



Department for
Communities and
Local Government

Our Ref: APP/P1425/W/15/3119171

Mr Nick Stafford
David Lock Associates Limited
50 North Thirteenth Street
Central Milton Keynes
MK9 3BP

23 November 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY DLA DELIVERY
RESIDENTIAL DEVELOPMENT OF UP TO 50 DWELLINGS ON LAND AT
MITCHELSWOOD FARM, ALLINGTON ROAD, NEWICK, LEWES BN8 4NH
APPLICATION REF: LW/14/0703**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Matthew Birkinshaw BA(Hons) MSc MRTPI, who held a public local inquiry from 9 – 12 February 2016 into your client's appeal against the decision of Lewes District Council ('the Council') to refuse planning permission for your client's application for planning permission for a residential development of up to 50 dwellings (including affordable housing), open space and landscaping, new vehicular and pedestrian access and car parking, in accordance with application ref: LW/14/0703, dated 9 September 2014.
2. Following the close of the inquiry, 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 the appeal involves a proposal for residential development of over 10 units in an area where a qualifying body had submitted a neighbourhood plan proposal to the local planning authority; or where a Neighbourhood Plan has been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal should be allowed and planning permission be granted subject to the conditions in Appendix C of his report and the accompanying planning obligation.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to grant the appeal and allow planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

5. The Secretary of State is in receipt of post inquiry representations from Mr Gary Loveman, dated 25 May 2016 and from Ms Seona Lightfoot, dated 29 June and 5 July 2016, which were received too late to be considered by the Inspector. The Secretary of State has given careful consideration to these representations and he is satisfied they do not raise new matters that would affect his decision and he has not considered it necessary to circulate them to other parties. Copies of the representations can be made available on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

6. 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.
7. In this case the development plan consists of saved policies of the Lewes District Local Plan (LDLP), the Joint Core Strategy (JCS) and the Newick Neighbourhood Plan (NNP). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR20-27.
8. 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').

Main issues

9. The Secretary of State agrees with the Inspector that the main issues are those set out at IR157.

Newick Neighbourhood Plan

10. For the reasons given at IR161 the Secretary of State agrees that neither the JCS nor the NNP place a cap on development in Newick. The Secretary notes that the Council accepts that more sites may ultimately need to be allocated in Newick through the site allocations process (IR162). He further notes (IR162) that policy HO1 of the NNP refers to housing built on sites identified in the NNP or on other sites within the Parish.
11. The Secretary of State agrees, for the reasons set out at IR163-167, that the NNP does not give a clear policy basis to refuse planning permission on sites not allocated in the NNP if they are acceptable in all other regards.
12. With regard to the preservation of a 'green gap' between Newick and neighbouring settlements, the Secretary of State agrees, for the reasons given at IR168, that there is no policy conflict with the NNP. For the reasons set out by the Inspector at IR169-170, the Secretary of State agrees that the proposal would not give rise to an obvious

coalescence of Newick and Challey, and, subject to a high quality design at the reserved matters stage, that the change from the rural approach to the appeal scheme could be done sensitively and successfully.

13. As such the Secretary of State concludes, in agreement with the Inspector at IR171, that while the appeal site is not one allocated for housing in the NNP, this does not render the proposal unacceptable in principle. The Secretary of State has therefore gone on to consider whether the proposal would constitute sustainable development in line with the requirements of the Framework.

Landscape character

14. For the reasons given at IR173-178 the Secretary of State does not find that the site is part of a valued landscape, as defined by paragraph 109 of the Framework. He further notes that it is not within the Low Weald, described by the JCS as 'highly valued'.
15. The Secretary of State agrees, for the reasons set out at IR180-188, that while the redevelopment would change the character and appearance of the area around the western end of Newick, the site is visually separated from, and materially different to, the swathe of open countryside beyond. He notes that it has been identified by the Lewes District and South Downs National Park Authority Landscape Capacity Study as one of the preferred areas for development around Newick and, in landscape terms, has the greatest scope for change. He concludes that, subject to an appropriate design and inclusion of a robust landscape buffer at the reserved matters stage, the development would continue to be broadly contained within the built envelope of Newick when viewed from public vantage points to the south.
16. As such, the Secretary of State concludes, in agreement with the Inspector (IR190), that the proposal would not materially harm the landscape character of the area. As such he concludes that there is no conflict with policy EN1 of the NNP, or the vision of the NNP which states that the most highly valued countryside areas will be recognised and conserved. He further finds that the proposal accords with the Framework, which states that planning should take account of the different roles and character of different areas and recognise the intrinsic character and beauty of the countryside.

Accessibility

17. For the reasons given at IR191-195 the Secretary of State agrees that the location of the site would not result in reliance upon the need to travel by car. As such he finds no conflict with the Framework, which seeks to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. He agrees with the Inspector that, subject to the provision of a Travel Plan, which could be controlled by condition, the scheme would accord with NNP Policy TC1 (IR195).

Other material planning considerations

18. For the reasons given at IR196-201 the Secretary of State agrees that the provision of 20 affordable homes is a tangible benefit of significant weight.
19. The Secretary of State has had regard to the Inspector's assessment of five year housing land supply at IR196-206, and agrees, for the reasons given, that the Council can demonstrate a five year supply of housing land. However, he notes that the Examining Inspector who held an inquiry into the JCS stated that there was very little flexibility. He

agrees with the Inspector in this appeal (IR206) that the ability to demonstrate a five year supply does not negate the need for more development to come forward.

20. Turning to the potential impact of the proposal on infrastructure and social cohesion, for the reasons given at IR207-209 the Secretary of State agrees that no evidence has been provided to demonstrate that the level of growth would be unsustainable or undermine existing services. He notes that it is common ground between the main parties that the effects of the appeal proposal would be adequately mitigated (IR210). For the reasons given at IR211 he agrees that, subject to providing an appropriate mix and balance of housing at the reserved matters stage, retaining pedestrian connectivity and including areas of open space, there is no reason why the proposal would not be able to make a positive contribution to the social core of the village, especially given the amount of affordable housing proposed.
21. The Secretary of State notes that the Council has concluded (IR213) that the proposal would not result in any likely significant effects on the Ashdown Forest Special Protection Area or Special Area of Conservation, and agrees with the Inspector's conclusion that the proposal would not result in any likely significant effects on the internationally important features of the designated areas, either in isolation or combined with other projects.
22. For the reasons set out at IR214-218 the Secretary of State agrees that, subject to a scheme of ecological enhancement and mitigation measures, the scheme would not give rise to any significant harm to biodiversity. He therefore concludes that there is no conflict with NNP Policy EN2, in agreement with the Inspector (IR219).
23. With regard to traffic generation, the Secretary of State finds, for the reasons given at IR220-223, that there is no robust evidence to suggest that the proposal would cause traffic to reach hazardous levels. He further finds, for the reasons set out at IR223, that the scheme would be highly unlikely to exacerbate the peak hour on-street parking issues cited by residents, and that subject to providing sufficient spaces in the development there would be no need for potential future occupants to park on Allington Road.
24. For the reasons given at IR224, the Secretary of State finds that, subject to an appropriately worded condition, the proposal would not exacerbate any existing capacity problems with regard to drainage of surface water. He further finds (IR225) that the issue of foul drainage could be dealt with by a suitable condition, for the reasons set out by the Inspector.

Planning conditions

25. The Secretary of State has given consideration to the Inspector's analysis at IR130-140, the recommended conditions set out at the end of the IR and the reasons for them, 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 paragraph 206 of the Framework.

Planning obligation

26. Having had regard to the Inspector's analysis at IR141-146, the planning obligation dated 12 February 2016, 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 for the reasons given in IR146 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of

the Framework and is necessary to make the development acceptable in planning terms, directly related to the development, and is fairly and reasonably related in scale and kind to the development.

Planning balance and overall conclusion

27. For the reasons given by the Inspector at IR227-228 the Secretary of State agrees that saved LDLP Policy CT1 is out of date. As such the Secretary of State considers that paragraph 14 of the Framework is engaged. He has therefore considered whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies as a whole.
28. Weighing in favour of the proposal, the Secretary of State finds that it would contribute to the supply of housing, in a District where the full, objectively assessed, need cannot be met, where delivery is heavily constrained by other factors, and where the five year supply of housing land is marginal, and the Secretary of State gives this substantial weight. He gives further limited weight to the additional expenditure within Newick and support for the shops and services which the development would produce.
29. Noting that JCS Policy SP2 identifies a minimum of 100 houses for Newick, and that the Council does not propose conflict with this policy, and accepts that further non-strategic allocations maybe required in Newick, he further finds that the provision of 50 additional properties in Newick would be consistent with the spatial distribution of housing in the JCS, and concludes that the fact that the site was not allocated in the Core Strategy does not indicate that it is unsuitable. He thus finds that the proposal is consistent with the economic role of sustainable development.
30. With regard to the social element of sustainable development, the Secretary of State finds that the provision of 20 affordable homes, in an area where the need is acute, carries significant weight in favour of the proposal, in particular given that there is nothing to restrict the development coming forward in a timely manner and that the site is not subject to the requirement to provide Suitable Alternative Natural Greenspace, unlike other sites in Newick. The Secretary of State also notes that Newick has a range of local services to meet the needs of its residents, which would be accessible by foot from the development, and that larger settlements are accessible by bus. As such the Secretary of State concludes that the scheme would comply with the social element of sustainable development.
31. Given his conclusions on the coalescence of settlements and impact on landscape character, the Secretary of State finds no conflict with LDLP Policy CT1 in this regard. He further finds that through mitigation measures the scheme would protect and improve habitats, consistent with the environmental role of the planning system. As such he finds that the proposal would comply with the environmental element of sustainable development. He thus concludes that the proposal represents sustainable development for which there is a presumption in favour.
32. Weighing against the proposal is the location of the appeal site in an area not allocated for housing by the NNP. However, the Secretary of State finds that the NNP does not place a cap on new housing, nor that it makes other sites elsewhere in the Parish unacceptable in principle. He further notes that the NNP Examiner concluded that there was insufficient detail regarding the 'green gap' to justify the inclusion of a policy to protect it. For the reasons given at IR239 the Secretary of State concludes that there are no robust reasons to suggest that allowing an additional 50 houses would be so

significant as to undermine the spatial distribution of housing in the JCS or the NNP, or lead to an unsustainable level of growth in Newick. As such he does not find a conflict with the NNP.

33. He also finds that the weight that can be given to the conflict with LDLP Policy CT1 is reduced for the reasons set out by the Inspector or IR227, and he gives only limited weight to this conflict.
34. As such he concludes that the adverse impacts of the proposal do not significantly and demonstrably outweigh its benefits. The Secretary of State therefore concludes that the appeal should be allowed and planning permission granted.

Formal decision

35. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission for a residential development of up to 50 dwellings (including affordable housing), open space and landscaping, new vehicular and pedestrian access and car parking, in accordance with application ref: LW/14/0703, dated 9 September 2014, subject to the conditions at Annex A of this letter and the planning obligation of 12 February 2016.

36. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

37. 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.
38. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
39. A copy of this letter has been sent to Lewes District Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully,

Philip Barber

Authorised by Secretary of State to sign in that behalf

Annex A List of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development 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 not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The approved access shall be constructed in the position shown on the submitted illustrative masterplan (Ref ZMG734/022) and shall be laid out and constructed in accordance with details first submitted to and approved in writing by the local planning authority. The works shall be carried out as approved and prior to the first occupation of any of the dwellings hereby permitted.
- 5) No development shall take place until a surface water drainage scheme for the site, 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:
 - 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 development); and
 - Details of how the scheme shall be maintained and managed after completion and for the lifetime of the development.

