to argue that the provision would be inadequate, these contentions were not supported by the public bodies whose interests were said to be affected⁵⁸.

Response to Ringmer Parish Council

- 6.36 The Parish Council's concern that the scheme would conflict with Key Principle 3.1 of the RNP (maintaining village feel) is not shared by the Council. With the development in place Ringmer would still have the feel of a village. The RNP steering group's concern in this regard was closely linked to its desire to have a green gap policy. The green gap policy did not find favour with the RNP Examiner and is not part of the made RNP. It is wrong to try and re-introduce that policy under Key Principle 3.1.
- 6.37 It cannot be said that the scheme conflicts with Policy 4.1. The RNP is to read as a whole (including paragraph 6.1.1) and together with the rest of the development plan, including JCS Spatial Policy 2. The Parish Council has not undertaken the balancing exercise required by Policy 4.1.
- 6.38 The presence of GCN does not in itself amount to a conflict with Policy 4.10. The policy requires consideration to be given to the importance of biodiversity. The appellant has done that and the ecological reports have identified appropriate mitigation measures, in full compliance with the policy. There is no objection on ecological grounds from the Council or from any nature conservation body. Indeed, the scheme would result in net gains to biodiversity.

⁵⁷ CD17, paragraph 11.71 of the Inspector's report

⁵⁸ LDC/CH1, paragraph 5.6

- 6.39 Policy 4.11 seeks to ensure that new development minimises light pollution through careful design. The application is in outline and all such matters of detail would be resolved at reserved matters/conditions stage.
- 6.40 Policy 5.4 supports development of RCC. The appeal scheme would provide sports facilities which could be used by RCC. Far from prejudicing the development of RCC, the scheme would support the objectives of this policy. This point is reinforced by the letter of support on behalf of RCC. There is no evidence to support the Parish Council's assertion that development of the primary school would be prejudiced. Moreover, it is notable that no objections to this effect have been received from the Council, the education authority or the primary school itself.
- 6.41 The Parish Council argues that the proposal conflicts with Policy 6.3 (village scale) because it is for more than 30 units. Paragraph 6.3.1 states that developments of 10 – 30 units will often prove acceptable. However, there is no cap within the wording of the policy. The policy requirement is to respect the village scale. No landscape or design objections have been raised by the Council.
- 6.42 Policy 6.4 sets out proposed phasing for the allocated sites. However, no harm has been identified from the delivery of housing at the appeal site now. The imperative is to comply with Spatial Policy 2 which, having been more recently adopted, takes precedence. Given that the JCS requirements are set below the OAN, and that there is an acute lack of affordable housing, there can be no justification for delaying housing delivery.
- 6.43 Policy 9.2 states that densities above 30 units per ha will require special justification. The Parish Council has calculated the density on the basis of an illustrative masterplan. This is an exercise that can only be properly done at reserved matters stage. The illustrative plan shows a layout which is acceptable to the Council in terms of car parking and garden sizes. In any event, all of these matters would be considered at reserved matters stage.
- 6.44 Great care should be taken in assessing the parish Council's submissions regarding the prospects for the delivery of RNP Policy RES3. There was no evidence before the Inquiry regarding the finances of RFC. No other parties have supported the assertions made. RFC has not objected to the appeal and RCC, a partner in the proposed relocation of the football club, has written in support.
- 6.45 Turning to the other matters raised by the Parish Council, the future management and maintenance of the proposed sports facilities would be governed by a suggested planning condition. The appellant has identified Freedom Leisure as its preferred partner to operate the leisure facilities⁵⁹. There is no evidential basis for the comments relating to the primary school. Matters relating to education provision, foul drainage and Earwig Corner have been assessed in relation to this application and no objections received from the relevant bodies. In respect of the scale and pace of change in Ringmer, it is

⁵⁹ Inspector's note – Mr Brown, giving evidence in chief, stated that Freedom Leisure is a not for profit organisation with charitable status which operates indoor and outdoor sports facilities on behalf of local authorities and other bodies. Further information is given in CH7

important to note that the JCS requires provision to be made for 385 dwellings. There is no evidence to support assertions about the viability or deliverability of the appeal scheme.

- 6.46 The Parish Council's final submission in relation to the principle of localism is calculated to catch the ear of the Secretary of State. However, the Secretary of State will be well aware that localism does not mean that the neighbourhood planning body becomes the local planning authority. The important point here is that this scheme will deliver Policy 7.4 of the RNP. Moreover, paragraph 6.6.1 expressly provides for development outside the allocated sites. The JCS was adopted after the RNP. By the operation of statute, any conflict between the two must be resolved in favour of the JCS. Having regard to the JCS and RNP, read together, this is not a scheme which ignores or overrules the development plan.

Conclusions

- 6.47 This is a scheme which should be welcomed, offering as it does delivery of the recreational aspirations of policies RG3 and 7.4. Those aspirations would be entirely satisfied. In addition, there would be the very significant additional benefit of housing on the balance of the land which is not required for recreational purposes. The housing would bring its own benefits. It is needed in order to meet the policy imperatives of JCS Spatial Policy 2. It is also needed to provide additional affordable housing in the face of acute and worsening lack of affordable housing provision. Finally, it would bring economic and environmental benefits. This all leads to the conclusion that this appeal scheme represents sustainable development in accordance with the Framework.
- 6.48 For all of the above reasons, the Inspector is respectfully urged to recommend that planning permission ought to be granted for this sustainable development and the Secretary of State is asked to agree. The scheme is far from being contrary to any neighbourhood plan. On the contrary, the appeal proposal is entirely in accordance with the policies and aspirations of the RNP, particularly as expressed in Policy 7.4 and at paragraph 6.1.1.

THE CASE FOR LEWES DISTRICT COUNCIL

- 7.1 A signed s106 Agreement has now been provided which, along with the suggested conditions, addresses the concerns raised in the second reason for refusal. As anticipated, the Council is now satisfied that the second reason for refusal has been overcome. The focus of the Council's submissions is therefore on the first reason for refusal which remains at issue between the parties. This alleges that the housing element of the scheme is unacceptable in planning policy terms.
- 7.2 This is an outline application for two aspects - firstly for up to 70 dwellings (the housing element) and secondly for a sports and community building, tennis courts and a synthetic playing pitch (the sports and leisure element). The Council accepts that the sports and leisure element is compliant with the development plan and is to be welcomed as meeting an established need. However, the housing element is plainly not policy compliant and in the planning balance the material considerations should not lead to a decision otherwise than in accordance with the development plan.

7.3 The Council will consider the first reason for refusal under the following headings:

- whether the proposal is in accordance with the development plan
- whether the development plan is in material respects out-of-date
- whether other material considerations outweigh any non-compliance with the development plan, including in particular: (1) whether the development is, overall, to be considered sustainable such that it benefits from the presumption in favour of sustainable development in the Framework; (2) the delivery of sports and leisure facilities and (3) the provision of housing, affordable housing and economic benefits associated with housing.

Whether the proposal is in accordance with the development plan

- 7.4 On 11 May 2016, during the course of the Inquiry, the Council adopted the JCS⁶⁰. For the purposes of s38(2) of the Planning and Compulsory Purchase Act 2004 the JCS is now part of the development plan for the area notwithstanding that it has not yet been adopted by the SDNP. The RNP is also part of the development plan. On the adoption of the JCS the LPO3 was replaced. However, as explained in paragraphs 1.5 to 1.7 of the JCS, the JCS is the first part of the new local plan. LPpt2 will form a Site Allocations and Development Management Policies DPD. Given the two part process it has been necessary to retain a number of the policies of LPO3, pending review in LPpt2, as set out in paragraph 1.7 and appendix 2 of the JCS⁶¹.
- 7.5 There are three development plan policies at issue in this appeal. Policies CT1 and RG3 derive from LPO3 but have been retained in the JCS. Policy 7.4 derives from the RNP. There is no dispute that the housing element conflicts with Policy CT1. That policy resists development outside the settlement boundary, except in specific circumstances which do not apply in this case. There is no dispute that the appeal site lies outside the settlement boundary for Ringmer⁶².
- 7.6 Still at issue is whether the housing element conflicts with policies RG3 and 7.4, although the appellant's witness agreed in cross-examination that it would conflict with both policies⁶³. Policy RG3 allocates the appeal site for *'sports and recreation facilities to comprise an indoor sports hall for joint use by the school and the community; a pitch and clubhouse/spectator stand for Ringmer Football Club; a cricket pitch and pavilion for Ringmer Cricket Club; community sports pitches including an all-weather surface; a youth centre; any other appropriate facilities'*⁶⁴. While the allocation is made for a wide range of sports and recreation facilities, RG3 does not allocate the site in any respect for housing.

⁶⁰ CD18

⁶¹ Inspector's note – these points were made by Mrs Sheath in response to my questions

⁶² The settlement boundary in this part of Ringmer is shown at CD3, inset map 17b

⁶³ Inspectors note – Mr Brown, in answer to questions from Ms Parry, agreed that the housing element was inconsistent with policies RG3 and 7.4 although he maintained that the scheme would deliver the recreational elements of these policies

⁶⁴ CD3, page 229

- 7.7 RNP Policy 7.4 allocates the development site *'to meet the identified shortage of outdoor sports facilities in Ringmer. Any associated built facilities necessary, including changing rooms and parking, should be located on the Ringmer Community College campus or on land immediately adjacent to the College boundary'*⁶⁵. It is plain that the housing element is not compliant with policies RG3 and 7.4. Both policies allocate the site solely for sport and recreational use. A solely residential use would undoubtedly be in breach of those policies and it must follow that a mixed use would be as well.
- 7.8 It is accepted that the sports and leisure element complies with, and would deliver, policies RG3 and 7.4. As discussed in the course of the Inquiry the sports and leisure element does not exactly match either policy. However the Council considers that it is appropriate to read both policies together bearing in mind that the evidence base underlying Policy 7.4 is more up to date⁶⁶. Whilst Policy 7.4 does not refer to indoor recreation, Policy RG3 makes specific reference to an indoor sports hall.
- 7.9 The sports and leisure element does not include all of the facilities listed in Policy RG3. In respect of the cricket club, it is uncontroversial that alternative facilities have been identified elsewhere. The position in respect of RFC was controversial during the course of the inquiry. That said, it is a matter of common ground between the Council and the appellant that the provision of a pitch, clubhouse and stand for RFC is now likely to be addressed elsewhere. This is because the Council has agreed terms with RFC and RCC to enable the redevelopment of RFC's existing ground (Caburn Field) for housing and its relocation to RCC. A planning application is expected imminently.
- 7.10 With respect to the concerns identified by the Parish Council, this Inquiry is not in a position to carry out a detailed assessment of the likelihood of the football development at RCC going ahead. It is sufficient for the Secretary of State to note that, based on discussions with the Caburn Field developer, the Council is satisfied that it is likely to go ahead. It should also be noted that the present application is in outline only. If it becomes impossible to relocate RFC to the RCC site it remains possible that there would be flexibility on the appeal site. There is no objection from RFC on the basis that the appeal scheme would prevent it from developing a new pitch. Consequently, notwithstanding the concerns raised by the Parish Council, the Council is satisfied that the sports and leisure element of this proposal is compliant with policies RG3 and 7.4.
- 7.11 The position that the Council urges the Secretary of State to accept is that, whilst the sports and leisure element of the appeal scheme is compliant with the development plan, the housing element of the scheme is not. In circumstances where the housing element is a substantial part of the proposed scheme, and there is no possibility of a split decision granting permission for the sports and leisure element but not the housing element, the only sensible conclusion is that judged overall the proposal is not in accordance with the development plan.
- 7.12 That conclusion has two consequences. The first is that, in accordance with section 38(6) of the TCPA 1990, permission should be withheld unless material considerations indicate otherwise. What is required is not a simple weighing up

⁶⁵ CD12, page 65

⁶⁶ Inspector's note – confirmed by Mrs Sheath in response to my questions

of the plan against other material considerations. The plan receives priority and the scales do not start off in even balance⁶⁷. The second point is that, contrary to the appellant's arguments⁶⁸, the first bullet point of paragraph 14 of the Framework cannot sensibly be said to apply. The first bullet point states that the presumption in favour of sustainable development means '*approving development proposals that accord with the development plan without delay*'. This can only apply where the proposals, judged overall, comply with the development plan.