The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.

- 6) 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.
- 7) No development shall take place until a detailed scheme of ecological enhancements and mitigation measures, to include on-going management as necessary, based on the recommendations of the Ecological Assessment (September 2014) by Aspect Ecology Ltd 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.
- 8) 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.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the number, frequency and type of vehicles to be used during construction;
 - methods of access and routing of vehicles, including those of site operatives;
 - parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in the construction;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of any temporary Traffic Regulation Orders);
 - lighting for construction and security;
 - details of public notification prior to and during construction works; and
 - measures to safeguard public rights of way or temporary diversions during the construction process.
- 10) No demolition or construction works shall take place outside 0800 hours to 1800 hours Mondays to Fridays and 0830 hours to 1300 hours on Saturdays and no works shall be carried out on Sundays or Bank Holidays.
 - 11) No development shall take place until detailed drawings, including levels, sections and construction details of the proposed estate roads, along with details of surface water drainage and outfall disposal have been submitted to and approved in writing by the local planning authority. The roads shall thereafter be constructed in accordance with the approved drawings and details.
 - 12) No development shall take place until a soil survey report, to include the results of California Bearing Ratio (CBR) tests taken along the lines of the proposed estate roads have been submitted to and approved in writing by the local planning authority.
 - 13) No construction of the dwellings hereby permitted shall take place until the estate roads have been completed to base course level, together with provision of surface water, foul sewers and main services, in accordance with the details approved under Condition 11.
 - 14) No development shall take place until a programme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved programme.
 - 15) The dwellings hereby approved shall not be occupied until 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 of Archaeological Investigation to the satisfaction of the local planning authority, in consultation with the County planning authority.
 - 16) If, during development, contamination is found to be present at the site then no further development shall be carried out until a Remediation Strategy, based on site investigations, has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall be carried out as approved and provide full details of the remediation measures required and how and when they are to be undertaken. None of the dwellings hereby permitted shall be occupied until a verification report demonstrating completion of the works in the

Remediation Strategy and their effectiveness has been submitted to and approved in writing by the local planning authority. It shall also include as necessary a long-term monitoring and maintenance plan for 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. The plan shall thereafter be implemented as approved.

- 17) No development shall take place until an external lighting scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all street lighting and the illumination of public areas where required. Development shall be carried out in accordance with the approved scheme which shall be adhered to at all times thereafter.
- 18) None of the dwellings hereby approved shall be occupied until a residential Travel Plan Statement has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the Travel Plan which shall include:
 - Targets for the reduction of single occupancy car trips;
 - A methodology for implementing and monitoring the effect of the Travel Plan; and
 - Remedial measures should the targets of the Travel Plan not be met.

Richborough Estates

Report to the Secretary of State for Communities and Local Government

by Matthew Birkinshaw BA(Hons) MSc MRTPI

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

Date: 5 August 2016

Town and Country Planning Act 1990

Appeal by

DLA Delivery

against the decision of

Lewes District Council

Richborough Estates

Inquiry held on 9 - 12 February 2016

Mitchelswood Farm, Allington Road, Newick, Lewes, BN8 4NH

File Ref: APP/P1425/W/15/3119171

File Ref: APP/P1425/W/15/3119171

Mitchelswood Farm, Allington Road, Newick, Lewes, BN8 4NH

- 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 DLA Delivery against the decision of Lewes District Council.
- The application Ref LW/14/0703, dated 9 September 2014 was refused by notice dated 10 February 2015.
- The development proposed is to provide up to 50 residential dwellings (including affordable housing), open space and landscaping, new vehicular and pedestrian accesses and car parking.

Summary of Recommendation: That the appeal be allowed, and that planning permission be granted subject to conditions.

Procedural and Background Matters

1. Following the close of the Inquiry the appeal was recovered for determination by the Secretary of State.
2. The application was submitted in outline with only access for determination at this stage. I have therefore considered the appeal on the same basis, treating the layout, scale, appearance and landscaping of the development as indicative.
3. The Council's Decision Notice includes two reasons for refusal. The first states that the proposal would conflict with the *Newick Neighbourhood Plan (NNP)*¹ and cause harm to local landscape character. The second concerns the lack of appropriate contribution towards local services, infrastructure and affordable housing.
4. By the time the Inquiry opened the NNP had passed the referendum stage and been formally 'made'. The Council had also adopted their Community Infrastructure Levy (CIL) Charging Schedule², and a Section 106 Agreement³ had been progressed by the main parties. On this basis the Council confirmed that they no longer wished to pursue the second reason for refusal⁴, and the Inquiry heard evidence primarily relating to the NNP, landscape character, affordable housing and housing land supply.
5. The Inquiry sat for four days from 9 -12 February 2016. On the first day the appellant confirmed that the existing dwelling proposed for demolition had been repossessed shortly before the event. Because the new owners were unwilling to enter into the Section 106 Agreement a revised red line plan was submitted which effectively removed the house from the appeal site. In turn the appellant also sought to amend the description of development and reduce the number of houses proposed from up to 63, to a maximum of 50. A new illustrative masterplan, Ref ZMG734/022, was submitted to reflect this change⁵.

¹ CD6.1

² CD11.8

³ ID28

⁴ ID29

⁵ ID4

6. In considering the plan revision I have had regard to the principles of natural justice and fairness, referred to at the Inquiry as the 'Wheatcroft Principles'⁶. Although the revision represents a material change to the site area and the number of houses proposed, the main objections from the Council, Parish Council and local residents concern the principle of residential development in light of the made NNP. Other objections relate to its effect on landscape character, the accessibility of local services and additional traffic.
7. At the Inquiry the Council therefore confirmed that the revision did not change their stance, and local residents and the Parish Council remained strongly opposed to the principle of residential development and its environmental impact. The new owners of the existing dwelling were also made aware of the public Inquiry and provided with an opportunity to comment on the plans, but chose to reserve their position and only advise that the access should be retained. Thus, taking into account the revised site plan and illustrative masterplan would not prejudice the interests of any parties, as their primary objections remain. I have therefore considered the appeal as a proposal for up to 50 houses as set out in the banner heading above.
8. During the Inquiry changes were made to the National Planning Practice Guidance ('PPG') concerning neighbourhood plans⁷. In the interests of fairness, and because these changes were not raised at the event, both the main parties were provided with an opportunity to submit any further written comments on the revised guidance, which I have taken into account.
9. On the last day of the Inquiry a signed Section 106 Agreement⁸ was submitted. This makes provision for the delivery of affordable housing on site, financial contributions towards recycling and upgrades to the highway around the site. Given that the agreement had been previously provided in draft, and its contents made available and discussed throughout the Inquiry, the document does not introduce any information which has not previously been available. Taking the Agreement into account would therefore not prejudice the interests of any party.
10. Finally, prior to the recovery of the appeal by the Secretary of State the Inspector's Report on the *Examination into the Lewes District Local Plan – Part 1 – Joint Core Strategy* (JCS) was published⁹. As the emerging JCS and its likely scale and distribution of housing were discussed at length during the Inquiry it was not necessary to re-open proceedings to hear further evidence on these matters. Instead, both parties were provided with an opportunity to submit written representations, which I have considered in making my conclusions.

The Site and Surroundings

11. The appeal relates to a parcel of land located to the south-west of Newick. A plan showing the site's location within the context of the village and broad distances to shops, services and facilities is provided at ID17.

⁶ Bernard Wheatcroft Ltd v SSE [JPL 1982, p37]

⁷ Including Paragraph: 083 Reference ID: 41-083-20160211

⁸ ID28

⁹ PID3 and PID4

12. The northern half of the site consists of an equestrian paddock bounded by hedgerows and a post and rail fence running alongside Allington Road. The southern half comprises a small woodland containing a mix of deciduous broadleaf trees and conifers planted around 30 years ago. Beyond the copse is a large indoor riding arena and area of countryside to the south of the village.
13. A total of 10 trees either on or immediately adjacent to the site boundary are subject to a Tree Preservation Order¹⁰. This includes a combination of Oak trees and Scots Pines. Trees T6 – T10 as identified on the Order are located in the north-east corner of the site, with T2-T5 to the south-eastern boundary. T1 is located close to the existing site entrance.
14. Access to the site is currently taken from Allington Road which leads to Mitchelswood Farm and a row of detached houses on Oxbottom Close. Public Footpath Newick 4a runs diagonally across the site from Allington Road to the south-east corner. Public Footpaths Newick 7 and 8 run to the south-east, south and west of the site, and provide pedestrian access to the wider rural area.

The Proposal

15. Following amendment to the description of development the proposal seeks outline planning permission for the erection of up to 50 dwellings. The indicative plan provided illustrates 49 dwellings contained within the paddock adjacent to Allington Road and stretching either side of Footpath Newick 4a to the south-east corner of the site.
16. In order to facilitate the development removal of a significant area of the copse would be required. Access would be taken from Allington Road directly into the paddock, with the existing track to Mitchelswood Farm retained.
17. Whilst the layout, landscaping, scale and appearance are reserved for future consideration, the appellant's Design and Access Statement¹¹ indicates that the majority of dwellings would be 2-storeys with a mix of 2, 3, 4 and 5 bedroom properties. The master plan illustrates short rows of terraced cottages alongside larger semi-detached and detached houses. No fewer than 40% of the total number of dwellings would be reserved for affordable housing.

Planning History

18. The Planning Officer's Delegated Report¹² sets out the planning history of the site. Despite listing several applications it is common ground between the main parties that none are of a type or scale relevant to the appeal proposal.

Planning Policy

19. On 11 May 2016 the JCS was adopted. For the purposes of this report the statutory development plan for the area therefore consists of the saved policies of the *Lewes District Local Plan* (LDLP), the JCS and the NNP.

¹⁰ Daniel Wynn PoE Appendix DW1

¹¹ CD1.6

¹² CD1.12

Lewes District Local Plan and Joint Core Strategy

20. The only LDLP policy relied upon by the Council is Policy CT1. This states that development will be contained within the 'planning boundaries', and aside from the listed exceptions, permission will not be granted outside settlements. The supporting text identifies that the intention of CT1 is to define areas where development would normally be unacceptable, protect the countryside from encroachment and safeguard the rural setting and character of settlements.
21. Following adoption of the JCS the scale and distribution of housing is set out in Spatial Policy 1. This states that between 2010 and 2030 a minimum of 6,900 net additional dwellings will be provided, or approximately 345 p/a. For Newick it identifies a minimum housing figure of 100 additional dwellings. The policy also confirms that alongside the *Site Allocations and Development Management Policies DPD*, Neighbourhood Plans could be used to identify sites as required.
22. Policy CP1 states that a district-wide target of 40% affordable housing, including affordable rented and intermediate housing, will be sought for developments of 10 dwellings or more. In order to deliver sustainable, mixed and balanced communities Policy CP2 requires housing developments to provide a range of dwelling types and sizes to meet identified local needs.
23. Policy CP7 addresses infrastructure. Amongst other things it seeks to ensure that land is only released for development where there is sufficient capacity to accommodate a proposed development, unless additional infrastructure is provided. Other relevant policies include CP10 and CP11 which are concerned with the natural environment, landscape character and promoting high quality design. Policy CP12 seeks to reduce the impact and extent of flooding.