Whether the development plan is in material respects out-of-date

- 7.13 Whilst the appellant does not seek to suggest that policies RG3 and 7.4 are out-of-date, a central element of the debate at this Inquiry was whether Policy CT1 should be considered out-of-date. The appellant argues that the CT1 boundaries are out-of-date because they were only designed to meet housing needs up to 2011. If no development plan activity had taken place since the LPO3 was adopted the appellant would have a good point. However, the question of whether the settlement boundaries encompass sufficient development going forwards has to be understood in the context of the JCS which seeks to address the development needs of the district up to 2030.
- 7.14 The JCS Inspector accepted that the Council had accurately identified the OAN for the district in the range of 9,200-10,400. However he also accepted that the figure cannot be met in full given the substantially constrained nature of the district. This was not a conclusion the JCS Inspector took lightly. The examination had been suspended to give the Council a further chance to allocate sites to get closer to the OAN. That process led to the allocation of further strategic sites, including Bishops Lane Ringmer, and the JCS Inspector was ultimately satisfied that the balance struck by the Council was sound. In the light of the constrained nature of the district the appropriate target was a minimum of 6,900 dwellings over the plan period⁶⁹.
- 7.15 The Council's proposed distribution of the housing allocations was also found to be sound. This distribution allocates most of the new development to the district's four towns, followed by Newick and Ringmer as the next most sustainable settlements in the hierarchy. The JCS Inspector's finding on soundness was made in the face of an argument that there should be a substantial increase in the housing allocated to the low weald villages, such as Ringmer, given the constraints elsewhere in the district. These constraints included risks of sea flooding and the SDNP which occupies much of the southern part of the district. The JCS Inspector rejected this approach as unsustainable. A similar suggestion was floated in re-examination of the appellant's witness where it was argued that in unconstrained areas there was a further obligation to grant housing. That argument fails for the reasons accepted by the JCS Inspector⁷⁰.

⁶⁷ CH2, appendix 1 - *Wychavon District Council v Secretary of State for Communities and Local Government and Crown House Developments Ltd* [2016] EWHC 592, paragraph 17

⁶⁸ CH1, paragraph 8.1, sub-paragraph 2

⁶⁹ CD6, paragraphs 21, 25 - 27 and 31

⁷⁰ CD6, paragraphs 15 and 32

7.16 Spatial Policy 2 of the JCS sets out the proposed housing distribution, including planned growth (as a minimum) for each of the settlements and *'about 200 net additional units in locations to be determined'*. The planned level of growth for Ringmer and Broyle Side is found in table 5:

Completions	6
Commitments	52
Housing delivered on strategic sites	110
Housing to be delivered through subsequent allocations	217
Total	385

7.17 The 110 dwellings represent the strategic allocation at Bishops Lane, Ringmer which now has planning permission⁷¹. Spatial Policy 2 of the JCS states that *'individual sites to meet the planned level of housing provision will be identified in either the District Council's Site Allocations and Development Management Policies DPD, or the National Park Authority's Local Plan. Neighbourhood plans could also be used to identify the individual sites'*.

7.18 The RNP anticipated the JCS and sought to allocate sites to meet it. It allocates sites for at least 240 dwellings⁷². It is accepted that this figure does not quite meet the 217 dwellings required because some of the RNP sites covered the area also covered by the strategic site at Bishops Lane. When double counting for this is removed the RNP allocates a minimum of 184 units⁷³. At the Inquiry it was common ground that, taking together the commitments, the strategic allocation and the RNP allocations, all but 33 of the number required by the JCS has been provided for ahead of the LPpt2.

7.19 This position was expressly recognised by the JCS Inspector in deciding whether to make any further strategic allocations at Ringmer⁷⁴. He concluded that no further strategic allocations should be made at Ringmer, commenting it had taken its equitable share of housing. In his initial comments he had made it clear that part of the reason why there should be no further strategic allocations at Ringmer was the constraints that apply locally, including in relation to highway capacity (notably at Earwig Corner), pressure on the primary school and improvements needed in relation to waste water treatment⁷⁵. It is to be noted that, in refusing any further strategic allocations at Ringmer, the JCS Inspector was rejecting 100 houses on an enlarged version of the present appeal site as a strategic allocation.

7.20 Looking at the extent to which Ringmer is now in a position to meet the JCS housing requirements, it has allocations for all but 33 units of its planned

⁷¹ CD17

⁷² CD12, policy 6.1

⁷³ LDC1, paragraph 7.38

⁷⁴ CD6, paragraph 109

⁷⁵ CD4, third page

growth and it may be allocated some of the 200 units currently without a specific location. The appellant's confidence that Ringmer would be allocated some of the 200 units was misplaced. In deciding where they need to go the Council will have to take into account that, although Ringmer is a sustainable location for further development, it also suffers from infrastructure constraints as identified by the JCS Inspector.

- 7.21 The Council considers that the additional 33 dwellings allocated to Ringmer by the JCS could be delivered by an increase in density at Caburn Field. This site is currently allocated for 40 dwellings. The Council is committed to including some of its own adjoining land to allow a more comprehensive development⁷⁶. The Council's evidence is that pre-application discussions have indicated that up to 70 dwellings may be achievable⁷⁷. Given that the site area is to be increased, and that the site is within the settlement boundary of Ringmer, this pre-application assessment is plainly plausible.
- 7.22 The appellant raised concerns about density, based on the idea that the original site was 1ha. In fact, the original allocation identifies it as about 1.3ha⁷⁸. This is to be extended, as already mentioned. Whilst there may be a need to move some of the existing uses, that does not make the pre-application numbers unachievable. A planning application is expected imminently⁷⁹. It is accepted that, as there is no planning application at the moment, there is no evidence beyond the reported pre-application discussions. However, that does not mean that the intentions of the Council's property owning arm, (and the prospective developer), to secure a comprehensive redevelopment should be ignored.
- 7.23 When the current settlement boundary is read together with the JCS and NP allocations, the Council concludes that it is neither inevitable, nor highly likely, that it will be necessary to look outside the settlement boundary to meet housing needs up to 2030. This contrasts with the position in two recent appeal decisions before the Inquiry where settlement boundaries in other parts of Lewes District were found to be out-of-date. For example, at Oaklea Warren, Station Road, North Chailey the Inspector noted that whilst the JCS allocates a minimum of 30 dwellings to North Chailey '*the existing planning boundary is very tightly drawn and it is common ground that it cannot accommodate this level of additional housing*'⁸⁰. North Chailey does not at present have a neighbourhood plan so, unless one comes forward, the decision about where the need will be met will be made in LPpt2⁸¹.
- 7.24 In an appeal decision at Money Hill, Ashby De La Zouch the Secretary of State concluded that a settlement boundary was out-of-date. He noted the Council's view that '*a new Local Plan will have to identify land outside the existing limits to development to meet the present and future need for housing*'. In its evidence the Council had stated that '*it is inevitable that a new Local Plan will*

⁷⁶ CH8 – minutes of a Council meeting to this effect and the Council's evidence to the Michelswood Farm, Newick Inquiry

⁷⁷ LDC1, paragraph 9.25

⁷⁸ LDC2, appendix 11

⁷⁹ LDC/CH1, paragraph 4.37

⁸⁰ CH3, paragraph 9 (APP/P1425/W/15/3138509)

⁸¹ Inspector's note – Mrs Sheath, in re-examination, confirmed that North Chailey has not yet started to prepare a neighbourhood plan

*have to identify land outside the existing limits of development to meet the present and future need for housing*⁸².

- 7.25 The appellant's witness sought to suggest that, even if the RNP, (together with the strategic allocation), had allocated sufficient land to meet the JCS requirement the CT1 settlement boundaries would still have been out-of-date. It was argued that there was still an exercise to go through to move the boundaries to reflect the new allocations. That suggestion is devoid of any planning common sense. If a settlement boundary, together with subsequent neighbourhood plan and strategic allocations, encompasses sufficient land to meet the housing requirements, the fact that somebody has not yet redrawn the line on a map cannot change the practical situation that sufficient land has been allocated.
- 7.26 The other reason why Policy CT1 cannot be considered out-of-date derives from its relationship with the JCS. Policy CT1 has been saved as part of the JCS, pending review under LPpt2. At times the appellant's witness came close to suggesting that CT1 should be considered out-of-date until the LPpt2 review has taken place. If that were right it would render the JCS Inspector's decision to save CT1 pending LPpt2 almost entirely futile. The Council accepts that the JCS Inspector did not find the saved policies sound in the sense of examining them individually against an evidence base. However, he found the JCS as a whole sound, including its provisions to save certain policies pending review under LPpt2⁸³. Policy CT1 has therefore been saved in a very recent JCS and in that sense is not out-of-date.
- 7.27 The only occasion on which the Secretary of State has considered Policy CT1 was in relation to the appeal at Bishops Lane, Ringmer. At the time of that appeal the site was allocated for 86 dwellings in the draft RNP and for 110 dwellings in the draft JCS. The essential question for the Secretary of State was which of those two documents should take precedence. The Inspector considered CT1 and apparently gave it full weight, while concluding that the conflict with it was outweighed by the fact that Bishops Lane was a reserve allocation in the local plan, together with the allocations in the emerging JCS and RNP. The Secretary of State accepted this reasoning⁸⁴.
- 7.28 Finally, even if the Council is wrong and CT1 is found to be out-of-date, that does not necessarily mean that it is given no weight⁸⁵. If the Secretary of State comes to the point of deciding how much weight to give to an out-of-date policy, all the points set out above about the steps taken to bring forward a neighbourhood plan to substantially meet the JCS housing requirement will be relevant and will lean in favour of giving weight to the policy.

⁸² CH2, appendix 2, paragraph 12 of the decision letter and paragraph 14 of the Inspector's report

⁸³ Inspector's note – Mr Brown, in answer to questions from Ms Parry, agreed that the JCS Inspector had found the plan as a whole, including the retained policies, to be sound subject to the retained policies being reviewed under LPpt2

⁸⁴ CD17, paragraph 20 of the decision letter and paragraphs 11.3 to 11.19 and 12.4 of the Inspector's report (APP/P1425/W/14/3001077)

⁸⁵ CH2, appendix 5, paragraph 47 *Suffolk Coastal District Council v Hopkins Homes Limited and Secretary of State for Communities and Local Government* [2016] EWCA Civ 168

Whether other material considerations outweigh non-compliance with the development plan

7.29 The Council is clear that this proposal is in conflict with the development plan and the development plan is not in material respects out-of-date. Mindful of section 38(6), it is now necessary to consider whether other material considerations outweigh the conflict with the development plan.

Sustainable development

7.30 The appellant argues that the development should be considered sustainable and, as such, benefits from the presumption in favour of sustainable development contained in the Framework. What constitutes sustainable development for the purposes of the Framework is identified at paragraph 6, by reference to paragraphs 18 to 219, and at paragraph 7 in terms of the economic, social and environmental roles. The Council accepts that the proposal is sustainable with respect to the environmental and economic roles. However, it does not accept that the proposal should be considered sustainable in respect of the social role. This is because of the relationship between the proposal and the neighbourhood plan.

7.31 As set out above, the housing aspect of this proposal is not compliant with the RNP. The site is allocated solely for sports and leisure uses in the RNP. It is not allocated for housing. Context is important. It is readily accepted that the RNP does not include any express cap on the amount of housing. That is not an uncommon position in neighbourhood plans. Paragraph 6.1.1. states that *'the Neighbourhood Plan does not seek to limit the amount of housing to be built in the Neighbourhood Area during the plan period. However it does allocate land for around 240 homes and thus provides for certainty with regard to sustainable growth up to 2030'*.

7.32 The allocations in the RNP were derived from a choice exercised by the village in voting for the plan. A mixed use housing/leisure and sports development on the appeal site had been promoted through the neighbourhood planning process but was rejected. The appellants have questioned the process by which the site was not allocated in the RNP. The Council does not accept the appropriateness of this approach. The RNP is now substantially out of time for any legal challenge to be brought so must be accepted as a lawfully made plan. It follows that the process by which it was made met the requirements for the making of a neighbourhood plan and the Examiner properly concluded that the plan met the basic conditions.

7.33 It is right that a substantial reason for the appeal site being rejected as a housing allocation by the steering group was that it lay in an area which was proposed as a green gap. However, that was not the only reason⁸⁶. It is also right that the Examiner recommended the removal of the proposed green gap policy which was indeed subsequently removed. However, the Examiner did not suggest that the site allocations needed to be revisited as a result. The people

⁸⁶ Inspector's note – Mr Brown, in answer to questions from Ms Parry, accepted that the green gap issue was not the only reason that the site was rejected. He maintained that rejection of the site was largely due to this factor. See also LDC2, appendix 9, paragraphs 7.10.12 and 8.4.10

of Ringmer voted for the RNP with the appeal site allocated for outdoor sports facilities, not housing, notwithstanding the removal of the green gap policy.

- 7.34 Notwithstanding the concerns raised by the appellant, the local residents have demonstrated their aspirations for the area by voting for a plan which provides certainty by allocating a large number of sites, although not this one. As noted above, the definition of sustainable development encompasses all the policies at paragraphs 18 to 219 of the Framework. It is important to note that this includes paragraphs 183 to 185 and 198 in which the government emphasises the importance of the power given to local communities to develop a shared vision for their neighbourhood and deliver the sustainable development they need.
- 7.35 It is therefore unsurprising that the Secretary of State has recognised that development cannot be considered fully sustainable where it conflicts with the choices made in a neighbourhood plan. An appeal decision at Loxwood Farm Place was taken in the context of a plan with no numerical cap on development. The Secretary of State concluded that he *'agrees with the Inspector that these sustainability benefits need to be weighed against the making of the NP and the exercise of local choice in the allocation of sites therein to meet strategic need. He agrees with the Inspector at IR263 that appeal proposal does not accord with the NP and this conflict carries very substantial weight so that, as the Inspector concludes at IR264, the appeal scheme does not represent fully sustainable development'*⁸⁷.
- 7.36 The Council urges the same conclusion here. Whilst the proposal meets some of the elements of the social aspect of sustainable development, it cannot be considered fully sustainable given its relationship with the RNP. Consequently there is no basis for the operation of the presumption in favour of sustainable development.

Delivery of sports and leisure facilities

- 7.37 The Council accepts that the delivery of sports and recreational facilities is a benefit which weighs in favour of the appeal. However the appellant goes further, suggesting that this scheme is the only way the sports and recreation element will be delivered. The development is not being promoted on an enabling basis. Instead, the appellant argues that the landowner would be unprepared to bring the land forwards without the housing. In addition, the appellant relies on the fact that LPO3 Policy RG3 has not been delivered over an extended period.
- 7.38 At the Inquiry the Parish Council's witness explained how Policy RG3 had been included in the LPO3 to enable RFC to relocate from its existing ground at Caburn Field. However RFC suffered financial problems and the plans did not come to fruition. Consequently we should be careful about relying on this history to show that a sports and recreation use could not come forwards in the future. Moreover, as the Council has now brought in a CIL charging schedule, RPC is entitled to 25% of CIL receipts. Those funds can be put towards provision

⁸⁷ LDC2, appendix 15, paragraph 18 of the decision letter (APP/L3815/A/14/2223343)

of sports and recreation facilities⁸⁸. At the Inquiry RPC confirmed that this provision would be a high or top priority for the Parish Council⁸⁹.

7.39 With regard to the position of the landowner, if permission is refused for this scheme, as the Council says it should be, then a reasonable landowner would consider alternative schemes. There is nothing before the Inquiry to show that this is the only scheme that could ever come forward. Consequently, it is not accepted that the appeal scheme is the only way the sports and leisure elements could be provided. The appellant suggests that Policy RG3 might not survive review under LPt2 due to concerns about its deliverability. Given that LPt2 is in its infancy, this suggestion is speculative.

7.40 In conclusion, whilst the delivery of sports and leisure facilities is a factor which weighs in favour of this scheme, the appeal scheme is not the only way of delivering sports and leisure facilities at the site.

The provision of housing, affordable housing and economic benefits associated with housing

7.41 There is no dispute that the provision of housing, in particular affordable housing, weighs in favour of the scheme. The economic benefits of the development also weigh in its favour although it must be noted that a number of them are likely to be temporary.

Conclusions

7.42 This is a case where there is a clear breach of the development plan on which full weight should be placed. Against that it is recognised that the Secretary of State will need to weigh the benefits of the scheme in terms of provision of facilities for sports and leisure, housing and affordable housing. The Council is clear that when that balance is undertaken, in a plan led system, it weighs against a grant of permission. That conclusion is commended to the Secretary of State.

THE CASE FOR RINGMER PARISH COUNCIL

8.1 The Parish Council seeks dismissal of the appeal on the basis that it is contrary to policies CT1 and RG3 of the JCS and to multiple policies of the RNP. Both plans are recently adopted and the RNP passed its referendum with 92% in favour⁹⁰. The appeal site lies in a short countryside gap separating Ringmer, categorised as a rural service centre, from Broyle Side, a smaller centre categorised as a local village. The gap is three fields long on either side of the B2192 and the appeal site occupies two of the three fields on the south side.

Conflicts with the JCS

8.2 The Parish Council relies on the evidence of the Council, and Cllr Peter Gardiner, that the scheme is in conflict with Policy CT1.

⁸⁸ LDC/CH1, paragraph 4.34

⁸⁹ Inspector's note – in answer to my questions Mr Kay stated that provision of sport and recreation facilities would be a top priority for the Parish Council

⁹⁰ On a turnout of 42%

- 8.3 Policy RG3 is a saved policy which has been carried forward from LP03 to the JCS. It allocates the entire site for recreational use. There was, in 2003, and still is a severe shortage of sports pitches for outdoor recreation in Ringmer. The appeal site adjoins the listed buildings at Broyle Gate Farm and the buildings and sports fields of RCC. The RCC, together with the adjoining primary school, nursery school and children's centre, forms an educational campus for Ringmer. The size and location of RG3 was chosen to facilitate shared use of the facilities by RCC and the community. The intention to relocate RFC from Caburn Field, in the centre of the village, was a centrepiece of the policy. This would remove a source of nuisance for existing residents and create a site for about 40 new homes in a sustainable location. The use of site RG3 for sports and recreation would also preserve the gap between Ringmer and Broyle Side. The importance of this aspect is emphasised by sections (a) to (c) at the end of the policy.
- 8.4 Policy RG3 has not yet been implemented, due in part to the former semi-professional RFC going into administration. A new community club, also called RFC, has arisen in its place. The lack of progress was also due, in part, to failed negotiations with the site owners who were not prepared to make sufficient land available. In addition, they were only prepared to make any land available on condition that residential development was permitted on the remainder of their land.
- 8.5 The appellant has sought residential development of the appeal site and adjoining land by a variety of means. The site was submitted to the SHLAA process and then promoted through the JCS without success. The appellant sought to persuade the RNP steering group that the site should be allocated for 100 homes, again without success. This application proposes some sports facilities and 70 homes on two of the three fields. It is silent about the third field.
- 8.6 The various proposals have been different in the amount and location of development proposed. When seeking to attract community support through the neighbourhood planning process the housing was located away from the B2192 to preserve the appearance of a countryside gap. In the appeal scheme the houses would be in the field closest to the road, with the opposite effect. However, all the proposals conflict with Policy RG3 and fail to meet either the historic sports needs or current needs. Residential development would remove all future flexibility to meet future needs arising from the expansion of RCC or the other schools. It would be contrary to the overall thrust and detailed provisions of Policy RG3.

Conflicts with the RNP

- 8.7 In addition to Policy 7.4, referred to by the Council in its reason for refusal, the Parish Council considers that the appeal scheme conflicts with the key principles of the RNP and policies 4.1, 4.10, 4.11, 5.4, 6.3, 6.4 and 9.2. These additional conflicts should be given weight in the determination of the appeal.
- 8.8 The appeal scheme is clearly contrary to Policy 7.4 by proposing housing on land allocated for sports pitches. Although superficially similar to Policy RG3, Policy 7.4 is founded on a much more up-to-date evidence base⁹¹. Needs have

⁹¹ LDC2, appendix 9, section 8.4

changed, and can be expected to change again, so flexibility is essential. There are clear and unmet needs of existing sports teams, particularly those of a new amateur football club (AFC Ringmer) and of Ringmer Rovers Junior Football Club which runs 10 teams each week. Many local residents travel to clubs and facilities elsewhere because their needs cannot be met in the village. It is more challenging to assess the number of residents who do not participate in sport due to a lack of local facilities. Completion of the Ringmer-Lewes cycleway has shown how provision of a new facility can encourage new users.

- 8.9 There is a poor match between the sports facilities offered and what the RNP evidence base suggests is needed. The evidence base suggests the need for flexibility and the key requirement is for low cost, low impact facilities such as grass pitches and running tracks or routes. Such facilities could be funded via CIL income. It is of particular importance to ensure there is an option for the primary school to expand into parts of the RCC campus, with the replacement of some RCC sports fields elsewhere. The appeal scheme would not allow for such flexibility.
- 8.10 The proposal conflicts with all four key principles (KP) of the RNP. It would conflict with KP 3.1 (maintaining village feel) by compromising the countryside gap and creating an essentially continuous urban development along the B2192. It would conflict with KP 3.2 (improving sustainability) because, if housing growth outstrips new employment, Ringmer's dependence on out-commuting by car will increase. It would conflict with KP 3.3 (balanced, healthy and inclusive community) because residential development would be at the expense of much needed sports facilities. It would conflict with KP 3.4 (protecting the SDNP) because the proposal would have a much more substantial impact on the setting of the SDNP as viewed from Mill Plain and Saxon Down than the alternative sites allocated in the RNP.
- 8.11 The proposal conflicts with Policy 4.1 because the residential development would be outside the village planning boundary and would have an adverse effect on the rural landscape. It has not been shown that the benefits of the development outweigh its adverse impacts.
- 8.12 The proposal conflicts with Policy 4.10 because the site includes a pond containing GCN. The terrestrial phase of the life cycle of this species is supported by under-managed grassland with hedgerows and ditches – conditions which would not survive the development. The development would also reduce the value of the important hedgerows to wildlife. Overall, the site's contribution to biodiversity would be reduced, not maintained or enhanced.
- 8.13 The proposal conflicts with Policy 4.11 because it would create new light pollution, from the development itself and from street lighting at the access.
- 8.14 The proposal conflicts with Policy 5.4 because it would prejudice future development of the schools. The primary school has recently expanded to 1.5 form entry but will need to expand further to 2 form entry to accommodate planned growth at Ringmer. The site would then become ridiculously cramped. The solution would be to transfer some playing field land from RCC to the primary school but this could only happen if some of the appeal site were made available to RCC as a replacement.

- 8.15 The proposal conflicts with Policy 6.3 which seeks to ensure that new housing is constructed on a village scale of up to 30 units, thereby meeting housing needs without compromising village feel.
- 8.16 The proposal conflicts with Policy 6.4 which is concerned with the phasing of development, to ensure that new housing is made available as local employment expands. The scheme would add additional development to the first phase. There are now unimplemented permissions for 184 dwellings in Ringmer, with a further 100 likely to follow on allocated sites in the next year. This threatens to provide much more new housing than is needed locally, sucking in new commuters.
- 8.17 The proposal conflicts with Policy 9.2 because it provides no justification for a significantly higher residential density than is envisaged by this policy. New housing in rural areas such as Ringmer must provide off-road parking for the cars that the new residents will require and new rural residents will expect reasonable sized gardens.
- 8.18 The appeal scheme is thus contrary to multiple policies of the RNP. Paragraph 198 of the Framework states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

Impact on delivery of JCS Policy RG1 and RNP Policy RES3

- 8.19 Policy RG1 is a retained LP03 policy that allocates the RFC ground at Caburn Field for 40 dwellings. Close by are two redundant council-owned sites identified for housing in the RNP (site RES3). This is a sustainable location close to village facilities. It is identified as being particularly suitable for elderly residents and could well be developed at a higher density than currently envisaged. The relocation of RFC is a pre-condition for this development.
- 8.20 A plan has been agreed between RFC, RCC, the Council⁹², East Sussex County Council, the trustees responsible for Caburn Field and a developer to enable the facilities required by RFC to be provided on land owned by the County Council and leased to RCC. An all-weather pitch could be used more intensively than a grass pitch and could be shared by AFC Ringmer, Ringmer Rovers and RCC. These facilities would be supported by development gain but RFC would need to fund running costs, maintenance costs and replacement of the pitch in due course. RFC considers that fees paid by the other teams, at comparable rates to those paid elsewhere, would cover the costs.
- 8.21 The appeal scheme is for an overlapping set of facilities, including a second all-weather pitch, immediately adjoining RCC. There is no evidence that Ringmer could support two all-weather pitches. The pitches proposed on the appeal site appear less elaborate and may be cheaper for the other teams to use. This could lead to the whole RFC proposal being aborted and RG1 remaining undelivered. The consequence of allowing the appeal would be to jeopardise the delivery of 40 dwellings in a highly sustainable central village location.

⁹² Inspector's note – in answer to my question, Mr Kay confirmed that it is the Council's property arm that has agreed to this proposal

8.22 The Secretary of State, considering an appeal at Hook Norton, concluded that as the neighbourhood plan there did not allocate any sites there was no risk of holding back delivery of any allocated sites if the appeal were allowed⁹³. However, in the present appeal there is indeed such a risk with respect to sites RG1 and RES3.