Newick Neighbourhood Plan

24. The NNP has passed its referendum stage and has been formally 'made'. Policies EN1 – EN4 are concerned with the environment. They seek to ensure that new developments respect local landscape character, blend well with the existing built environment, protect and/or enhance wildlife opportunities, support the footpath network and the provision of cycle paths.
25. New housing in Newick is addressed through policies HO2 – HO5. Policy HO1.1 states that all new housing, whether built on sites identified in the NP or on other sites within the Parish, shall be designed to respect the established sense of place and local character of the area. Policies HO1.2 – 1.7 deal with materials, state that buildings should be no greater than 2 storeys high, that allowance should be made for people downsizing and starter homes, that housing should have adequate off-street parking, that the construction of homes in gardens will not be supported, and, that mitigation measures must be provided where a proposal is within the catchment area of the Ashdown Forest.
26. The remaining housing policies allocate land for residential development through HO2 – HO5. Other relevant policies include Policy TC1 which requires all proposals for housing developments to encourage sustainable modes of transport to be used by its occupants. Community Action HO1.8 seeks to avoid the use of street lighting unless it is justified on strong safety grounds.

Supplementary Planning Documents and Guidance

27. The Council's *Supplementary Planning Guidance Note on The Provision of Recycling Facilities as Part of New Residential Development*¹³ is referred to by the main parties. This includes an expectation that schemes of 6 or more dwellings make a contribution towards the provision of equipment and capital to provide kerbside recycling to new dwellings.

Other Relevant Planning Policy and Guidance

28. In addition to the National Planning Policy Framework ('the Framework') I have been referred to, and taken into account, relevant parts of the PPG. Some of the pertinent paragraphs referred to by the main parties include Paragraph 082 Reference ID: 41-082-20160211, Paragraph 083 Reference ID: 41-083-20160211, and Paragraph 009 Reference ID: 41-009-20160211.

Matters in Agreement

29. A Statement of Common Ground¹⁴ was submitted prior to the Inquiry and sets out those matters in agreement between the main parties. It confirms that:

- The Council's *Rural Settlement Study* identifies Newick as having a 'Local Centre' with a good selection of key services and facilities. The majority of these facilities are located within 400m to 1200m of the site and include:
 - Employment opportunities;
 - Mid Downs medical practice;
 - Local retailers include a general store and village bakery;
 - Post Office;
 - Public Houses;
 - Newick Primary School;
 - Newick Pre-School Nursery;
 - King George V playing fields;
 - Newick Village Hall;
 - Newick Community Centre; and
 - St Mary's Church.
- There are no matters in dispute relating to:
 - Highways, site access, access to services and facilities and rights of way;
 - Trees and hedgerows;
 - Provision of affordable housing (to be secured by means of a planning obligation);

¹³ CD11.9

¹⁴ CD2.4

- Flood risk;
 - Archaeology / heritage; or
 - Ecology and biodiversity.
- The site is located outside the 7km zone of influence surrounding the Ashdown Forest Special Protection Area ('SPA');
 - The site is outside, but adjacent to the Newick Planning Boundary as identified on the LDLP Policies Map;
 - The site is not allocated in the made NNP; and
 - The NNP does not place a 'cap' on residential development in the neighbourhood plan area.

The Case for DLA Delivery ('the appellant')

30. The case for the appellant is set out in the Closing Statement¹⁵ to the Inquiry and the written representations provided thereafter¹⁶. The material points can be summarised as follows:

Introduction

31. Newick is located between three major towns and has regular bus services to Haywards Heath, Uckfield and Lewes. Newick itself has a wide range of local services including a primary school, a convenience store, butchers, bakers, church, community centre, village hall, three public houses, pharmacy and a doctors surgery. The Council has concluded in the Officer's Report¹⁷ that the proposal would achieve the objectives of sustainable development. It confirmed that:

"Significantly, the application site lies beyond, but immediately adjacent to, the planning boundary for Newick as defined in the adopted Local Plan. As such, it is located adjacent to a settlement within which development is considered acceptable in principle. The site is also unaffected by development constraints such as SSSIs, heritage assets or flood risk, whilst in terms of sustainable transport considerations, it has the advantage of being in close proximity to both Newick Primary School and a bus stop offering a service to Haywards Heath and Uckfield. It is therefore considered that residential development in this location would achieve the objectives of sustainable development, as set out in the NPPF."

32. This is set against a background in which the Council has no intention of meeting its identified housing need, planning for only 345 dpa in the (now adopted) JCS rather than the Objectively Assessed Need ('OAN') of 520 dpa. Even against the constrained figure of 345 dpa the Council has not met its housing targets since the start of the plan period in 2010.

33. The figure is also less than the annual affordable housing requirement for the District (389 dpa), with the Council delivering on average only 30 net new affordable dwellings per year. There are 1,700 families and individuals on the

¹⁵ ID31

¹⁶ PID1 and PID6

¹⁷ CD1.2

Council's housing waiting list, with the demand for affordable housing far greater than this top tier of identified need.

34. Furthermore, the neighbouring authorities of Brighton and Hove and Wealden have no intention of meeting their housing needs either. The quashing of the SANG Policy in the Wealden Local Plan also gives rise to no obvious mechanism for delivery in the area around the Ashdown Forest.
35. The main reason the Council claim the artificially low figure is justified is because a large part of the District lies within the new National Park. But a very large part of the District is not in the national park. Some of it is adjacent to major towns (such as Haywards Heath). No proper consideration has been given to alternatives including accommodating housing need in this northern part of the District. The main settlement within the northern part of the District and outside the National Park is Newick.

Lewes District Local Plan and Joint Core Strategy

36. It is accepted that being outwith the planning boundary there is a breach of the LDLP. However, the plan was adopted almost 13 years ago in 2003 and was only ever intended to address development needs up to 2011. It should have been replaced before then and has no relevance to present development needs. This is particularly relevant to the planning boundary, which will require extensive revisions through the JCS. Given the weight that must be given to it, it would be unsound to refuse permission on this basis given all the material considerations weighing in favour of the proposal.
37. In terms of the JCS the proposed level of housing provision falls significantly short of meeting objectively assessed need. Indeed, it does not even meet the defined affordable housing need for the District. The Inspector's Report into the JCS identified a chronic affordability gap and considerable affordable housing need, indicating *"it is even more important that the best possible provision of affordable housing is made in an attempt to mitigate the potential negative effects on the local community and economy"*. Examination of the Council's Strategic Housing and Economic Land Availability Assessment ('SHELAA')¹⁸ reveals plenty of stones left unturned, including the appeal site. Thus, the target falls short of the Framework's requirement to make 'every effort' to meet need.
38. The JCS housing requirement figure of 6,900 dwellings is described by the Inspector as *"approximately equivalent to zero employment growth across the district, but at least not "planning for failure" in economic terms."* Unless sites are brought forward to deliver more homes than the minimum 6,900 for which the plan provides, it will have done no more than enable the District to stand still: it will have failed to deliver the positive growth which underpins the Framework. Again, this reinforces the case to exploit every opportunity for sustainable residential development. The appeal site presents one such opportunity. This is in the context of the constraints of neighbouring authorities, with the JCS Inspector acknowledging that *"there is no realistic prospect of any material help in achieving new housing delivery from nearby Councils in the near future, pending further work on a sub-regional basis and a potential plan review."*

¹⁸ CD9.4

39. To accord with the Framework as a whole, local decision making should support the delivery of sustainable development. Sites which can help to contribute to making up the difference between the OAN and a development plan which fails to meet OAN could be a very important part of trying to meet housing needs. Given the context of a national and county-wide housing crisis where sustainable residential development can be achieved it must be brought forward. The Appeal proposal represents sustainable residential development.

The Newick Neighbourhood Plan

40. The NNP is a plan which has come forward before the JCS and made only against the out-of-date LDLP. Permission to appeal to the Court of Appeal on this issue has already been granted¹⁹. Following adoption of the JCS the NNP has not been found to be in conformity with the higher tier plan, and exists in a format which is untested against the relevant part of the development plan.
41. This is important because the JCS makes it clear that the 100+ houses proposed for Newick, and the District-wide requirement of 6,900 are only minimum figures. The Council's view of the NNP preventing any further sites, other than those allocated, from coming forward on the edge of the Newick puts it in direct conflict with the JCS. Section 38(5) of the Planning and Compulsory Purchase Act 2004 provides that if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to become adopted.
42. Notwithstanding this, no conflict arises. There is no policy in the NNP seeking to impose a cap on development. The NNP Examiner²⁰ made it explicitly clear that the 101 houses allocated in the plan was not a ceiling. Seeking to impose a cap retrospectively would be wrong, especially given what the Examiner has said.
43. If such a policy was intended (one which seeks to prevent development beyond the settlement boundary other than on allocated sites) then it needed to be clear and explicit in the submission version of the NPP. The Examiner could then have considered it and considered if it was justified in the circumstances of Newick and Lewes District and the (at the time) emerging JCS which did not seek to impose a limit on new development in Newick.
44. That does not mean a "free for all" in Newick. There is still a need to judge whether a site achieves the objectives of sustainable development as set out in the Framework. The Council has already made that decision and concluded the proposal is sustainable development. In a decision for 50 houses at Hook Norton the Secretary of State found that *"The proposal would be sustainable development and paragraph 187 of the Framework states that decision takers should seek to approve applications for sustainable development where possible."* This led to a conclusion that:

"Overall, the Secretary of State considers that the benefits of this sustainable development would clearly outweigh the harm in terms of conflict with the HNNP and the slight adverse effect on future occupiers as a result of odours by the

¹⁹ Inspector's Note: Judicial Review brought against LDC's decision to 'make' the NNP. DLA Delivery granted permission to pursue through the Court of Appeal. Decision pending

²⁰ CD6.3

adjacent Redlands Dairy Farm. He therefore concludes that the material considerations in this case indicate that the appeal should be allowed and outline planning permission granted"

45. The Council try to suggest there is a policy in the NNP preventing development outside the planning boundary. But the Council, desperate to manufacture such a policy, claim it can be implied. They say that it is derived from CT1 which sets the planning boundary around all the settlements for the District. But this is completely out of date and has no real weight.
46. Newick has a planning boundary drawn around the village in 2003 under Policy CT1 of the LDLP. It is accepted that the NNP policies seek to move the planning boundary to encompass the new allocations. Nevertheless, there is nothing in the plan to suggest that development beyond the boundary is restricted. If such a policy was to be endorsed then the plan needs a clear policy to that effect which can be fairly examined. The Examiner gives a clear reason why the NNP should not be understood in that way: a cap would be inconsistent with the Framework and the NNP had to expressly have regard to the presumption in favour of sustainable development. It therefore follows that the Council's interpretation of the NNP, suggesting as they do that it prevents any new development outside of the planning boundary of Newick, is wrong.
47. It is not clear what the justification is for the minimum number of 100 units for Newick. There is no clearly stated rationale for that. It is not based on the capacity of suitable and available sites at Newick as is clear by the fact the SHLAA²¹ and SHELAA identified many more sites in these categories. The PPG makes it clear that neighbourhood plans should deliver against the objectively assessed evidence of needs.