Viability of delivery of the appeal scheme's sports facilities

8.23 At first sight there appears to be a clear commitment to deliver specific facilities comprising an all-weather pitch, a smaller pitch, tennis courts and a substantial sports hall. The appellant's witness estimated the cost of this provision at £3 million⁹⁴. Dividing this between 42 market houses would require an average contribution of over £70,000 per dwelling. Many of the houses would be small and closely spaced. In addition, CIL would be payable at £150 per sqm, a highway contribution may be required and the scheme would need to deal with potential archaeological remains and the known presence of GCN. Moreover, construction costs are rising and the scheme would face sales competition from other residential developments nearby. In these circumstances viability appears challenging.

8.24 A senior representative of the appellant company had previously assured the RNP steering group that a much larger development would be needed to fund sports facilities. Moreover, when the appellant's witness was questioned about the planned facilities it seemed that the key decisions about the nature of the sports facilities lay in the future. Responsibility for their future operational viability and continuing availability would be in the hands of others and the future ownership of the land they would be built on was uncertain. A decision on the housing element is therefore being sought at a time when there is no firm information about what sports facilities are to be provided and how they are to be managed.

Sustainable development

8.25 The foreword to the Framework states that sustainable development is about change for the better, making economic, environmental and social progress for this and future generations.

8.26 This proposal does not represent sustainable development. A clear example of this is the effect on the primary school. A key factor promoting social cohesion in the village has been that almost all Ringmer children have attended the same primary school. It has recently been extended but every class will be full next year. It has scope to expand more but will the additional places be ready in time? Many new houses have planning permission but the school expansion is not in the timetable. At present it looks tight and new residents may well need to send their children outside the village for primary education. Extra new houses now will not help. Worse, as noted above, when the primary school expands it will need to expand its site. Otherwise it will have a permanently cramped site and 400 children will have minimal outdoor space.

⁹³ CH2, appendix 7, paragraph 15 of the decision letter (APP/C3105/A/14/2226552)

⁹⁴ Inspector's note – the figure was confirmed by Mr Brown in answer to my questions. It had been provided to him by Croudace Homes Ltd and was based on the facilities shown on the indicative layout

- 8.27 The JCS Inspector listened carefully to evidence about Ringmer's infrastructure. He identified the three problems as the primary school, the waste water treatment works and Earwig Corner. He then sought to balance the need for housing against what could be coped with. The Parish Council hopes that the Secretary of State will support his conclusions.
- 8.28 The Framework, the JCS and the RNP all recognise that commuting to jobs elsewhere from the countryside is inherently unsustainable. Notwithstanding the proximity of Lewes and the bus services to Lewes and Brighton, the statistics show that Ringmer has particularly high levels of out-commuting by private motor vehicles. The Framework recognises that the planning system should seek to place most new housing at locations from which residents can travel as sustainably as possible. The JCS supports this, requiring villages like Ringmer to focus primarily on meeting their own housing needs.
- 8.29 House building is normally considered an economic good. However, if building new houses in a greenfield location were to result in non-delivery of a nearby brownfield site the benefit would be cancelled out. Building more houses than a small market can cope with would result in falling prices and unsold properties, which would be an economic ill. Increasing out-commuting would be an economic, social and environmental ill. Moving people further from their work, shops, services and hospitals would similarly be an economic, social and environmental ill. These are real risks in Ringmer given the amount of new housing already permitted and allocated.
- 8.30 Similarly, whilst building affordable housing for families who need to live in Ringmer is good, providing such housing for those who need to live in Seaford or Wivelsfield is not. The RNP assessed the need for social rented housing in Ringmer as four dwellings per year, or 80 over a 20 year period. Already there are 70 affordable units built or with planning permission and the target looks set to be met in the first half of the plan period. Damaging features of a community that are valued, such as the village feel, is a social ill.
- 8.31 The environmental balance of the proposal would be uniformly negative. The loss of countryside, harm to the setting of the SDNP, negative impact on wildlife (especially GCN), harm to the setting of listed buildings and consequences of sending additional foul sewage to the waste water treatment works all weigh against the scheme. Attracting more commuters to a rural community would add to the environmental harm.
- 8.32 On balance, the Parish Council considers that the proposal does not represent sustainable development. The reasons this site was not selected are set out in the evidence base to the RNP⁹⁵. All the work that the community has put into the RNP should be given proper weight. From an initial position where few residents would support more than 100 new houses the village moved on to a position where a plan that was likely to add over 15% to our 2,000 houses attracted 92% support. The RNP is delivering planning permissions at an impressive rate. The local community has learned a lot about itself in the process. Local people will lose faith in the principles of localism and neighbourhood planning if the views of the community are ignored or overruled by allowing this appeal.

⁹⁵ LDC2, appendix 9, section 7.10.12

OTHER REPRESENTATIONS

- 9.1 The representations made by those who appeared at the Inquiry are summarised first, then the written representations.
- 9.2 **Professor Peter Gardiner** is District Councillor for Ouse Valley and Ringmer, the area in which the appeal site lies⁹⁶. He has been much involved in planning, at District level, within the SDNP and at neighbourhood planning level in Ringmer. He is fully supportive of the JCS and the RNP, and drew attention to the 92% support for the RNP at its referendum. Broyle Gate Farm, whilst supported by a few, was not allocated in the RNP. Saved Policy CT1 will become an integral part of the development plan under LPp2, as accepted by the JCS Inspector. The wording of Policy CT1 includes reference to the heightened importance of retaining the open character of the countryside where it separates settlements and prevents their coalescence. So, even if the development fell within the various criteria of Policy CT1, it would be unacceptable because it would lead to coalescence.
- 9.3 The JCS recognises Ringmer and Broyle Side as separate settlements, as may be seen from the settlement hierarchy set out in table 2. So both the JCS and the RNP recognise the need for the separation of the settlements. Allowing the appeal would set aside the concept of significant gaps between identified settlements. This part of the B2192 has a pub and a thatched cottage on one side and the Broyle Gate Farm complex on the other, all of which are rural in character. In either direction the character is not rural – there are industrial units at Broyle Side and there is the RCC at Ringmer. The RNP housing allocations are carefully thought through as to their number, scale, location and effect on the village feel of Ringmer. The Council's decision on this application is supported by the RNP, County, District and Parish Councillors and the local population. CT1 has significant weight.
- 9.4 **John Jackson** is a resident of Ringmer. The appeal should be declined because the proposal would be outside the areas allocated in the JCS and RNP. The RNP is a 20 year plan running from 2010 to 2030. It took three or four years to prepare and has been the subject of a referendum. If the appeal were to be allowed, all of that process would have been for nothing. Ringmer is subject to infrastructure constraints, in relation to the road network, school capacity and waste water treatment. Ringmer is already taking around 400 new homes, 60 – 70% of which will be built in the early years of the plan.
- 9.5 **Andrew Cooper** is a resident of Ringmer and the owner of a nearby business park at Chamberlaines Lane. He supports the appeal. The land has previously been classed as a green gap but the RNP Examiner did not support that policy. Many Ringmer residents have been waiting for this development for years. The village is in favour of sport. If this scheme is turned down there will not be another opportunity for 20 years.
- 9.6 Written representations in response to the appeal were made by Ringmer Parish Council, whose views have been reported above, and by the occupiers of Little Thatch, Lewes Road. Their representation argued that the green gap between Ringmer and Broyle Side should be maintained. Concerns are also raised about

⁹⁶ Professor Gardiner produced a proof of evidence (OD1)

flooding, traffic congestion and the need to retain trees and hedgerows. A representation by CPRE Sussex argued that the proposal would be contrary to the JCS and the RNP and would provide the wrong sort of sports facilities on a smaller area of land than is needed. Two further written representations were handed in at the Inquiry⁹⁷. The occupiers of Broyle Gate Farmhouse objected to the appeal on the grounds of conflict with Policy CT1 and harm to the setting of the listed buildings at Broyle Gate Farm. The occupier of The Barn, Broyle Gate Farm objected in similar terms and also referred to impacts on ancient hedgerows and protected species including GCN and bats.

- 9.7 The representations made to the Council by statutory consultees and members of the public are summarised in the officer's report⁹⁸. Aside from the statutory responses there were 10 letters of objection and one letter of support. The points made, in objection and support, relate to matters which have been referred to above.

CONDITIONS AND SECTION 106 AGREEMENT

- 9.8 A list of suggested conditions was agreed between the Council and the appellant⁹⁹. In general, the suggested conditions were not controversial. They were discussed at the Inquiry, as a result of which there are some changes between the submitted list and the schedule attached at Annex C. Some suggested conditions have been deleted to avoid duplication and I have made some adjustments to detailed wording to reflect Planning Practice Guidance on the use of conditions. However, the substance of the conditions at Annex C reflects the discussion at the Inquiry.
- 9.9 Conditions 1 – 3 are standard conditions for outline planning permissions. Condition 4 requires the access to be constructed in accordance with the plans, reflecting advice in Planning Practice Guidance and in the interests of highway safety. Condition 5 requires details of roads within the site to be approved in the interests of securing safe and suitable access to all parts of the development. Condition 6 would secure a Construction Management Plan in the interests of highway safety and the living conditions of nearby residents. Condition 7 would ensure that access roads and parking areas are provided at an appropriate stage as the development progresses, in the interests of highway safety and the living conditions of future residents.
- 9.10 Conditions 8 and 9 require details of surface and foul water drainage to be submitted in the interests of managing risks of flooding and pollution. Condition 10 would secure the implementation of a scheme of ecological mitigation and enhancement in the interests of biodiversity. Condition 11 seeks details of finished floor levels in the interests of the character and appearance of the area. Conditions 12 – 15 are needed to manage risks from potential ground contamination. Condition 16 requires an external lighting scheme to be submitted in the interests of biodiversity and the character and appearance of the area.

⁹⁷ OD2 and OD3

⁹⁸ CD1

⁹⁹ LDC/CH3

- 9.11 Conditions 17 and 18 seek to protect the living conditions of future residential occupiers in relation to road traffic noise and noise arising from plant and machinery associated with the sports and community building. Condition 19 is needed to protect the archaeological potential of the site. Conditions 20 and 21 are needed to protect trees and hedgerows during construction in the interests of biodiversity and the character and appearance of the area. Condition 22 limits the hours of operation of the sports and recreation facilities in the interests of protecting the living conditions of nearby residents and future occupiers of the site. Condition 23 enables the planning authority to control the phasing of the development, particularly in relation to the delivery of the sports and recreation elements of the scheme.
- 9.12 Some conditions require details to be submitted before development commences. This is necessary in the case of conditions 5, 8, 9, 11, 16 and 17 because the details relate to matters affecting the design and/or layout of the scheme. It is necessary in relation to conditions 6, 7, 10, 12, 19, 20 and 23 because these conditions address matters arising during the construction phase.
- 9.13 As noted above, the Agreement between the Council, East Sussex County Council, the appellant and the land owner was completed during the course of the Inquiry. It would make provision for the phasing and delivery of 40% of the dwellings as affordable housing, for the implementation of the travel plan and for the implementation of highway works at the site access. It would also make provision for financial contributions relating to: (1) auditing the travel plan, (2) recycling, (3) bus stop enhancements and (4) junction improvements (in the event that these have not already been funded by another development). For the reasons given above, I consider that the obligations are compliant with the CIL Regulations and I have taken them into account accordingly.
- 9.14 It is no longer necessary for contributions to education or public rights of way to be secured by planning obligations because new housing at the appeal site would be subject to a CIL charge which would take account of these matters.

INSPECTOR'S CONCLUSIONS

The numbers in square brackets [n] refer back to earlier paragraph references in this report

10.1 Taking account of the oral and written evidence, the Secretary of State's reasons for recovering the appeal and my observations on site, the main consideration is:

Whether the development is acceptable in principle, having regard to the development plan and other material considerations

The development plan

10.2 The development plan includes the Lewes District Local Plan Part 1 – Joint Core Strategy (May 2016) (JCS) and the Ringmer Neighbourhood Plan (RNP) which was made in February 2016. The Council will be producing a Site Allocations and Development Management Policies Development Plan Document providing non-strategic policies in Part 2 of the Local Plan (LPp2). The JCS has replaced a number of previously saved policies of the Lewes District Local Plan 2003 (LP03). Other policies have been retained for the time being and will be reviewed through the LPp2. [3.1]

10.3 The JCS describes a settlement hierarchy in which the highest level centres within the district are the towns of Seaford, Lewes, Newhaven and Peacehaven/Telscombe. Two settlements, Ringmer and Newick, are described as rural service centres. Spatial Policy 1 states that in the period between 2010 and 2030 a minimum of 6,900 dwellings will be provided, equivalent to approximately 345 net additional dwellings per annum. Spatial Policy 2 deals with the distribution of housing which is to be met from strategic site allocations identified in the JCS, planned growth at specified levels in identified settlements and about 200 units in locations to be determined. Spatial Policy 2 states there will be a strategic allocation for 110 units at Bishops Lane, Ringmer. Allowing for completions, commitments, the strategic allocation and further allocations of 217 units, the total planned provision at Ringmer and Broyle Side¹⁰⁰ amounts to 385 dwellings. [3.2, 3.3, 3.4]

10.4 Amongst the saved policies from LP03 which are retained by the JCS, there are two which are of particular relevance. Policy CT1 is a countryside protection policy which defines settlement boundaries, (the policy uses the term 'planning boundaries'), shown on the Proposals Map. Outside those boundaries development is restricted to various specified types of development, none of which are relevant to the housing element of the present case. Policy RG3 allocates the appeal site for sports and recreation facilities including an indoor sports hall, a pitch and clubhouse/stand for Ringmer Football Club (RFC), a pitch and pavilion for Ringmer Cricket Club, community sports pitches including an all-weather surface and a youth centre. [3.5]

10.5 The RNP sets out 4 key principles which aim to maintain the village feel of Ringmer, regain its sustainability, return to being a balanced, healthy and

¹⁰⁰ Although Ringmer and Broyle Side are separate settlements they are taken together for the purposes of Spatial Policy 2

inclusive community and support the purposes of the SDNP. Policy 4.1 seeks to restrict development outside planning boundaries which would have an adverse effect on the countryside or the rural landscape. Policy 4.10 seeks to ensure that development proposals consider their impact on biodiversity, including provisions to ensure biodiversity is maintained or where possible enhanced. Policy 4.11 seeks to minimise light pollution. Policy 5.4 supports further development of Ringmer Community College (RCC) within its site and expansion of associated recreational activities onto the adjoining RG3 site. [3.6]

10.6 Policy 6.1 states that the plan allocates land for at least 240 dwellings. Policy 6.3 requires development to respect the village scale. Policy 6.4 sets out the proposed phasing of residential development. Policy 7.4 allocates the appeal site to meet the identified shortage of outdoor sports facilities in Ringmer. Policy 9.2 states that housing developments must make good use of available land and that housing densities outside 20 – 30 units per hectare will require special justification. [3.7]

Assessment of the proposals against the development plan

Planning boundaries

10.7 There was no dispute that the housing element of the proposals would be outside the planning boundary for Ringmer and therefore contrary to retained Policy CT1. The question of whether this policy should be regarded as up-to-date was a controversial matter which I return to below. The sports and recreation facilities would not be contrary to Policy CT1, provided that they were found to be compliant with Policy RG3, because Policy CT1 does not seek to restrict development permissible under other policies of the plan. However, the residential element forms a very substantial element of the scheme as a whole. It follows that the scheme as a whole should be regarded as being in conflict with Policy CT1. The policy also refers to the issue of separating settlements and preventing coalescence. That is another matter that I comment on below. [3.5, 9.2]

10.8 The RNP does not define settlement boundaries, except in relation to its own allocations. However, it is to be read together with the JCS so the Policy CT1 planning boundaries can be taken to apply, as far as still relevant. Policy 4.1 seeks to restrict development outside planning boundaries, where there would be an adverse effect on the countryside or rural landscape, unless it can be demonstrated that the benefits of the proposals would outweigh the adverse effects. [3.6]

10.9 The appellant laid particular emphasis on paragraph 6.1.1 of the RNP which states that '*the Neighbourhood Plan does not seek to limit the amount of housing to be built in the Neighbourhood Area during the plan period*'. On this basis it was argued that it is not contrary to the RNP to develop outside the allocated sites. I do not agree with that approach. Paragraph 6.1.1 makes clear that there is no numerical cap on housing numbers during the plan period. However, to establish whether a particular proposal for development outside the allocated sites is in accordance with the plan it is necessary to consider the development plan as a whole, including relevant policies of the RNP and the JCS. [6.9, 6.31, 6.32]

JCS and RNP allocations for sports facilities

10.10 Retained Policy RG3 allocates the appeal site for:

'sports and recreation facilities to comprise an indoor sports hall for joint use by the school and the community; a pitch and clubhouse/spectator stand for Ringmer Football Club; a cricket pitch and pavilion for Ringmer Cricket Club; community sports pitches including an all-weather surface; a youth centre; any other appropriate facilities'.

10.11 The sports and leisure element of the appeal scheme does not include all of the facilities listed in Policy RG3. In particular, it does not include a clubhouse and spectator stand for RFC or a cricket pitch or pavilion. However, at the Inquiry the Council and the appellant agreed that the provision of a pitch, clubhouse and stand for RFC is now likely to be addressed elsewhere. It was also agreed that alternative facilities for the cricket club have been identified elsewhere. Consequently, the Council and the appellant agreed that the sports and leisure element should be regarded as compliant with Policy RG3 and that it would meet the needs identified therein insofar as they are still relevant. [6.14, 7.8, 7.9]

10.12 RNP Policy 7.4 allocates the development site:

'to meet the identified shortage of outdoor sports facilities in Ringmer. Any associated built facilities necessary, including changing rooms and parking, should be located on the Ringmer Community College campus or on land immediately adjacent to the College boundary'

10.13 Policy 7.4 differs from RG3 in that it is focussed on outdoor sports with buildings limited to associated facilities such as changing rooms. Policy 7.4 does not refer to indoor recreation. The Council considers that it is appropriate to read both policies together. The appellant points out that, if there is a conflict between the policies, it must be resolved in favour of Policy RG3 as this is the most recently adopted. The conclusion, on either approach, is that the sports and leisure element is compliant with policies RG3 and 7.4. I agree with that conclusion. It follows that the sports and leisure element would also be in accordance with policy CT1. [6.14, 7.8]

10.14 Policies RG3 and 7.4 both allocate the entire site for sport and recreational use. In my view the construction of up to 70 dwellings would conflict with these policies. The appellant argues that the needs reflected in the two policies, so far as they are still relevant, could be met in part of the site thereby freeing up the rest for other uses. Whilst the ability to deliver sports facilities on just part of the site is a relevant factor, to my mind it is a factor which falls to be considered under the heading 'other material considerations'. First, the scheme as a whole must be assessed against the development plan. The residential element, which is clearly in conflict with the JCS and RNP site allocations, forms a very substantial element of the scheme as a whole. It follows that the scheme as a whole should be regarded as being in conflict with these policies. [6.17, 7.7, 7.11]

Landscape and visual impact

10.15 The appeal site comprises two grass fields on the southern side of Lewes Road extending to approximately 6ha. It is bounded by mature hedgerows and the

two fields are separated by a hedgerow. It lies within a predominantly open area, interspersed with some buildings, between the village of Ringmer and the smaller settlement of Broyle Side. The buildings of Ringmer Community College (RCC) mark the eastern extent of the built-up part of Ringmer and industrial units on the western edge of Broyle Side form the edge of that settlement. The area between, which includes the appeal site, is essentially rural in character. The former farm buildings at Broyle Gate Farm, Little Thatch Cottage, mature hedgerows and views of open fields all contribute to a rural feel. The boundary of the South Downs National Park (SDNP) is about 400m to the south and it is about 1km to the foot of the scarp slope of the downs. [2.1, 2.2, 2.3, 4.3, 9.3]

- 10.16 The application was supported by a landscape and visual impact assessment (LVIA) which identifies that, whilst the site is not subject to any landscape designations, it has an attractive and unspoilt character. The LVIA also comments that the rural character has been eroded to some extent by the proximity of built form. I saw that the site does indeed have an attractive rural character which benefits from the mature hedgerows and some good individual trees. Whilst the buildings of RCC are readily apparent in the western part of the site, in general I consider that nearby built development has only a limited impact. The appeal scheme would result in a wholesale change in the character of the site which would become developed with housing, a substantial indoor sports building, car parking and an all-weather sports pitch. The LVIA characterises this as a moderate adverse landscape impact, an assessment with which I agree. [2.2, 4.3]
- 10.17 Turning to visual impacts, these would be apparent in short distance views and in longer views from higher ground in the SDNP. Short range views would be available from Lewes Road, footpath 17 (which runs north from Lewes Road) and Chamberlaines Lane. I note the presence of a mature hedge along the Lewes Road frontage and the potential to set the housing back as shown on the illustrative layout. Views would be partially filtered by the hedgerow, with the extent of screening varying according to the seasons. Even so, I consider that the extent of built form proposed would be readily apparent in short range views. Moreover, the upper floors and roofs would be seen above the hedgerows from some viewpoints and there would be views into the site from the access onto Ringmer Road. [4.3, 4.4,]
- 10.18 Whilst maturing landscaping could, over time, reduce the degree of visibility, my assessment is that the scale of development would still be apparent. In my view the LVIA, which describes these visual impacts as minor, rather understates the degree of impact. [4.4]
- 10.19 Ringmer Parish Council (the Parish Council) argued that the scheme would result in a continuous urban development along the B2192. Given the potential for mitigation through layout, design and landscaping, which could be controlled at reserved matters stage, I regard that as an overstatement. However, I agree with the Parish Council and others who commented on the role of the appeal site in maintaining the separate identities of Ringmer and Broyle Side. In my view the scale of development proposed would erode the clear sense of separation that currently exists. [8.10, 9.3, 9.7]
- 10.20 Longer views of the site can be seen from footpaths in the SDNP. Some of the views identified in the LVIA are around 2.5km from the site. At this distance,

the appeal site is discernible but is a small part of a panoramic view northwards from the top of the scarp slope. The appeal scheme would have a very limited impact on the character of that view. However, views from the vicinity of the Glyndebourne wind turbine are closer, at a distance of a little over 1km. In these views the site is seen as part of the predominantly undeveloped gap between Ringmer and Broyle Side. The effect of the appeal scheme would be to reduce significantly the clear definition between the two settlements that currently exists. Given the height of this viewpoint, I do not consider that the effect would be much diminished by maturing landscaping in and around the appeal scheme.

- 10.21 The appellant pointed out that an earlier version of the RNP contained a 'green gap' policy. That policy did not find favour with the RNP Examiner and is not part of the made version of the RNP. The appellant is quite right to say there is no site-specific policy designation relating to the 'green gap'. Even so, the effect of the appeal scheme on the visual separation between Ringmer and Broyle Side is a visual impact which ought to be taken into account as part of any assessment. Moreover, Policy CT1, (retained under the JCS), states that '*the retention of the open character of the countryside is of heightened importance where it separates settlements and prevents their coalescence*'. In my view the appeal scheme would erode the sense of separation between Ringmer and Broyle Side. This would be a harmful effect which I take into account as part of my overall assessment of landscape and visual matters. [6.30, 6.36, 9.3]
- 10.22 The Parish Council also objected on the basis that the scheme would result in harmful light pollution. I am mindful of the fact that the application is in outline. All matters of detailed design and layout would be considered at reserved matters stage. The suggested conditions include a requirement that an external lighting scheme be submitted for approval. RNP Policy 4.11 requires new development to minimise additional light pollution through careful design. That is a matter which could be addressed at reserved matters stage and/or through conditions. At this outline stage I do not consider that the proposal can be said to conflict with Policy 4.11. [6.39, 8.13]
- 10.23 The National Planning Policy Framework (the Framework) states that great weight should be given to conserving landscape and scenic beauty in National Parks. The scenic beauty of a National Park can be affected by views out from it. In this case I have identified that the appeal scheme would materially affect views out of the SDNP from the vicinity of the Glyndebourne wind turbine. Two settlements at the foot of the scarp would become less distinctly separate in these views. Whilst this would be a negative impact, I consider that it would be a minor impact in the context of the scenic beauty of the SDNP as a whole. The appeal scheme would be seen from a limited number of viewpoints, as part of a broad view northwards. Consequently, whilst I recognise the importance the Framework places on the SDNP, I do not think that the impact of the appeal scheme specifically on the SDNP is a factor which adds further weight to the general landscape impacts I have already identified.
- 10.24 My overall assessment is that the proposal would result in landscape and visual harm. Allowing for mitigation, which could be secured through detailed design at reserved matters stage, the degree of harm is not such as to pose an overriding objection to the scheme. Nevertheless, it is a negative factor to which

moderate weight should be attached. It would represent an '*adverse effect on the countryside or the rural landscape*' for the purposes of RNP Policy 4.1.