Need for Affordable Housing

48. The Council, based on its own consultant's work, accept that the need for affordable housing is 389 dwellings per annum. In response the appeal proposal provides 40% affordable housing, which can be delivered quickly in a sustainable location and in the face of a chronic delivery record in Lewes. It means the delivery of 20 units, 15 of which will be affordable rent and 5 as intermediate (shared ownership) is policy compliant and supported by the Council.
49. Using the Council's own figures of an annual need of 389 affordable dwellings the appellant's evidence is that years into the JCS plan period instead of 576 households on the Housing Register there are some 1753. The Council are therefore 'going backwards'. In short, over a period of 11 years the Council has not delivered the number of affordable homes it acknowledges it needs to deliver each year to eradicate its backlog and newly arising need up to 2018.
50. The 20 affordable homes proposed at the appeal site is equivalent to two thirds of the recent annual net delivery of 30 units. It is submitted that the appellant's offer of 40% affordable housing in this context is a matter to which significant and substantial weight should be attached.

²¹ CD9.1

Broughton Astley Neighbourhood Plan ('BANP') and Sayers Common Secretary of State Decision

51. The BANP relied upon by the Council is a wholly different sort of plan with a different set of circumstances. Namely:

- The Core Strategy was adopted in Harborough District before the BANP;
- The BANP sought to allocate no less than 648 houses on the edge of the village;
- That was nearly 250 houses more than the 400 required by the Core Strategy; and
- The BANP had a windfall allowance.

52. The Sayers Common decision²² is also different to the circumstances at Newick. Sayers Common is a hamlet and the NP set a limit of 40 dwellings over the plan period. The proposal for 120 new houses was therefore contrary to it, and could not be *"reconciled with the requirement to enhance the existing settlement pattern"*.

Presumption in Favour of Sustainable Development

53. The presumption in favour of sustainable development applies to all development proposals under paragraph 197 of the Framework, and all housing proposals under paragraph 49.

54. The special emphasis under paragraph 14 of the Framework also applies for the following reasons²³;

- The Council cannot demonstrate a 5 year supply of housing land; and
- Even with adoption of the JCS half the plan is missing. The allocations DPD has not been progressed and will require sites to be allocated to meet the housing needs of the District and the planning boundary will have to be changed.

55. There are a range of social and economic benefits associated with the proposal, before one turns to consider the issue of 5 year housing land supply, most especially the provision of a significant percentage of affordable housing, added competition in the housing market (which is constrained) and various economic benefits.

Landscape and Visual Impact

56. The impact of the development will not be significant. The only landscape harm is the removal of the copse in the centre of the site and some impact on the less important trees.

57. The Council sought to highlight the Lewes District and South Downs National Park Authority Landscape Capacity Study ('LCS')²⁴. This shows unequivocally the land south of Allington Road is one of the two most suitable sites identified as having

²² Appeal Ref APP/F2415/A/12/2183653 - Nicholas Freer PoE Appendix 36

²³ On the basis that the JCS has been adopted since Closing Submissions at the Inquiry

²⁴ CD3.7

the capacity to accommodate development, together with land to the east of Newick. Although the Council tries to now distance itself from the conclusions of this report the work in this study shows a consideration of the whole of the land around the village. It was all categorised and the best sites identified. The landscape objection to this site is completely unconvincing and a makeweight.

58. The development of the southern part of the site was specifically considered in the SHELAA. The solution to its development was seen as either retaining the copse or the provision of a landscape impact which could be a 15m buffer in the south part of the site (page 102).
59. The site is considered broadly typical of the Low Weald landscape but it includes urbanising influences. Those influences are very evident on the site and include the paddock land, buildings, the equestrian uses and close board fencing. The site is not to be seen as open countryside. That description is more characteristic of the land to the south, which comprises open farmland, trees and woodland.

Housing Land Supply

60. With the Council having no track record of even coming close to the annual delivery being proposed in the JCS the Inspector's findings regarding the housing land supply position are considered 'implausible'. There was no cross-examination of supply in the JCS Examination in Public. As the Inspector has not had the benefit of the detailed evidence and cross examination afforded through the appeal Inquiry his conclusions are not firmly founded in the evidence.
61. Furthermore, the Inspector described the supply as "tight". Even "*...on the basis of the Liverpool method and a 5% buffer, the Councils are only just able to demonstrate a 5-year housing land supply of available and deliverable sites as at October 2015²⁵*". This at best represents a precarious position which could leave the Council without a five-year supply if any of the sites are delayed. Paragraph 43 of the Inspector's Report highlights the need to move swiftly to provide some flexibility to ensure the situation does not deteriorate. Therefore, sustainable sites which are deliverable, achievable and available should be brought forward. The appeal site, which is capable of contributing to housing provision within 5 years, presents a suitable opportunity to respond to this need.

The Case for Lewes District Council ('the Council')

62. The case for the Council is set out in the Closing Statement²⁶ to the Inquiry and the written representations submitted thereafter²⁷. The main points can be summarised as follows.
63. The Section 106 Agreement²⁸ has been signed and there is now only one reason for refusal. That reason, however, is a fundamental one. It encompasses in essence two harms: landscape harm and non-compliance with the made NNP.

²⁵ PID3

²⁶ ID30

²⁷ PID2 and PID5

²⁸ ID28

Landscape and Visual Impact

64. There is no serious dispute between the parties that the development of this site for up to 50 houses will cause landscape harm. The question is the extent of that harm in the area and its significance. While the site is not subject to any formal landscape designations that does not prevent significant weight being placed on landscape harm.
65. It is submitted that urbanising features at the site are limited. Approaching the site from the west along Allington Road the awareness of other urban features is very limited. To the north there is one large house set in large gardens, however there is limited sign of this from the road. Moving through the site itself there are, particularly in the winter, glimpsed views of houses to the east and west. The land falls away to the south and when walking around footpaths to the south of the site (4a, 7 and 8) again there are some glimpsed views of houses. The paddock provides visual relief to the built up areas to the east along Allington Road by providing a change from an urbanised area to a segment of countryside which helps provide a rural setting to this part of Newick village.
66. Although details of design would be considered at the reserved matters stage, it is plain that certain impacts of the development are inevitable. The development will result in the urbanisation of this part of Allington Road²⁹. In views from the south the houses will be observable due to the fall of the land and will add an urban element, although the extent of that will depend upon the success of mitigation which is ultimately for reserved matters stage. The site will lose its rural features that are consistent with the landscape character area and become urban. Given the impact on Allington Road and views to the south this cannot properly be considered as 'contained' and the scheme would not be consistent with the Landscape Capacity Assessment vision and guidelines both of which refer to the appropriate management of urban edges.
67. The LCS is not intended to assess any particular proposal but to identify broad areas where development may be able to be accommodated. It does acknowledge that area C02 within which the site is situated has a 'medium' capacity to accept landscape change because although there is a substantial landscape sensitivity, landscape value is assessed as low. The site is one of two areas considered to have the greatest capacity to accept landscape change in Newick, but that other area identified by the LCA in Newick is identified on the table as having the greatest capacity to accept change. It is within this area that two of the three NNP site allocations outside the planning boundary are located.
68. The site is assessed as suitable, deliverable and achievable in the SHELAA but the assessment notes make it clear that the role of the site on the rural setting of Newick will need to be considered at the allocation DPD/application stage. That the SHELAA raises landscape concerns about one of the sites identified in C.02 in the NNP (despite it being assessed by the LCS as being in an area having the greatest capacity to absorb change) simply shows the difficulty of using documents such as the LCS and the SHELAA, which are necessarily broad brush, as a proxy for assessment of a particular proposal on an individual site.

²⁹ Daniel Wynn PoE paragraph 6.5

The Development Plan

69. The application site lies outside the planning boundary for Newick and the proposal conflicts with LDLP Policy CT1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 is engaged.
70. Policy CT1 is brought forward and saved in the JCS. Policy SP2 of the JCS identifies a minimum amount of housing for Newick of 100 houses, and that the housing will be allocated through either part 2 of the JCS or alternatively a NP.
71. That is exactly what the NNP has done, coming forward ahead of the JCS. While the legal position was that the NNP had to be in conformity with the strategic policies of the adopted Local Plan, it plainly sought to also align itself with the emerging JCS which was entirely sensible.
72. What the NNP sought to do was to move the planning boundary to allocate at least 100 dwellings. As such the NNP anticipated the JCS and Policy SP2 by moving the planning boundary to encompass 100 more dwellings. The planning boundary as moved does not just encompass development up until 2011 but development in line with Spatial Policy 2 which seeks to meet the housing requirement identified by the JCS. More sites may be allocated in Newick through the second part of the JCS, but that does not detract from the above.
73. In the circumstances the moved planning boundary and CT1 are not considered out of date and full weight should be applied. It was said that CT1 was out of date because it sought protection of the countryside. This matter was considered as part of the Council's assessment of the LDLP which concluded that CT1 was consistent in part with the Framework.

Conflict with the NNP

74. As a site outside the settlement boundary not allocated in the NNP, the appeal site conflicts with the NP when read together with Policy CT1. For essentially the same reasons in *Crane v SSCLG*³⁰ the proposal is considered to conflict with the NNP. None of the policies referred to in *Crane* had a cap on new development.
75. In *Crane* the Secretary of State³¹ accepted that the Council had no five-year housing land supply, but found that:

“Policy H1 in the Broughton Astley Neighbourhood Plan states that sites were allocated for development as a result of the public consultation and options appraisal process. These processes are fully documented in the Plan's published evidence base, referenced at appeal inquiry document HDC4. The documentation makes clear why some of the sites considered were allocated and why others were not allocated, including the appeal site which was considered to be relatively remote from the village centre. The Plan also includes Policy H3 which supports windfall development on small sites, but the Secretary of State considers that the appeal proposal for 111 dwellings is too large to accord with the scope of that policy. Accordingly, he considers that the proposal conflicts with the neighbourhood plan and therefore the development plan as a whole.”

³⁰ *Crane v SSCLG* EWHC 425 – Sarah Sheath PoE Appendix 4

³¹ Appeal Ref APP/F2415/A/12/2183653 - Nicholas Freer PoE Appendix 36

The appeal proposal would assist in addressing the housing land supply shortfall (IR50) and the Secretary of State places substantial weight on this benefit. However, ... Paragraph 198 [of the Framework] is clear that, where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted... He considers that neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question, for example to ensure that the best located sites are developed. Consequently, in view of ... paragraphs 198 and 185 the Secretary of State places very substantial negative weight on the conflict between the appeal proposal and the Neighbourhood Plan"

76. A challenge was made to this decision in the High Court where it was argued that the Secretary of State had not actually identified any conflict with the NP. Lindblom J said:

"It follows from my understanding of the relevant provisions of the neighbourhood plan that a proposal for housing on a site other than those allocated in policy H1 will only accord with the plan if it finds support in policy H3 as a "windfall" proposal, and is consistent with other relevant policies. Larger proposals for housing on unallocated sites will not accord with the plan. They will be contrary to its strategy for housing development in policies H1 and H3. They will therefore be in conflict both with the neighbourhood plan itself and with the development plan as a whole."