Village scale

- 10.25 The Parish Council considers that the proposal would be contrary to RNP Policy 6.3 which seeks to ensure that development proposals should respect the village scale. The supporting text states that development scale is a crucial factor in village developments, noting that developments of 10 – 30 units will often prove acceptable, depending on their location and design. The appellant argues that there is no numerical cap within the terms of the policy. The appellant also relies on the fact that the Council did not raise any objection on landscape or design grounds. For the reasons given above, I have found that the appeal scheme would result in harm to the landscape. In particular, it is the scale of development proposed which would, in my view, lead to an erosion of the sense of separation between Ringmer and Broyle Side. [6.41, 8.15]
- 10.26 Moreover, Policy 6.3 is not only about landscape impacts, although such impacts may be relevant. It is a policy which reflects Key Principle 3.1. This states that Ringmer retains a village feel which is prized by residents as a key asset. It goes on to say that village feel includes both landscape and social aspects. This is consistent with the housing allocations set out in Policy 6.4. In short, the RNP seeks to meet housing requirements through a large number of small allocations, rather than a small number of large allocations.
- 10.27 The appellant is right to say that the policy does not contain a numerical cap. It is also right to note that, at 70 units, the appeal scheme falls below the scale of the strategic allocations made in the JCS. Nevertheless, as a matter of degree, I agree with the Parish Council's submission that the appeal scheme would be a substantial addition to the settlement which would not respect the village scale. As such, it would conflict with Policy 6.3.

Biodiversity

- 10.28 There are no nature conservation designations affecting the site which comprises a limited range of common and widespread habitats. However, the hedgerows are important to the diversity of plant species within the site and they also provide shelter and movement corridors for wildlife. The ecological surveys identified some badger activity. Four species of bat were identified commuting and foraging over the site, although the level of bat activity was found to be low. Populations of Great Crested Newt (GCN) were found in a pond on site and in other nearby ponds. All UK species of bat and GCN are European Protected Species (EPS). [4.8, 4.9]
- 10.29 An ecological mitigation plan would be prepared and secured by a planning condition. The ecological reports set out the scope of the mitigation and enhancement measures that could be included in such a plan. Measures are proposed in relation to badgers, bats, GCN, reptiles and breeding birds. The measures proposed in relation to GCN are likely to require an application to Natural England (NE) for an EPS licence. It is not for me to determine whether such a licence would be required as that would be the duty of NE. Given the availability of the mitigation measures set out in the ecological reports, I do not consider that the impact on GCN is a matter which weighs against the grant of

planning permission. The evidence before me does not indicate that this is a case where NE would be unlikely to grant a licence. [4.10]

10.30 RNP Policy 4.10 seeks to ensure that development proposals consider their impact on biodiversity. In this case biodiversity has been fully considered, as far as is appropriate at this outline stage, and I am satisfied that adequate mitigation could be secured at the detailed design stage through approval of reserved matters and conditions. The proposal is therefore in accordance with Policy 4.10. [4.10, 6.38, 8.12]

10.31 The mitigation proposals are set out in general terms because the scheme is in outline. Whilst I am satisfied that the various ecological impacts of the scheme would be adequately mitigated, there is insufficient evidence for me to conclude that there would be a material enhancement to biodiversity. I therefore conclude that the effect on biodiversity is not a factor which adds materially either to the case for the appeal or to the case against it.

The future of RCC and the primary school

10.32 RNP Policy 5.4 supports further development of RCC within its site and the expansion of associated leisure activities onto the adjoining RG3 site. The Parish Council argued that the scheme would conflict with this policy because, it was suggested, the primary school will need to expand onto land currently occupied by RCC and that RCC, in turn, will need replacement land within the appeal site. [8.14]

10.33 This suggestion was not supported by evidence. Policy 7.4 allocates the appeal site for sports facilities, not school expansion, albeit that it supports expansion of RCC's recreation facilities. Policy 5.4 does not mention the primary school. At the Inquiry, there was no plan showing present or future land requirements for any of the educational establishments. There was no direct evidence from the primary school, RCC or the education authority regarding future educational needs. A letter to the Council, in response to the application, on behalf of RCC supported the principle of the development as a means of delivering the proposed indoor sports hall. [6.15, 6.40]

10.34 I conclude that there is no evidence to support a conclusion that the appeal scheme would prejudice the future development of RCC or the primary school. It follows that the proposal would not conflict with Policy 5.4.

Phasing of development in Ringmer

10.35 The Parish Council considers that the proposal would conflict with RNP Policy 6.4 which sets out the proposed phasing of residential development. This policy relates to the sites allocated for residential development in the RNP. However, as the appeal site is not allocated for residential development the policy is not applicable. I comment further on the broader issue of the scale and pace of change in Ringmer under the heading 'other material considerations'. [8.16]

Housing density

10.36 RNP Policy 9.2 states that housing developments must make good use of available land and that housing densities outside 20 – 30 units per hectare will require special justification. The Parish Council calculates that the residential element of the appeal scheme would exceed this figure. However, it is important

to recall that this is an outline application for 'up to 70 dwellings'. All matters of layout and scale of development, including the precise number of dwellings, would be determined at reserved matters stage. No doubt any justification needed for the proposed density would also be provided at that stage. Consequently, the scheme cannot be said to conflict with Policy 9.2 at this outline stage. [6.43, 8.17]

Conclusions on the development plan

10.37 For the reasons given above, I consider that the proposal would conflict with policies CT1 and RG3 (which are retained by the JCS) and with RNP policies 6.3 and 7.4. Notwithstanding that other policies would be complied with, these conflicts are of sufficient importance to lead me to conclude that the appeal scheme would conflict with the development plan as a whole.

10.38 The proposal would conflict with RNP Policy 4.1 insofar as the housing element would be outside the planning boundary and would have an adverse effect on the landscape. This policy requires adverse impacts to be balanced against the benefits of the development. I return to that balance in the final section of this report.

Whether relevant policies for the supply of housing are up-to-date

10.39 The appellant agreed that the Council is able to demonstrate a five year supply of deliverable housing sites in accordance with the requirements of the Framework. It was not suggested that there is any objection in principle to a planning boundary policy such as Policy CT1. Nevertheless, the appellant argued that the Policy CT1 planning boundaries should be regarded as out-of-date on the basis that they were drawn in the context of the LP03 for the purposes of meeting housing requirements up to 2011. Further, it was argued that the boundaries would not meet housing requirements up to 2030, that they would need to be varied to accommodate the JCS strategic allocations and neighbourhood plan allocations and that they are bound to be reviewed in the LPp2. [5.1, 6.25, 6.27]

10.40 The first point to note is that the CT1 planning boundaries have been retained in the JCS, pending review through the LPp2. Although originally defined in relation to the LP03, they must now be considered in the context of a development plan context which also includes:

- the JCS strategic allocations
- the JCS planned growth targets for specified settlements
- neighbourhood plan allocations

At the Inquiry the Council accepted that the JCS Inspector did not find the retained policies sound in the sense of examining them individually against an evidence base. However, he found the JCS as a whole sound, including its provisions to save certain policies pending review under LPp2. To my mind that is an important point, particularly given that the JCS was adopted as recently as May 2016. It seems to me that, in finding the JCS as a whole sound, the JCS Inspector was accepting the approach of allocating some of the development sites now, whilst retaining the CT1 boundaries for the time being pending review

through LPpt2. That is a strong indication that the CT1 planning boundaries should be regarded as up-to-date. [6.10, 7.26]

10.41 Nevertheless, it is relevant to consider the practical consequences of the approach that has been taken. The JCS housing requirement up to 2030 is 6,900 dwellings, or around 345 dwellings per year. After making allowances for completions, commitments, windfalls and rural exception sites there is a balance of 3,597 dwellings which is to be met from strategic site allocations, (which have already been identified), planned growth at specified levels in identified settlements and about 200 units in locations to be determined. The residual figure of 200 is therefore a relatively small amount, amounting to less than one year's requirement. [3.3]

10.42 The JCS requirement for Ringmer and Broyle Side is 385 dwellings. Allowing for commitments, completions and the strategic allocation at Bishops Lane leaves a balance of 217 units. The RNP has already allocated sites for 184 units leaving just 33 still to be determined. The Council suggested that all of these could be accommodated by increasing delivery at Caburn Field, a site currently allocated for 40 units. Given that the site extends to some 1.3ha, and is centrally located within the village, it seems reasonable to assume some uplift on the current figure¹⁰¹. However, in the absence of further information about the prospective scheme for this site it is not possible to form a view on whether as many as 70 is likely to be achievable. That said, even if no allowance is made for additional delivery at Caburn Field, 33 is still a relatively small number amounting to less than 10% of the total growth planned for Ringmer up to 2030. [3.4, 6.28, 7.16, 7.17, 7.18, 7.21, 7.22]

10.43 It is possible that some of the 200 units in locations still to be determined will ultimately be allocated to Ringmer and/or Broyle Side. However, it seems likely that the local planning authority would look first to the four towns in the District, as these are likely to offer the most sustainable locations. Moreover, the exercise of seeking locations for those units will no doubt have regard to the infrastructure constraints at Ringmer identified by the JCS Inspector. [7.19, 7.15, 7.20]

10.44 The broad conclusion is that a large proportion of the total growth planned, or likely to be planned, for Ringmer up to 2030 has already been provided for in the JCS and RNP. Bearing in mind that:

- the district has a five year supply of housing sites
- the JCS has been adopted, and the RNP has been made, very recently and
- there is an identified process for allocating the balance of the housing sites required

I conclude that Policy CT1 should be regarded as up-to-date for the purposes of this appeal.

¹⁰¹ For example, 40 dwellings per hectare could yield 52 units

- 10.45 Reference was made to three recent appeal decisions in Lewes District, relating to sites at North Chailey, Wivelsfield and Bishop's Lane, Ringmer¹⁰². The appellant contended that these decisions support the proposition that CT1 should be regarded as out-of-date. At North Chailey, the Inspector found the planning boundary to be out-of-date in circumstances where the boundary was tightly drawn and it was common ground that it could not accommodate the level of housing required by the JCS. There was no neighbourhood plan. This contrasts with the situation at Ringmer where there is a neighbourhood plan which, together with the JCS, has made provision for most of the relevant housing requirement. [6.25, 7.23]
- 10.46 The situation at Wivelsfield was different in that the Inspector there did not expressly find Policy CT1 to be out-of-date. Instead, she concluded that it '*does not fully accord with the Framework*', a position which the Council appears to have agreed with in that case¹⁰³. The arguments appear to have been put rather differently in that appeal. In the present appeal, there was no suggestion from any party that Policy CT1 is, in principle, inconsistent with the Framework. In any event, the Wivelsfield decision appears to have turned on the fact that the scheme was found to accord with the emerging JCS (as it then was) and was a preferred site in an emerging neighbourhood plan. The facts are therefore quite different to the current appeal.
- 10.47 From my reading of the Bishops Lane Inspector's Report, it does not appear that the Inspector found Policy CT1 to be out-of-date. Rather, he found that it was outweighed by the compliance of the appeal scheme with the emerging development plan context, albeit that there was a degree of conflict with the emerging RNP. This reasoning was accepted by the Secretary of State¹⁰⁴. Consequently, while I have noted all three of the decisions referred to, they do not alter my findings as set out above. [7.27]
- 10.48 There was no suggestion from any party that any relevant policy other than Policy CT1 should be regarded as out-of-date or inconsistent with the Framework. I therefore conclude that the development plan context for this appeal should be regarded as up-to-date.

Other material considerations

Delivery of housing

- 10.49 One of the objectives of the Framework is to boost the supply of housing. Thus the delivery of housing is to be regarded as a benefit of the scheme, notwithstanding the fact that the Council is able to demonstrate a five year supply of deliverable sites. This is reflected in the terms of the JCS and RNP which express housing numbers as a minimum. The appellant emphasised that the JCS Inspector found that the Council could '*only just*' demonstrate a five year supply and that the JCS requirements are set at a figure below the objectively assessed need (OAN) for the district. [6.6, 6.13, 6.24, 7.41]

¹⁰² CH3 (APP/P1425/W/15/3138509); CH4 (APP/P1425/W/15/3135335) and CD17 (APP/P1425/W/14/3001077)

¹⁰³ See paragraphs 16 and 30

¹⁰⁴ See paragraph 12.4 of the report and paragraph 20 of the decision letter

10.50 I take into account the JCS Inspector's comments on housing land supply. In circumstances where the supply is tight, additional supply is to be welcomed. However, the housing requirement is set out in a very recently adopted JCS and reflects a balance between housing needs and what is achievable within the constraints affecting the district. That balance has been found to be sound through the examination of the JCS. Consequently, I attach little additional weight to the delivery of housing as a result of the OAN position.