77. It is considered that there is a very strong analogy with Crane. In particular;

- The housing allocations in the NNP sought to meet the minimum housing requirement in the (then emerging) JCS as a precaution against becoming out of date on the adoption of the JCS;
- The housing allocations in the NNP were clearly brought about by a process, fully set out in CD6.7 (sustainability appraisal and development site selection). Through that process other sites were accepted but the Appellant's site was not;
- The NP examiner considered, as he was required to, that the plan sought sustainable development and that was explicitly what the sustainability appraisal and development site selection process was seeking to achieve;
- The Appellant's site came joint last on the site rankings. It does not meet the neighbourhood's aspirations for housing development as identified through the sustainability and site selection process. Of particular importance to those who participated in the site selection process was proximity to the village green, whereas the site is at the furthest end of the settlement boundary from the village green;
- It is impossible to see what the purpose the housing allocations have if the appellant's interpretation of the plan is right; and
- The NNP contains no cap on development, but neither did the BANP in Crane.

78. The crucial point for both the Secretary of State and the High Court is that the community sought to identify through their NP where development should go. That is exactly the position that pertains in Newick.

79. In terms of the weight attributed to the NNP the examiner considered that the plan had been made in a way that was consistent with neighbourhood planning and appropriate. The High Court found no illegality in the process of making the plan and notwithstanding the Appellant has permission to appeal to the Court of Appeal on one ground, as it currently stands the plan is considered lawful. In the circumstances full weight can and should be given to the plan.
80. Thakenham Homes have recently purchased land intended to be developed as a SANG. As they make clear in their email before the Inquiry³² the company has worked closely with Natural England to bring the SANG forward and are unlikely to have bought the site unless it was deliverable. There is every reason to have confidence a SANG will be provided in reasonably short order.

Housing Land Supply

81. In finding the JCS sound the Examining Inspector confirmed that the Council's OAN is 10,400 but notes that this figure cannot be met in full in the District at present without unacceptable environmental consequences. By reconsidering the housing figures and the strategic site allocations in the main modifications to provide a higher number of new homes, including affordable homes, the Inspector concluded that Policy SP1 (which sets a minimum housing requirement of 6,900 homes) is sound bearing in mind existing constraints.
82. With this in mind the PPG³³ advises that *"Housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light."*
83. Moreover, *"The examination of Local Plans is intended to ensure that up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications and appeals where only the applicant's/appellant's evidence is likely to be presented to contest an authority's position"*³⁴.
84. The Council's position is that very substantial weight should be placed on the JCS Inspector's conclusions. There can have been no realistic change since his very recent consideration of the five-year housing land supply, with the benefit of hearing from different parties including developers of strategic sites not present at this Inquiry. His conclusion that Lewes has a five-year supply should be adopted.

The Need for Housing and Affordable Housing

85. The Planning Officer's report put 'very substantial weight' on the provision of market and affordable housing. The Council does not resile from that view. The Council also accept that the affordable housing need in the district is acute.

³² Sarah Sheath Rebuttal PoE

³³ Paragraph: 030 Reference ID: 3-030-20140306

³⁴ Paragraph: 033 Reference ID: 3-033-20150327

86. However, in developing the JCS the Council has assessed and identified the affordable housing need in the District. In response to the JCS Examination the Inspector did not raise any concern regarding the methodology of calculating affordable housing need, accepting that *"at the top end of the range identified, the figures agreed by the Councils represent the full objectively assessed needs of the district for the plan period, including taking into account the need for affordable housing and 'market signals' in respect of the present state of the housing market as required by the NPPF."* No further work on assessing affordable housing was required.
87. Furthermore, the Council has clearly had significant success in providing affordable housing against adopted targets in the past. Between 2006/7 and 2014/15 90% of planning application approvals have been for policy compliant levels of affordable housing and 35% of approvals have delivered more than the required 25% of affordable housing. Although this does not amount to 25% of overall housing provided this is because of one large site which provided very little affordable housing. Overall this is not a district experiencing substantial difficulty in persuading developers to comply with their affordable housing requirements. There is no reason to consider this will change in relation to the 40% affordable housing requirement.
88. In relation to Newick it has 38 people on the housing register in the area³⁵. However substantial development is being brought to Newick through the NNP and that will substantially boost the supply of affordable housing in Newick. This will provide, assuming the allocated sites bring forward policy compliant amounts of affordable housing (which is a sound assumption based on the Council's track record in obtaining policy compliant levels of housing), 40 affordable dwellings. There is nothing in policy or in any of the many Inspectors' decisions before the Inquiry to suggest that provision of affordable housing necessarily outweighs all other objections, and as such it feeds into the balance.

Planning Balance

89. The need for market and affordable housing weighs heavily in the balance. This is so even though the Council can demonstrate a five year housing land supply. However, because of paragraph 198 of the Framework, and because there is conflict with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.
90. With this in mind it is important to put conflict with the NNP in context. One of the Framework's Core Planning Principles state that planning should be *"genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area"*³⁶. It is not suggested that the NNP has an elevated status above the development plan. Nevertheless, it is important to understand the emphasis that the Government has repeatedly placed on giving local communities the tools to shape their local area through neighbourhood planning. The passion local people have for their NP has been clear in Newick, as recognised by the Examiner.

³⁵ CD 9.9 Appendix 3

³⁶ Paragraph 17

91. The Council maintains this is not a case where the 'skewed balance' in paragraph 14 of the Framework applies. In those circumstances, while it is accepted that development is sustainable, that will have to be weighed against the conflict with the NNP and landscape impact caused by the development.
92. Even if it is considered that paragraph 14 does apply then it is submitted that the conflict with the NNP in particular and to a lesser extent the landscape harm means that the adverse impacts of a grant of permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

The Case for Interested Parties

93. The following interested parties made oral representations at the Inquiry. Their main points are summarised as follows:

Newick Parish Council

94. The NNP followed the rules and advice regarding Localism. The Parish Council spent a considerable amount of time preparing the plan and the appeal site was one of the least favourable.
95. Policy EN1 seeks to respect character and requires development to blend in well with the built environment. The NNP also seeks to protect the green 'belt' between Newick and Chailey, to prevent coalescence and protect the character of the area. There is a strong presumption against inappropriate development in this gap and the proposal would result in the irreplaceable loss of countryside.
96. The allocation of 100 houses in the NNP is a lot, and the Parish Council were given assurances by Lewes District Council that if 100 houses were allocated, 'that would be it'. It would be a catastrophe if more houses came forward and the Parish Council feels under attack. Allowing the appeal would make a mockery of the Localism Agenda and lead to more houses in the village.
97. The chemist and butchers are also having difficulties, the Post Office is closing and the school is over-subscribed. Additional houses would not help. The local bus service is poor with the last bus leaving Haywards Heath at 17.00 hours. Residents of the houses would drive into the village, would be reliant upon cars to reach places of work and there is nowhere to park around the village green.
98. In addition, a need for affordable housing was identified in 2003 and affordable properties were built at Alexander Mead. During this process the Parish Council searched for rural exception sites, but the appeal site did not come forward.

Tony Turk on behalf of the Newick Village Society

99. Newick has 'done expansion' in the 1970s under the County Council's Newick Village Plan which showed 45 acres of greenfield sites for new housing where about 370 houses were built. This population increase has kept the village alive but there is no need for further expansion beyond about 100. If the appeal is allowed similar arguments will be used for other sites and it could easily and quickly go to 200.
100. Residents do not want Newick to become a town. The benefit of a village is that it is small enough for residents to know each other. This creates community spirit and should be retained.

101. The Sustainability Appraisal for the JCS chose Option A (planned growth of approximately 100 homes) over Option B (around 154 homes). This was because 154 houses would have more considerable negative consequences to the community, travel and land efficiency objectives and could alter the character of the village adversely affecting community happiness. In considering a planning application some 30 years ago District Council planners concluded that Newick had 'almost reached the limit of its natural growth'.
102. Newick is not a declining village needing expansion. It will be getting 100 houses and does not need more on top of that. It is a thriving community with a far larger range of facilities than most villages in the area.
103. The fact that the NNP was produced by non-specialists should not count against it as the plan was assessed by an Examiner. Although the Woods Fruit Farm site will not be available in the short-term the NNP covers the period up to 2030, therefore resulting in a degree of phasing to the plan.
104. The mitigation proposed will not control the amount of additional traffic on the streets or traffic noise and parking problems in the village. Residents would drive to the services in the village rather than walk. A parking survey used as part of the evidence base to the NNP identified parking problems around the village green and this would be exacerbated by the proposal to the detriment of its character.
- John Lucas*
105. Although criticised by the appellant the objectives and indicators of the Sustainability Framework were developed without thought for the merits of any potential development sites. Lewes District Council Planners were always present to ensure a fair and thorough process followed. The process was informed by other existing and emerging plans and policies and the Sustainability Framework was approved by outside bodies including Natural England, along with many of Newick's residents.
106. Not only did Mitchelswood Farm score equal-last under the Sustainability Appraisal it also scored last but one in the site preference exercise completed and returned by 41% of Newick's households. Giving both scores equal weight left the site as the least suitable of the 12 proposed. Thus, the appellant's claim that the site is highly sustainable is not supported by fair analysis. Personal circumstances did not influence the NNP. The distances to local services are also shown as 'the crow flies', which are not representative of actual routes.
107. Hourly bus services only operate for part of the day, with no early morning departures or evening buses. Newick's commuters report that there are no buses early enough, forcing them to drive. Bus service 121 has also been further degraded, with 2 hour intervals for most of the day. The village is not struggling and the Bricklayer's Arms closed some 20 years ago.
108. In support of the appellant's case reference is made to housing along the northern side of Allington Road however in fact there is only one property, Point House, opposite. This is also hidden from view within a large garden surrounded by trees.

109. Newick is not a soulless housing estate, it has an excellent social core and community spirit. This has arisen partly because Newick is remote from the facilities of the surrounding towns. Accepting newcomers to the village cannot be done at too rapid a rate, this could damage Newick's social core. The Inspector examining the JCS praised the NNP and saw no reason to increase the housing target therein.
110. One of the aims expressed by residents during preparation of the NNP was to retain a green space between Newick and Chailey and prevent the coalescence of the two Parishes. The proposed SANG north of the A272 and the open fields at the appeal site would meet this aim.
111. During the preparation of the NNP Council Planning Officers made it clear that catering for 100 homes would protect Newick from any further development outside of the planning boundary until 2030. Allowing the appeal would conclude that there is no point in working hard to develop a neighbourhood plan if it can be so easily over-ridden.

Dr John Kay

112. The appeal site is only just outside the 7km Zone of Influence around the Ashdown Forest SPA. This needs to be given consideration and it is not appropriate to simply draw 'a line in the sand'. Issues include disturbance of ground nesting birds by dog walkers. Consideration of the Habitats Regulations is therefore required.
113. Several hours of evidence was heard at the Local Plan Examination hearings regarding housing land supply. The PPG confirms that the examination of Local Plans is intended to ensure that up-to-date housing requirements and deliverability of sites to meet a five-year supply will have been thoroughly considered and examined prior to adoption in a way that cannot be replicated in determining individual applications.
114. It is the intention of the JCS that new housing in villages is met through small-scale development. Villages should not provide the housing needs for the rest of the District.
115. Car ownership is lowest in Lewes and the appeal scheme would result in commuter housing with occupants having to drive out to places of work and to access the local hospital etc. The bus service has been reduced to a 2-hourly service and East Sussex County Council is accelerating further cuts.
116. There is a desire to see smaller-scale development. The Tattenhall NP in Cheshire survived a challenge by developers on its policy to restrict housing developments to 30 dwellings. The NNP has sites that are in the region of 30 houses with the aim to retain the village feel and sense of place.
117. If there are 1,700 households on the Council's housing waiting list this does not mean that you need to provide 1,700 houses. This includes households seeking a 'transfer' where their current tenure is a problem.

Michael Morton-George on behalf of Cinder Hill and Oxbottom Lane Traffic Group

118. Cinder Hill and Oxbottom Lane is a short-cut leading down to the A275 towards Chailey. A survey showed that one third of traffic along this minor road was using it as a cut-through and this would be exacerbated by the appeal scheme. The narrow road is used by rural vehicles and more traffic would lead to congestion and change the character of the lane.

Malcolm McDonnell on behalf of the Ramblers

119. Several public footpaths would be affected by the development. Footpath 4a crosses the site and vehicles using the appeal site could be dangerous. The loss of trees and hedges and replacement by high boundary fences and roads would diminish the enjoyment of these routes. Whilst acknowledging that development is needed this should not be harmful to the rural countryside which is what people want to see.

John Harmer – Ramblers and Countryside Officer

120. No consideration has been given to the availability of brownfield sites. The site is over 1km from the village centre, outwith the settlement boundary and would facilitate car usage. Considerations of housing land supply should be for the wider District level whereas the appeal relates to this site. There is a need to protect green spaces and allowing the appeal would link Newick to Chailey.

Malcolm Smith

121. The village is skewed geographically to the west, with the commercial centre to the east. The NNP seeks to redress this by defining development to the north and east. This provides a far more sustainable future for the village than the site at Mitchelswood Farm by reducing the need to drive into the village where parking problems occur. The NNP will sustain the social cohesion and health of the community.

Ruth Bailey

122. Newick has grown but amenities have not grown with it. The Post Office is to close and no doubt the village butcher will retire leaving only a small chemist and two general stores. The village is becoming somewhat overcrowded and the appeal scheme would be too much for the infrastructure to cope with.
123. The houses proposed would spoil the landscape and the only green area left down Allington Road. Traffic will be severely increased, would affect parking and would be a dangerous development near the school which is already brimming with cars. The occupants would be commuters and would need to run a car with traffic becoming a problem.
124. The scheme is based on developer greed and is not for the good of the village that is struggling with the increasing demands of housing. A smaller number of homes would surely satisfy the appellant's personal business venture without encroaching on the character and capabilities of the village.

Written Representations

125. The written representations received at the planning application stage are summarised in the Planning Officer's Report.

126. A substantial number of written representations were submitted at the appeal stage. They raised a similar concern regarding the proposal's conflict with the NNP which had been prepared in consultation with the local community and endorsed following a referendum with almost 89% in favour. At the appeal stage Maria Caulfield MP also raised concerns that the proposal was outwith the provisions of the NNP, that the plan was being completely overlooked, and that if NPs are to mean anything they should be adhered to on a consistent basis. The MP also referred to the written representations from the Parish Council and offered her support for them to be noted.

127. Other points raised in the written submissions can be summarised as follows:

- Development of the site would be contrary to residents' wishes and would make a mockery of the neighbourhood planning process;
- The Framework seeks to give power to local people through NPs;
- Allowing the appeal would undermine local democracy;
- Preparation of the NNP was a democratic process;
- Allington Road is busy at school drop-off and pick-up times. This would be made worse by further traffic and would be dangerous as there is already insufficient parking;
- Construction traffic would be dangerous given the proximity of the school;
- It would significantly affect the rural character of an important access road into the village;
- Other activities such as at the recreation ground mean that Allington Road is at bursting point already. On-street parking would be a hazard to pedestrians;
- More cars would have to access a difficult part of the A272 and the main access would be near a bend in the road and a bus stop;
- Local services are already at breaking point;
- The scheme would ruin the green fields at the end of the village which are popular with local residents for walking;
- Allington Road is used as a cut through with drivers speeding, allowing the appeal would lead to a serious accident;
- Development would affect the woodland and its ecosystem;
- The site would not be within walking distance of services for the elderly or parents with young children;
- There are more suitable sites available that can be utilised;
- The sizable majority of opinion in the village should not be ignored;
- Development would affect the narrow, steep, winding Cinder Hill and Oxbottom Lane;
- Development would infill the green space between the two Parishes;

- Granting planning permission would set a precedent and open the floodgates to other applications both locally and nationally;
- Birds and bats would be affected;
- Other sites in the NNP are deliverable and SANG sites have been progressed;
- Allowing the appeal would comprise unplanned development of Newick;
- The proposal appears to focus on larger houses when the need is for more affordable housing;
- The proposal is disproportionate in size and location and the number of houses proposed is excessive;
- The site is too close to Chailey and would have a detrimental effect on Chailey residents also;
- Effects of the proposal on the Ashdown Forest SPA would be just the same as a site on 'the other side of the line';
- The village has met its immediate future housing needs through the NNP;
- Development would result in urban sprawl;
- Allowing 63 homes would nearly double the NNP allocation;
- 30 houses are proposed on the corner of the A272 and Oxbottom Lane;
- A large number of houses on the edge of the village would change its dynamic;
- The proposal would be unsightly and inappropriate; and
- Motives of developers are financial and they have no interest in building sustainable communities.

128. A petition signed by some 148 residents has also been submitted and states that the proposal should be rejected because the site is not allocated in the NNP and would be contrary to the Framework which seeks to give local people the power to share and direct development in their area.

129. Written representations were also submitted in support of the proposal. They are summarised as follows:

- The site is ideal for development being close to the school with easy access onto the main road, overlooked by few, on a road already developed and blocking few views, if any;
- Local opposition stems from a personal dislike of the appellant, but that should be irrelevant. Houses are needed and the location is perfect;
- Affordable housing is needed;
- SANG is required before other developments can go ahead therefore no new housing will be built in Newick for the foreseeable future;
- The site is on the edge of the village and walking distance of the school;
- Proximity to the primary school was not used as a selection criteria so the NNP favoured sites to the east of the village;

- None of the NNP allocations are deliverable without SANG;
- The scheme would have minimal visual impact compared to other sites on the east of the village;
- Traffic travelling west would not have to enter the village;
- The scheme provides a good mix of housing and open space;
- The site is within easy walking distance of the school and shops;
- The gap in between Newick and Chailey is outdated as residents in this area already utilise the health centre, school etc.;
- Permission should be granted but with a maximum of 30 dwellings deducted from the 100 allocated in the NNP; and
- Happy for 63 houses to go ahead but only if a high percentage is affordable for young and older residents. Against the proposal if the plan is to build large houses that would be unaffordable for the majority of local people.

Conditions

130. A list of planning conditions agreed between the main parties was submitted to, and discussed at the Inquiry³⁷.
131. Proposed conditions 1-3 deal with the reserved matters submissions and their implementation. However, it is not necessary within the scope of Condition 1 to list what landscaping and layout details should entail, as this would be for the relevant reserved matters applications to consider. In the interests of precision I have therefore reworded the condition.
132. In the interests of highway safety it is necessary to ensure that the proposed access is completed prior to first occupation. At the Inquiry it was proposed that the wording of condition 4 should be amended to allow the new access to be 'broadly' in the position shown on the submitted plan given its illustrative nature. However, this lacks precision, as does reference to the 'development'. I have therefore reworded the condition to require the access to be laid out and constructed in accordance with details first submitted to and approved in writing by the local planning authority. This is more precise but allows for subtle changes to the final design of the access to accommodate the final layout. For clarity I have also reworded the condition to require completion of the access prior to first occupation of any of the 'dwellings'.
133. In order to ensure that the proposal does not increase the risk of surface water flooding in the vicinity of the site, and to ensure its appropriate drainage, conditions are required relating to surface and foul water disposal. Because these details are concerned with the development of the site it is necessary to require their approval before any works commence.
134. The interests of providing appropriate mitigation and enhancements also necessitate a condition relating to recommendations of the appellant's Ecological Assessment. To ensure that safeguards are put in place and are effective this needs to be approved prior to the commencement of development. Similarly, in

³⁷ ID26

the interests of the character and appearance of the area details pertaining to finished floor levels are required before construction takes place.

135. A construction management plan is necessary in the interests of the living conditions of local residents on Allington Road and highway safety, especially given the proximity of the school. However, at the Inquiry it was agreed that criterion (j) relating to 'public engagement' was imprecise. As discussed I have therefore reworded the condition by requiring public notification of the construction works. The interests of safeguarding the living conditions of neighbouring residents also require a condition to restrict the hours of any demolition or construction works.
136. In the interests of highway safety conditions are required to ensure that estate roads have been laid to base course level with appropriate drainage prior to the construction of any dwellings, and that surveys have been carried out to determine their bearing ratio. For the same reasons it is necessary to ensure that all roads, footways, parking areas and turning spaces have been constructed in accordance with details first submitted to and approved in writing by the local planning authority. As street lighting is covered by a separate condition its inclusion in Condition 11 is unnecessary. I have also removed reference to the requirement that details meet 'local highway authority standards', as no such details have been provided or justified.
137. To ensure that the archaeological and any historic interest of the site is safeguarded a condition is required relating to the approval of an archaeological site investigation. Nonetheless, I find no reason why a reference to the 'developer' is required, as this may be carried out by another party, and I have reworded the condition accordingly.
138. At the Inquiry the main parties agreed that conditions 15-17 were necessary in the interests of ensuring that the risks from land contamination for potential future occupants were minimised. Based on the evidence provided I agree.
139. In the interests of the character and appearance of the area and in accordance with the objectives of the NNP it is necessary to control the use of external lighting. As discussed at the Inquiry a condition restricting occupants' use of lights in their gardens would be unenforceable. I have therefore reworded the condition to relate specially to street lighting and any external illumination of public areas.
140. Finally, to promote the use of more sustainable modes of transport a condition relating to the approval of a Travel Plan is necessary, although I have reworded the condition to refer to the occupation phase of the development.

Planning Obligation

141. A Planning Obligation under Section 106 of the Town and Country Planning Act was submitted and discussed at the Inquiry³⁸. The Obligation is between Lewes District Council, the appellant, the site owners and East Sussex County Council.

³⁸ ID28

142. Policy CP1 of the JCS requires a district wide target of 40% affordable housing, including affordable rent and intermediate housing, on developments of 10 or more dwellings. The guideline affordable housing tenure split is 75% affordable rented and 25% intermediate (shared ownership).
143. The submitted Section 106 Agreement requires an Affordable Housing Tenure Plan to have been submitted to the Council not later than submission of the last reserved matters application, and restricts development from taking place until the Plan has been approved. Thereafter development shall not be commenced until the Owner has entered into an unconditional and binding contract for the transfer of the Affordable Housing Land and the Affordable Housing Units to the acquiring registered provider. No less than 75% of the affordable housing units would be occupied under tenancy with 25% occupied with shared ownership.
144. This element of the agreement therefore accords with Policy CP1, is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind.
145. The Planning Obligation also includes a covenant between the owner and the County Council for the provision of off-site highway works. This includes new bus shelters, improvements/widening of the existing footway around the Allington Road/A272 junction and a new crossing of the A272. It also accounts for repositioning of the existing bus stop to the east of the Allington Road/A272 junction, and widening of the footpath along the frontage of land in the appellant's control. As with affordable housing it is common ground that these works are necessary, directly related to the scheme and are fairly and reasonably related in scale and kind.
146. Based on the evidence provided and discussions at the Inquiry the planning obligation accords with the requirements of paragraph 204 of the Framework and Regulation 122 and 123 of the CIL Regulations (as amended).