10.51 The Agreement would secure the delivery of 40% of the dwellings as affordable units. Given the acknowledged shortage of affordable housing in the district this is also an important benefit of the scheme. [1.8, 6.13, 7.41]

10.52 The delivery of housing would also bring economic benefits, during the construction phase and through increased domestic spending in the local economy. The appellant's evidence also makes reference to new homes bonus. However, as there is no evidence of how such receipts might be used I have attached very little weight to this factor. [6.23, 7.41]

Delivery of sports facilities

10.53 The Council and the appellant agreed that the delivery of sports facilities should be regarded as a benefit which weighs in favour of the appeal scheme. In contrast, the Parish Council argued that the facilities offered are a poor match with what the RNP says is needed. The Parish Council considers that the need in Ringmer is for low cost facilities such as grass pitches and running tracks or routes. The parties also differed over the prospects for delivery of sports facilities, if the appeal scheme were not to go ahead. [6.14, 7.37, 8.9]

10.54 In considering how much weight to attach to the delivery of sports facilities it is helpful to start with the evidence on need. The appeal scheme seeks to deliver elements of the five items set out in Policy RG3. It is common ground between all parties that the items relating to RFC and the cricket club are now likely to be provided elsewhere. The remaining items are an indoor sports hall, sports pitches and youth centre¹⁰⁵. The evidence base for Policy RG3 is dated, in that the policy is derived from the LP03. Only the sports pitches are still identified as being needed in the more recent RNP¹⁰⁶. Representations from local organisations include:

- Ringmer Cricket Club – the club wrote in support of the appeal, noting that it would like to use the sports hall for winter coaching sessions
- Ringmer Rovers Junior Football Club – the club supported community based sports provision as part of a housing scheme (in the context of consultations on the draft RNP in 2013)

¹⁰⁵ The Council and the appellant agreed that a youth centre could be accommodated within the sports hall

¹⁰⁶ Policy RG3 has been retained by the JCS, which was adopted more recently than the RNP. If there is a conflict between the two policies, it should be resolved in favour of Policy RG3. However, this part of the report considers the respective evidence bases underpinning the two policies, which is a different matter.

- Ringmer Community College - a letter to the Council, in response to the application, on behalf of RCC supported the principle of the development as a means of delivering the proposed indoor sports hall

Whilst it is right to record that there is some evidence of support for the sports element of the appeal proposals, the above does not in my view amount to a comprehensive evidential basis for concluding that the community at large would place a high value on the particular facilities offered by the appeal scheme. [6.14, 6.15]

10.55 The Parish Council considers that the need is for outdoor sports, in accordance with RNP Policy 7.4. The supporting text to that policy states that:

'Provision of football pitches is woefully inadequate to meet current needs. Ringmer has no rugby or hockey team, no netball team, no athletic facilities and few facilities for informal sport of any type.'

At the Inquiry the appellants pointed out that some of the documents referred to in the RNP evidence base do not provide direct evidence of the need for the facilities sought by policy 7.4. Whilst that may be so, the documents in question form only part of a lengthy discussion about sports facilities in Ringmer which is set out within the RNP evidence base. In any event, the RNP has now been examined, found to meet the basic conditions, passed by referendum and made. Consequently, the plan as a whole, including the above comments, should be regarded as evidence of what the community regards as necessary in order to deliver sustainable development in Ringmer. [6.15, 8.8, 8.9]

10.56 Turning to the prospects for delivering sports facilities, the first point to note is that the appellant and the Parish Council are promoting very different visions of what the sports facilities would comprise. The appellant's vision includes a substantial indoor sports hall together with an all-weather pitch and associated facilities. The estimated costs for the illustrative scheme are around £3 million. The Parish Council's vision is for grass pitches, which are likely to be achievable at a much lower cost. The RNP envisages that the whole of the appeal site would be required. [8.23]

10.57 The Council and the Parish Council referred to the CIL charging scheme which is now in place. Ringmer will receive 25% of such receipts which could be directed towards provision of sports facilities. In addition, the RNP refers to the potential for grant funding by national bodies for local provision of sports facilities. [7.38]

10.58 The appellant argued that it is unrealistic to expect sports facilities to be provided other than through its scheme. The reasons given included that Policy RG3 has remained unimplemented since the adoption of LP03, that the Parish Council would not be able to fund land acquisition, that the evidence would not support the compelling case needed to justify compulsory acquisition and that Policy RG3 itself was unlikely to survive review under LPpt2 due to the poor prospects of delivery. In summary, the appellant characterised the appeal scheme as the 'last chance saloon' for delivering sports facilities at the appeal site. [6.18 – 6.21]

10.59 Aspirations for a previous incarnation of RFC to relocate to the appeal site appear to have been a central feature of Policy RG3 at the time it was adopted.

That did not happen, for reasons which were specific to the fortunes of RFC. Matters have moved on and the current RFC is planning to move elsewhere. Consequently, it seems to me that the history of non-implementation of Policy RG3 has little bearing on the prospects for future delivery of sports facilities at the appeal site. [7.38, 8.4]

10.60 The appellant made submissions about the basis for valuation in a compulsory purchase scenario. However, there was no actual evidence on valuation matters before the Inquiry, either in relation to open market values or in relation to compensation following compulsory acquisition. No compulsory purchase order has been made and there is no evidence that this course of action has been considered. I therefore attach limited weight to the submissions in relation to valuation or to those relating to the prospects for such an order being confirmed. That said, it is of course right to point out that the land is privately owned and that some form of agreement with the owners would be needed for Policy 7.4 to be implemented.

10.61 I attach very little weight to the appellant's suggestions regarding the review of Policy RG3 under LPpt2 because that document does not yet exist, even in draft form, and therefore carries no weight in this appeal.

10.62 In conclusion, the appeal scheme would deliver sports facilities in accordance with retained Policy RG3, insofar as they are still relevant. That would be a benefit of the scheme. Insofar as it would result in housing being built, it would preclude the provision of sports pitches on a significant proportion of the site, which would be a disadvantage. Whilst the facilities listed in Policy RG3 would be delivered, the evidence of need for that combination of facilities is dated. The appeal scheme is not closely aligned with the type of sports facilities recently identified, through the neighbourhood planning process, as being needed in Ringmer.

10.63 In the absence of details of valuation, development costs and sources of funding there is no certainty that the Parish Council would be in a position to deliver sports pitches at the appeal site. On the other hand the evidence does not, in my view, support a conclusion that the appeal scheme is the only way of delivering such facilities. [7.39]

10.64 Having regard to all of the above factors, I attach only moderate weight to the benefit of providing sports facilities as part of the appeal scheme.

Effect on heritage assets

10.65 Broyle Gate Farmhouse and the associated farm buildings are Grade II listed buildings. The principal building has significance as a well-preserved 17th century farmhouse. The 18th century farm buildings have significance in their own right and, taken together, all of the buildings have additional significance as a coherent farm group. The setting of the farm group includes the appeal site, to the south, which was formerly associated with the farm. It also includes open farmland on the north side of Lewes Road. Although there is no longer any functional link with the farmland, this setting enhances the ability to appreciate the buildings and therefore makes a positive contribution to their significance as designated heritage assets. [4.6]

10.66 The proposed development would be to the east and south of the listed buildings. They would become cut off from the immediately adjoining farmland and would effectively be subsumed within the built up area of Ringmer. In my view the proposals would fail to preserve the setting of the listed buildings. This would be harmful to their significance as designated heritage assets. There would be no physical change to the buildings themselves and I agree with the findings of the heritage assessment which characterised the degree of harm to their significance as 'less than substantial' in the terms of the Framework. However, such harm is not to be equated with harm which is unimportant or inconsequential. Mindful of the relevant statutory duty¹⁰⁷, I attach considerable weight to the harmful effect on the settings of the listed buildings. The Framework requires the harm to be balanced against the benefits of the scheme. I return to that balance in the conclusions of this report. [4.7]

10.67 There would also be some impact on the setting of Little Thatch Cottage, although this is an undesignated heritage asset and the proposed development would not wrap around it in the same way. Consequently, this adds little further weight to the case against the appeal.

Scale and pace of housing development at Ringmer

10.68 The Parish Council drew attention to the comments of the JCS Inspector regarding infrastructure constraints at Ringmer. Concerns were expressed that the pace of housing development would outstrip the growth of employment, resulting in additional commuting out of the village by car. It was also suggested that the primary school would not be expanded soon enough to meet the additional demand for places. Nevertheless, it is important to note that, notwithstanding the constraints identified, the JCS has determined that the planned growth at Ringmer should be a minimum of 385 dwellings. Although the appeal scheme would take total provision above the figure of 385, the total would still be broadly consistent with the minimum level of growth envisaged in the JCS. I therefore conclude that this is not a matter which weighs significantly against the appeal. [3.2, 3.4, 8.26, 8.27]

Transport

10.69 Shops and local facilities within Ringmer would be accessible on foot and by cycle. There are bus stops within 150m of the site access providing services to facilities in Lewes and other centres. The Agreement makes provision for bus stop enhancements. [1.7, 4.5, 5.3]

10.70 Some local residents are concerned about traffic congestion and highway safety. I saw that there is satisfactory visibility at the proposed point of access and I note that visibility splays would be provided in accordance with the highway authority's requirements. The transport assessment has considered the effects of generated traffic on nearby junctions and no significant network impacts have been identified. The Agreement makes provision for a contribution to improvements at Earwig Corner (the junction of the B2192 Lewes Road with the A26), in the event that these works have not already been funded by a previous s106 agreement in connection with development at Bishops Lane, Ringmer. This is not a matter which weighs against the appeal. [1.7, 4.5]

¹⁰⁷ s66, Planning (Listed Buildings and Conservation Areas) Act 1990

Other matters

- 10.71 The Parish Council suggested that the appeal scheme would prejudice the proposed relocation of RFC, thereby preventing the RNP allocation of 40 units at Caburn Field from coming forward. However, there was very limited information about this proposal before the Inquiry, other than the agreed position of the Council and the appellant that it is likely to go ahead.
[6.14, 6.44, 7.10, 8.19 – 8.21]
- 10.72 The Parish Council also argued that the appeal scheme may not be viable due to the costs of the sports and leisure facilities, together with other development costs. There was very little evidence in support of this suggestion.
[6.45, 8.23, 8.24]
- 10.73 The appellant suggested that the reasons for not selecting the appeal site as an allocation in the RNP had been overcome by the deletion of the former green gap policy and because technical concerns had been overcome. Attention was also drawn to the number of people who had indicated a preference for the site during consultations on the draft RNP. The process of selecting site allocations is inevitably a comparative one, in which the plan making body considers the relative merits of candidate sites. Consultation is part of that process but is not the only factor. The merits of the other candidate sites were not discussed at this Inquiry, nor should they have been because it was not the task of this Inquiry to re-examine the RNP. The outcome of the neighbourhood planning process was that the RNP has been made with several sites allocated for residential development. The appeal site was not one of them. [6.30, 7.32]
- 10.74 The application was supported by a flood risk assessment which concluded that the site is at low risk of flooding. The Council accepted that drainage could be covered by a condition.
- 10.75 These other matters do not in my view add materially to the case for or against the appeal.

Planning balance

- 10.76 For the reasons given above, I conclude that the proposal would conflict with policies CT1 and RG3 (which are retained by the JCS) and with RNP policies 6.3 and 7.4. Notwithstanding that other policies would be complied with, these conflicts are of sufficient importance to lead me to conclude that the appeal scheme would conflict with the development plan as a whole.
- 10.77 The development plan is up-to-date and I have not identified any reason to reduce the weight to be attached to any of the policies relevant to this appeal.
- 10.78 There are other material considerations which should be taken into account. The key factor weighing in favour of the appeal is the delivery of housing, including affordable housing, to which I attach significant weight. For the reasons given above, I attach only moderate weight to the delivery of sports and leisure facilities.
- 10.79 On the other hand there would be harm to the setting of listed buildings. Although the harm would be less than substantial, (in the terms of the Framework), this is nevertheless a matter of considerable importance. There would also be harm to the landscape to which I attach moderate weight.

10.80 The proposal would have benefits in terms of the economic and social roles of sustainable development, (as defined in the Framework), through the delivery of housing, including affordable housing, and (to a lesser extent) through the delivery of sports facilities. However, notwithstanding the views of the Council and the appellant, I have found that there would be harm to the environmental role in relation to heritage assets and landscape. Moreover, there would harm to the social role in relation to the conflict with the development plan. In this regard, I note that the Framework states that, where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. On balance, I conclude that the appeal scheme would not represent sustainable development.

10.81 My overall assessment is that the other material considerations weighing in favour of the appeal are not sufficient to outweigh the conflict with the development plan, together with the other material considerations weighing against the appeal. The balance of the other material considerations, taken together, is not sufficient to indicate that the appeal should be determined other than in accordance with the development plan.

10.82 As noted above, the proposal would conflict with RNP Policy 4.1 insofar as the housing element would be outside the planning boundary and would have an adverse effect on the landscape. This policy requires adverse impacts to be balanced against the benefits of the development. For the same reasons, I conclude that the proposal would conflict with Policy 4.1.

10.83 My recommendation will therefore be that the appeal be dismissed.

RECOMMENDATION

11.1 I recommend that the appeal be dismissed.

11.2 If however the Secretary of State considers that the appeal should be allowed, and outline planning permission granted, the recommended planning conditions are at Annex C.

David Prentis

Inspector

Annex A**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:

Clare Parry	of Counsel
She called	
Sarah Sheath	Senior Planning Officer, Lewes District Council
BSc(Hons) DipTP MRTPI	

FOR THE APPELLANT:

Christopher Boyle	Queens Counsel
He called	
Steven Brown	Woolf Bond Planning LLP
BSc(Hons) DipTP MRTPI	

FOR RINGMER PARISH COUNCIL:

John Kay	Chair, Ringmer Parish Council
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INTERESTED PERSONS:

Cllr Prof Peter Gardiner	Member, Lewes District Council
PhD BSc MEng CEng FICE	
John Jackson	Local resident
Andrew Cooper	Local resident

Annex B**DOCUMENTS**

	<i>Application Documents</i>
	The application documents are contained in Bundle A – Volume 1 (Documents 1 – 8) and Bundle A - Volume 2 (Documents 9 – 18)
	<i>Core Documents</i>
CD1	Officer's report
CD2	Decision notice
CD3	Saved policies of the Lewes District Local Plan 2003
CD4	Joint Core Strategy Inspector's initial findings (February 2015)
CD5	Joint Core Strategy Submission Version (August 2015)
CD6	Joint Core Strategy Inspector's Report (March 2016)
CD7	Joint Core Strategy Inspector's Report Appendix – Main Modifications (March 2016)
CD8	Lewes District Council – SHLAA (June 2014)
CD9	Lewes District Council – SHELAA (October 2015)
CD10	Draft Ringmer Neighbourhood Plan (August 2014)
CD11	Ringmer Neighbourhood Plan Examiner's Report (December 2014)
CD12	Ringmer Neighbourhood Plan (Made February 2016)

CD13	Screening opinion (July 2014)
CD14	Lewes District Council Housing Land Supply Position at October 2015
CD15	Lewes Outdoor Playing Space Review (October 2004)
CD16	Hedgerow Retention Notices (December 2000)
CD17	Appeal Decision, Land North of Bishops Lane, Ringmer (January 2016)
CD18	Lewes District Local Plan – Part 1 – Joint Core Strategy (May 2016)
	<i>Proofs of Evidence and documents submitted at the Inquiry</i>
	<i>Documents submitted by the Council</i>
LDC1	Proof of evidence – Sarah Sheath
LDC2	Appendices to proof of evidence – Sarah Sheath
LDC3	CIL Compliance Statement
LDC4	Opening submissions
LDC5	Closing submissions
	<i>Documents submitted by Croudace Homes</i>
CH1	Proof of evidence – Steven Brown
CH2	Appendices to proof of evidence – Steven Brown
CH3	Appeal Decision – Oaklea Warren, North Challeys
CH4	Appeal Decision – Springfield Industrial Estate, Wivelsfield
CH5	Informal Recreational Space Study (October 2005)
CH6	A Strategy for Residential Development in Ringmer (July 2009)
CH7	Documents relating to Freedom Leisure
CH8	Lewes District Council Cabinet Meeting - Report and Minutes (24 September 2015) together with note by Natalie Carpenter
CH9	Artificial Surfaces for Outdoor Sport – Sport England (2013)
CH10	Comparative Sizes of Sports Pitches and Courts – Sport England (2015)
CH11	Closing submissions
	<i>Documents submitted by Ringmer Parish Council</i>
RPC1	Proof of evidence
RPC2	Summary proof of evidence
RPC3	Comments on Statements of Common Ground
RPC4	Opening submissions
RPC5	Housing delivery in Ringmer
RPC6	Closing submissions
RPC7	Housing delivery in Ringmer - update
	<i>Documents agreed between the Council and Croudace Homes</i>
LDC/CH1	Statement of Common Ground - Planning
LDC/CH2	Statement of Common Ground - Transport
LDC/CH3	List of agreed conditions dated 5 May 2016
LDC/CH4	S106 Agreement dated 12 May 2016
	<i>Other documents</i>
OD1	Proof of Evidence – Peter Gardiner
OD2	Letter from Harvey and Joanna Linehan (10 May 2016)
OD3	Letter from Ryan Hannigan (undated)

Annex C

CONDITIONS

- 1) Details of the appearance, landscaping (to include details of the informal open space), layout (to include details of the facilities for storage and removal of refuse and recycling) 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 not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The new access shall be in the position shown on the submitted plans (14/0605/SK01B and 14/0605/SK02B) and shall be laid out and constructed in accordance with those plans prior to the occupation of the development hereby permitted.
- 5) No development shall take place until detailed drawings, including levels, sections and construction details of the proposed roads, along with details of surface water drainage, outfall disposal and street lighting (as necessary), in accordance with the local highway authority's standards, have been submitted to and agreed in writing by the local planning authority. The submitted details shall include a soil survey report which shall include the results of California Bearing Ratio tests taken along the lines of the proposed roads. The roads shall thereafter be constructed in accordance with the approved drawings and details.
- 6) No works in connection with the development hereby approved, including site preparation works, shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall provide information including details of the:
 - a) anticipated number, frequency and types of vehicles to be used during construction
 - b) methods of access and routing of vehicles and hours of operations (which should avoid the peak traffic times), including those of site operatives, during construction
 - c) parking of vehicles of contractors, site operatives and visitors
 - d) loading and unloading of plant, materials and waste
 - e) storage of plant and materials used in construction of the development
 - f) the appearance, erection and maintenance of security fencing
 - g) provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders)
 - h) measures to control the emission of dust, dirt, air pollution and odour during demolition and construction
 - i) lighting for construction and security

- j) public engagement both prior to and during construction works
- k) means of safeguarding public rights of way or providing temporary diversions
- l) hours of demolition and construction works

The approved CMP shall thereafter be implemented and adhered to throughout the entire site preparation and construction period.

- 7) No dwelling shall be occupied until the site accesses, estate roads, footways, casual parking areas, cycle parking areas and vehicle parking and turning spaces serving that dwelling have been constructed, surfaced and drained in accordance with the details approved pursuant to condition 5. Parking and turning spaces shall thereafter be retained for their designated use for the lifetime of the development.
- 8) No development shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage scheme should demonstrate that the surface water run-off generated up to and including the 100 year critical rain storm (plus an allowance for climate change) will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall also include:
 - a) details of specific measures for minimising the risk of deterioration in water quality of receiving watercourses and waterbodies downstream (for both the construction and operational phases of the development) and
 - b) details of how the scheme shall be maintained and managed thereafterThe scheme shall be implemented and thereafter managed and maintained as approved for the lifetime of the development.
- 9) No development shall take place until a scheme for the disposal of foul sewage from the site has been submitted to and approved in writing by the local planning authority. No part of any phase of the development shall be occupied until the approved scheme has been implemented for that phase in accordance with the approved scheme.
- 10) No development shall take place until a detailed scheme of ecological enhancements and mitigation measures, to include ongoing management as necessary, based on the recommendations of the Protected Species Surveys Report (November 2014) by The Ecology Consultancy has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out and managed thereafter in accordance with the approved details for the lifetime of the development.
- 11) No development shall take place until details of finished floor levels and ground levels in relation to the existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 12) Prior to the commencement of development hereby approved (or such other date or stage in development as may be agreed in writing with the

local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- a) a preliminary risk assessment identifying:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
- b) a site investigation scheme based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site
- c) an options appraisal and remediation strategy based upon the site investigation results and the detailed risk assessment (b) giving full details of the remediation measures required and how they are to be undertaken
- d) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action

The scheme shall thereafter be implemented as approved.

- 13) No part of the development hereby permitted shall be occupied until a verification report demonstrating completion of the works set out in any remediation strategy approved pursuant to condition 12 and the effectiveness of such remediation has been submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include as necessary a Long-term Monitoring and Maintenance Plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification report, and for the reporting of the monitoring to the local planning authority. Any Long-term Monitoring and Maintenance Plan shall thereafter be implemented as approved.
- 14) Any monitoring programme set out in a Long-term Monitoring and Maintenance Plan approved pursuant to condition 13 shall not be discontinued unless and until a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring has been submitted to and approved in writing by the local planning authority.
- 15) If, during development, contamination not previously identified is found to be present on the site then no further development shall be carried out until an amendment to the remediation strategy showing how this unsuspected contamination is to be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall thereafter be implemented as approved.
- 16) No development shall take place until an external lighting scheme has been submitted to and approved in writing by the local planning authority. The

external lighting scheme shall include hours of use, shall include the proposed sports and leisure facilities and the proposed residential development and shall be generally in accordance with the recommendations of the lighting assessment by WYG Planning and Environment (Ref A089647, dated 20 October 2014). All external lighting shall thereafter be installed and operated in accordance with the approved scheme for the lifetime of the development and no new external lighting shall be installed other than in accordance with the approved scheme.

- 17) No development shall take place until a scheme for protecting the proposed dwellings from road noise has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until any works which form part of the scheme and which are relevant to that dwelling have been completed. The scheme shall achieve the following:
- (a) the noise rating associated with any mechanical ventilation systems within any (unoccupied) domestic living room or bedroom with windows open (during the day or at night) shall be no more than NR30
 - (b) the noise level within any (unoccupied) domestic living room or bedroom with windows open shall be less than 35 dB LAeq, 16hr during the day and less than 30 dB LAeq, 8hr at night
 - (c) the noise level due to road traffic within any (unoccupied) domestic bedroom with windows open shall not exceed 45 dBL AFMAX at night
 - (d) the noise level due to road traffic shall be less than 55 dB LAeq, 16hrs on balconies, terraces and in outdoor living areas during the day time
- Where the standards (a), (b) and (c) above cannot be achieved with windows open they shall be achieved with windows shut and other means of adequate background ventilation shall be provided. For the purposes of (a), (b), (c) and (d) above day is taken to be 07:00 to 23:00 hours.
- 18) An assessment of the acoustic impact arising from the operation of all internally and externally located plant associated with the sports and community building shall be undertaken in accordance with BS 4142:2014. The assessment shall be submitted to the local planning authority together with a scheme of attenuation measures to mitigate any adverse impacts identified in the acoustic assessment. The use of the sports and community building shall not commence until: (1) the scheme has been approved in writing by the local planning authority; (2) the scheme has been tested to confirm that it meets the predictions on completion and (3) a report of the results of that testing has been submitted to and approved in writing by the local planning authority.
- 19) No development shall take place until the developer has secured the implementation of a programme of archaeological work, in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the local planning authority and the archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) has been completed in accordance with the approved programme.
- 20) No development (including demolition or clearance works) shall take place until a tree and hedgerow impact assessment and a tree and hedgerow

protection method statement have been submitted to and approved in writing by the local planning authority. The statements shall show how unacceptable damage to both above and below ground parts of retained and protected trees and hedgerows will be avoided, in accordance with the current British Standard 5837. The statements shall include details of trees to be removed and those to be retained, protective fencing, any service runs likely to affect tree or hedgerow roots and pruning works, as well as details of a scheme of supervision by a qualified tree specialist instructed by the applicant. The approved impact/method statements shall be adhered to in full throughout the construction of the development hereby approved.

- 21) No retained tree or hedgerow shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development process and up until completion and full occupation of the buildings for their permitted use, other than in accordance with the tree and hedgerow impact assessment and the tree and hedgerow protection method statement approved pursuant to condition 20.
- 22) The sports and recreation facilities hereby permitted shall not be used at any time except between the hours of 07:30 and 22:00 on any day.
- 23) No development shall take place until details of the phasing of the development, including the provision of the sports and recreation facilities, have been submitted to and approved in writing by the local planning authority. The details shall ensure that the works comprised in the provision of the sports and recreation facilities hereby permitted are completed and that on-going maintenance and management provisions are also in place prior to the occupation of the last dwelling. The approved sports and recreation facilities shall be implemented and thereafter managed in strict accordance with these approved details.

Richborough Estates



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.