Inspector's Conclusions

147. The following conclusions are based on the written evidence submitted, the oral and written representations to the Inquiry, and on my inspection of the site and its surroundings. The numbers in square brackets [] refer, as necessary, to paragraphs in the preceding sections of the report.

Policy Context and Main Issue

148. It is common ground that the appeal site is located outside the settlement boundary for Newick, and thus, conflicts with LDLP Policy CT1. As identified by the Council [69-73], decisions should be made in accordance with the development plan unless material considerations indicate otherwise.

149. The Framework is one such consideration. Paragraph 214 confirms that for the first 12 months from its publication³⁹ decision-takers may continue to give full weight to relevant policies adopted since 2004. Following this 12 month period it advocates that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The closer the policies to the Framework, the greater weight they may be given.

150. Policy CT1 was assessed for consistency with the Framework as part of the preparation of the JCS⁴⁰. The assessment categorised CT1 as 'Amber' – defined as only 'partly consistent' with the Framework, with decision-makers advised to judge the weight applied to the policy alongside the Framework based on the specific circumstances of each case. In reaching this view the Council found that:

"The NPPF seems to allow us to identify where development would be inappropriate (para 157) and advocates the protection of the countryside throughout (including in para 17). The drawing of the planning boundary is therefore acceptable as it defines the area considered 'the countryside', helping to provide a basis for its protection. Thus, most parts of the policy can remain in use."

151. However, the Core Planning Principle referred to by the Council at paragraph 17 of the Framework states that planning should take account of the different roles and character of different areas, promoting the vitality of main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. The intrinsic 'protection' of the countryside referred to by the Council therefore relates to Green Belts and valued landscapes under paragraph 109. As such, Policy CT1 only has a limited degree of consistency with the Framework and does not reflect its presumption in favour of sustainable development.

152. Furthermore, the supporting text to CT1 confirms that the policy is intended to cover the broad pattern of development across the District and identify where development is generally acceptable. The boundaries aim to ensure that areas within settlements are not subject to over-development, whilst at the same time safeguarding their character and preventing any coalescence.

³⁹ March 2012

⁴⁰ CD8.1

153. However, the LDLP was adopted in 2003 and covered the period up to 2011. The spatial distribution of development that Policy CT1 seeks to control is therefore based on the requirements of the previous plan for the District. As the Saving Direction⁴¹ points out; *“Where policies were adopted some time ago, it is likely that material considerations, in particular the emergence of new national and regional policy and also new evidence, will be afforded considerable weight in decisions.”*
154. The JCS has now been adopted and sets out a requirement to provide at least 6,900 new homes in the District, with a minimum of 100 dwellings in Newick. Although the NNP has proactively allocated sites to meet this figure ahead of the Site Allocations process, it is clearly expressed as a ‘minimum’, and must be read in the context of a full objectively assessed need for some 10,900 new homes. With this in mind the Council accepts that more sites may be allocated for housing in the village in the Part 2 Site Allocations process [72]. JCS Policy SP2 also includes roughly 200 units in locations ‘to be determined’, some of which *could* be in Newick. As the NNP process demonstrates, achieving the strategic aspirations of the JCS cannot be met by only containing development within the planning boundaries.
155. In summary therefore, whilst the housing requirement for the District and its spatial distribution is up-to-date, the restrictive nature of Policy CT1, based on the old LDLP, is not. Along with its consistency with the Framework this point was acknowledged by the Council in preparation of the JCS⁴², confirming that *“The wording of Policy CT1 itself will need amending to ensure that it is consistent with the strategic policies of the Core Strategy and the more permissive approach to development in rural areas set out in the NPPF.”*
156. Where relevant policies are out-of-date, paragraph 14 of the Framework and its presumption in favour of sustainable development applies. In such circumstances it advocates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or when specific policies indicate that development should be restricted.
157. Taking this into account the main issue is therefore whether or not the proposal represents sustainable development, having particular regard to:
- The requirements of the Newick Neighbourhood Plan;
 - The effect of the proposal on the landscape character of the area; and
 - The accessibility of the site and the need to travel by car.

Newick Neighbourhood Plan

158. The NNP was formally ‘made’ in July 2015 and covers the period up to 2030. It is clear from the submitted representations that the Parish Council spent a considerable amount of time and effort preparing the plan, and it was endorsed by almost 89% of local residents who voted at the referendum. As part of this process the appeal site was considered for housing, and discounted [94].

⁴¹ Nicholas Freer Proof of Evidence Appendix NEF6

⁴² CD3.6

159. The Framework is clear that neighbourhood planning allows communities to develop a shared vision for their area and deliver the sustainable development that they need. The neighbourhood planning process is described as providing a 'powerful' set of tools for local people to get the right type of development for their community. Paragraph 198 advocates that *"Where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted."*

160. In this case the NNP confirms that local residents preferred locations to the east and north of the village for new housing. This is because the amenities around The Green could be easily accessed on foot, therefore limiting additional traffic. Land to the west of the village, to include the appeal site, was not favoured due to implications for congestion on Allington Road, additional on-street parking around The Green and because it would reduce the 'green gap' between Newick and Chailey. At the Inquiry those involved with the preparation of the plan suggested that by allocating land for housing Newick had also 'done its bit', and no more sites would need to come forward in the village over the plan period [96]. I have therefore dealt with each of these points as follows.

Additional Housing in Newick

161. Spatial Policy 2 of the JCS is the most up-to-date policy concerning housing growth in Lewes. It confirms that a *minimum* of 6,900 net additional dwellings will be delivered between 2010 and 2030. As a Rural Service Centre 100+ dwellings are proposed for Newick in order to meet its own needs, and those of the surrounding rural area⁴³. Neither the JCS nor the NNP seek to place a cap on development in Newick [42]. This was specifically addressed by the Examiner, stating that:

"Representations have been received highlighting that the Neighbourhood Plan 'only' plans for 100 houses. However, this is not the case. The Neighbourhood Plan helpfully includes specific allocations for housing. This provides for a high degree of certainty with regards the delivery of around 100 houses. Nowhere does the Neighbourhood Plan seek to place a cap, or a maximum limit on the number of dwellings to be built in the Neighbourhood Area during the plan period. This approach has regard to the Framework's presumption in favour of sustainable development."

162. Furthermore, Policy HO1 of the NNP states that *"All new housing, whether built on sites identified in this Neighbourhood Plan or on other sites within the Parish, [my emphasis] shall be of designs that respect the established sense of place and local character of the existing buildings in the area of the development and the surrounding countryside."* Whilst the Council and some local residents implied at the Inquiry that this was to allow small infill developments and rural exception sites to come forward, nowhere in the NP is this set out. As identified above, the Council also accepts that more sites may ultimately need to be allocated in Newick through the site allocations process [72].

⁴³ PID3 para.33

Aims and Objectives of the NNP

163. The second area of perceived conflict with the NNP stems from the location of the appeal site. As an unallocated site outside the planning boundary it is argued that the scheme conflicts with the NP when read together with LDLP Policy CT1. In support of this position parallels are drawn from *Crane v SSCLG*⁴⁴. The pertinent point being that in both cases the community had proactively sought to decide where development should go, and this did not include Mitchelswood Farm [73-78].

164. There are similarities between the situation in Newick and Broughton Astley. Like the BANP, when read as a whole the NNP sets out a clear reasoning behind its allocations. The Secretary of State's assessment of the principle of such allocations is therefore relevant. Paragraph 17 states that:

"Policy H1 in the Broughton Astley Neighbourhood Plan states that sites were allocated for development as a result of the public consultation and options appraisal process. These processes are fully documented in the Plan's published evidence base, referenced at appeal inquiry document HDC4. The documentation makes clear why some of the sites considered were allocated and why others were not allocated, including the appeal site which was considered to be relatively remote from the village centre..."

165. However, critically, the Secretary of State continued to confirm that:

"...The Plan also includes Policy H3 which supports windfall development on small sites, but the Secretary of State considers that the appeal proposal for 111 dwellings is too large to accord with the scope of that policy. Accordingly, he considers that the proposal conflicts with the neighbourhood plan and therefore the development plan as a whole."

166. The issue was taken up in the High Court and Lindblom J (as he was known at the time) found in paragraphs 43 and 46 that:

"...it is in my view significant that housing development on sites other than the allocations in policy H1 is deliberately provided for in the way that it is in policy H3. Apart from "windfall" proposals coming forward under that policy, the plan does not provide for, or envisage, any housing development in excess of the 528 dwellings on the sites allocated under policy H1. Policy H3 goes no further than to allow for development "on sites of less than 5 dwellings on previously developed land". If the intention had been to accept the development of housing on larger, unallocated sites, a policy drafted in this way would not have been included in the plan...

...It follows from my understanding of the relevant provisions of the neighbourhood plan that a proposal for housing on a site other than those allocated in policy H1 will only accord with the plan if it finds support in policy H3 as a "windfall" proposal, and is consistent with other relevant policies. Larger proposals for housing on unallocated sites will not accord with the plan. They will be contrary to its strategy for housing development in policies H1 and H3. They will therefore be in conflict both with the neighbourhood plan itself and with the development plan as a whole."

⁴⁴ *Crane v SSCLG* EWHC 425 – Sarah Sheath PoE Appendix 4

167. Therefore, as significant as the inclusion of a windfall policy was in the BANP, I consider that its omission is equally as significant in the NNP. Whilst there is a logical explanation why the NNP has allocated housing on the other side of the village, it does not give any clear indication how the principle of development on sites outside the planning boundary should be determined. When considering that Policy HO1 also refers to “...sites identified in this Neighbourhood Plan or on other sites within the Parish...” it does not provide the same clear policy basis upon which to refuse planning permission for other proposals, provided that they are acceptable in all other regards. Likewise, Dr Kay referred to other plans where policies sought to restrict developments to around 30 dwellings [116], but no such policy exists in the NNP.

Preservation of a ‘Green Gap’

168. The retention of a ‘green gap’ between the settlement boundary of Newick and the housing of surrounding parishes was proposed in the Examination Issue NP. However, the Examiner concluded that there was no reference or detail regarding what the green gap comprises, or where it is located. It was found contrary to paragraph 154 of the Framework which requires policies to provide a clear indication of how a decision maker should react to development, and deleted. Thus, in the absence of any direction as to how development should be assessed against the ‘green gap’, I find no policy conflict.

169. Even so, I am not convinced that allowing this appeal would actually be contrary to such an objective. This is because when assessed in plan form the proposal would be located on the edge of the Parish boundary close to houses on Oxbottom Close, which are in Chailey. Nonetheless, on the ground the properties are almost entirely screened from view from both the A272 and Allington Road, with only with only glimpses afforded through the hedgerow along Footpath 8. They are also physically and visually separated from other development in parts of North Chailey further to the west.

170. As a consequence, the proposal would not give rise to an obvious coalescence of two settlements. From the A272 the western approach to the village would still be dominated by the rural landscape to the north, with the change in speed limit and signage reinforcing that a visitor was arriving in Newick upon entering Allington Road. Subject to a high quality design at the reserved matters stage there is nothing to suggest that the change from the rural approach to the appeal scheme could not be done sensitively and successfully.

Summary

171. I therefore conclude that whilst the appeal site is not one of the sites allocated for housing in the NNP, this does not render the scheme unacceptable in principle. When interpreted objectively in accordance with the language used, and read in its proper context as per *Tesco v Dundee*⁴⁵, the NNP does not restrict sustainable development coming forward outside of the planning boundary.

172. This does not mean a “free for all” in Newick [44]. Instead, in considering the uplift in housing proposed it is necessary to determine whether or not this would be sustainable. Concern regarding the sustainability of the Rural Service Centres

⁴⁵ Tesco Stores Limited v Dundee City Council [2012] UKSC

was one of the principal reasons why the Inspector did not propose more housing for Newick in the JCS⁴⁶. The remainder of my conclusions therefore assess whether the proposal would be the sustainable development defined by the Framework.

Landscape Character

Baseline Position

173. The appeal site is located within The Upper Ouse Valley Landscape Character Area as defined by *The East Sussex County Landscape Assessment (ESCLA)*⁴⁷. This describes an area characterised by gently undulating terrain with broad valleys, abundant tree cover and village groups dominated by churches. Immediately to the south of the site and beyond the copse is The Low Weald character area. This is defined by low lying, gently sloping clay vales with small grassland ridges with an intricate mix of copses, shaws and a patchwork of fields.
174. These character areas are used in the Council's LCS⁴⁸. Its aim is to help inform future planning policy and identify where development might be accommodated without unacceptably impacting on the landscape. Whilst not intended to assess specific development proposals, it does give an indication of the type and scale of development considered acceptable in landscape terms.
175. The LCS identifies that the existing built-up area of Newick is concentrated between Western Road and Allington Road. To the north the steep topography and presence of woodland offers very little scope for development, with the elevated landscape providing long, exposed views. Similar landscape traits are found to the south of Newick away from Allington Road. This was evident during my site visit, and residents pointed out the wide-ranging views of the rolling countryside to the south of the village which are possible from Footpaths 4a and 7 after leaving the wooded areas of the appeal site.
176. This variation between the equestrian area immediately south of Allington Road and the wider countryside beyond is recognised by the LCS through its categorisation of the two areas (C02 and B03). It confirms that:
- "Some areas along the fringes of the existing built up area have been degraded and influenced by adjacent uses and heavy equestrian uses are also found in these areas. Mature hedges run parallel to the existing development in this area and provide visual barriers, as the landscape slopes away to the south and provides natural defensible boundaries to development. These areas to the south of Allington Road and East of Church Road, have, in landscape terms, the greatest scope for change."*⁴⁹
177. A similar conclusion was reached in the NNP Character Assessment⁵⁰. This includes roughly the northern half of the site in Area 27 'South side of the Allington Road houses' and describes the 'clear distinction' from the larger open fields to the south. Although the southern half of the site is included in Area 22, this is described as a fine area of countryside with old woodland, medieval field

⁴⁶ PID3 paragraph 15

⁴⁷ CD11.10

⁴⁸ CD3.7

⁴⁹ CD3.7 paragraph 3.2.5

⁵⁰ ID20

patterns, hedgerows, 'parkland' and the sloping valley sides. It is therefore primarily attributed to the land that slopes away from the appeal site to the south, and not the house, equestrian facilities and relatively young copse.

178. In establishing a baseline position the LCS describes the area south of Allington Road as 'Ordinary', defined as a commonplace landscape with limited distinctiveness and mixed land uses evident. Its value is also assessed as 'Low', typically defined as an ordinary/poor landscape which is 'monotonous, degraded or damaged'. Whilst the visual sensitivity of the area is 'Moderate/High', owing to the footpaths running through and past the site, and its sensitivity to change is defined as 'Moderate', the LCS concludes that the area has a 'Medium' capacity for change. The Study also acknowledges that there are opportunities for mitigation due to the small field sizes and areas of woodland and hedgerows which provide some screening.
179. In summary therefore, the evidence provided and observations at my inspection do not point to the appeal site as being part of a valued landscape. Whilst the visual benefits of grazing horses and the access afforded by Footpath 4a make the site attractive and popular with local residents and ramblers, it is not afforded the same level of protection as defined by paragraph 109 of the Framework. The appeal site does not fall within The Low Weald, described by the JCS as a landscape that is 'highly valued' (paragraph 7.92).

Impact of Development

180. Notwithstanding that finding, not identifying the site within a valued landscaped does not infer that no harm can occur. By redeveloping the site for housing I appreciate that the scheme would extend the footprint of housing beyond the planning boundary and vary the appearance of this part of Newick. Rather than the existing paddock users of Footpath 4a would be faced with housing, and the rural western edge of Newick would change.
181. However, by retaining a landscape buffer along the southern side boundary and containing development to the area identified as 'Newick C02' in the LCS, the 'fine area of countryside'⁵¹ to the south of the village would be preserved. As with the current situation, after passing through the site views of the open countryside would open up, and it would continue to be an attractive, easily accessible rural area on the edge of the village.
182. The success of visually containing development to 'Newick C02' would be dependent upon the layout of the scheme and the extent of the landscape buffer along its boundaries. Both would be for the reserved matters stage. As established at the Inquiry, the Council would retain control over subsequent applications for the layout, scale, landscaping and appearance of the scheme. Given that the revised illustrative masterplan⁵² proposes relatively large, detached houses set within generous plots to the south-east corner of the site, I am satisfied that sufficient space could be made available for existing trees to be retained and complimented by new planting. This screening would help retain the separate identities of the two areas and safeguard the Low Weald from urban encroachment.

⁵¹ ID20

⁵² ID4

183. In response to the Council's concerns regarding the effectiveness of the landscape buffer the appellant has also produced Indicative Photomontages⁵³. This is the only such evidence put before the Inquiry and demonstrates that due to a combination of existing vegetation and proposed planting only the upper parts of a limited number of dwellings would be visible from Footpath 7 to the south-east. Subject to an appropriate design and use of materials I consider that the visual impact of new housing from this location would not have a significant adverse effect on the landscape character of the area. The landscape buffer would also limit long-range public views of the proposal from further along Footpath 7 as the land rises up around Tilehouse Farm.
184. Other potential public vantage points include from Footpath Newick 8 to the south-west. At the Inquiry Mr Wynn accepted that the photographs submitted in his Proof of Evidence⁵⁴ were not representative of its location. Instead, the footpath runs through the trees to the west of the sand school access road. From this location only glimpses through to the appeal site are possible and the foreground is dominated by the substantial equestrian building.
185. By far the most notable change to the site and its relationship with the surrounding area would be the removal of the copse. This provides a backdrop to the paddock, helps screen views of the large sand school and makes a positive contribution to the verdant, rural character of the area at the western end of Allington Road. Nevertheless, the appellant's Arboricultural Impact Assessment describes this as an ornamental plantation with an unsuitable selection of trees, the majority of which are in poor physiological and structural condition⁵⁵. Unlike other trees on the site the copse was not covered by the Tree Preservation Order. Based on the evidence provided, and considering the extensive new landscaping proposed, removing the copse would not bring about significant landscape harm.
186. Concerns have also been raised that allowing the appeal would change the approach to Newick, with the appeal site contributing to its rural character and setting. At the Inquiry local residents also commented that the proposed density of development was too high, and was not appropriate for the edge of a village.
187. After leaving the A272 and passing the appeal site the circa 1970s housing around Westpoint and Allington Road come into view and there is a limited transition between the paddock and residential properties. As identified above, views of the appeal scheme are also limited to the very western end of Allington Road, screened from the south by a combination of landscaping, the sand school and existing buildings at Mitchelswood Farm. As a result, although residential development would come into view more quickly, I am not persuaded that this would necessarily cause any demonstrable harm to the setting of the village.
188. With regard to density this would be dependent upon how many houses come forward as part of the final design. Based on the maximum amount the scheme would yield a density of around 21 dwellings per hectare (50 units on 2.33ha). Whilst the net developable area would likely reduce with the need for landscape buffers etc., no objective analysis has been provided to indicate that the density

⁵³ ID18

⁵⁴ Mr Wynn PoE Appendix DW3

⁵⁵ CD1.5

would be out of keeping with this part of Newick close to the suburban housing built as part of the 1970s expansion of the village.

Summary

189. Redevelopment of the site would undoubtedly change the character and appearance of the area around the western end of Newick. However, by reason of its current use and condition, proximity to Allington Road and the natural defensible boundary along the southern boundary the site is visually separated from, and materially different to the swathe of open countryside beyond. It has also been identified by the LCS as one of the preferred areas for development around Newick and, in landscape terms, has the greatest scope for change. Subject to an appropriate design and inclusion of a robust landscape buffer at the reserved matters stage the development would continue to be broadly contained within the built envelope of Newick when viewed from public vantage points to the south.
190. For these reasons I conclude that the proposal would respect, and in no way materially harm the landscape character of the area. As such there is no conflict with Policy EN1 of the NNP which, amongst other things, states that new developments in the Parish should respect the local landscape character and be designed to blend well with the existing built environment. There would also be no conflict with the vision of the NP which states that the most highly valued countryside areas will be recognised and conserved. In this regard the proposal accords with the Framework which advocates that planning should take account of the different roles and character of different areas and recognise the intrinsic character and beauty of the countryside.

Accessibility

191. One of the reasons why the appeal site was discounted as a potential allocation in the NNP was because of its location to the south-west corner of the village, with the local shops, pubs and medical practice to the north-east around The Green. In addition to promoting more unsustainable modes of transport, local residents argue that future occupants would drive to the other end of the village, increasing congestion and leading to inconsiderate parking where there is limited on-street capacity.
192. This is not a reason for refusal raised by the Council. The appellant's services plan⁵⁶ illustrates that the local primary school, a convenience shop and a hairdressers are all within a 500m radius of the site. Furthermore, during my site visit I walked from The Green to the appeal site along Allington Road. This was a relatively flat, pleasant walk on dedicated pavements. At a steady pace it took no more than 20-25 minutes and passed pubs, a restaurant, the post office, recreation ground and the primary school. A more direct route through the village was pointed out by a resident and some are identified in the submitted Transport Statement⁵⁷. I therefore agree with the Council's Highways Officer that the site is within walking distance of services, which would only be a matter of minutes away by cycle.

⁵⁶ ID17

⁵⁷ CD1.10

193. It is common ground between the main parties that bus stops are also within walking distance of the site. In response several residents raise concerns that the local bus service is poor, especially for commuters, and I note that there are no evening or weekend services. Reference has also been made to buses being cut in the future. However, the Council's Highways Officer states that there are regular daytime buses running between Haywards Heath, Uckfield and Lewes. This corresponds with ID6 which identifies that it is possible to arrive in all three of these larger settlements before 09:00 hours Monday to Friday, with return services after 17:00 hours the same day. Based on the evidence provided potential future occupants would therefore be able to access employment and leisure in neighbouring towns and villages, and, access onward rail services to Brighton or London.
194. In considering the accessibility of the site it is appreciated that some residents would inevitably choose to drive to the local shop or commute out of the village. Nonetheless, occupants of the appeal site would have choices, and the majority would be able to access essential everyday services without having to use a car. In the context of a rural area I consider that the accessibility of the site by non-car modes would be good, and the use of a Travel Plan would help promote walking, cycling and the use of public transport further. Moreover, as the Planning Officer's Report points out, even if journeys to access other services and facilities were made by car, the proximity of Uckfield and Haywards Heath mean that such journeys would be relatively short. When taking all these factors into account the Council reported that *"...residential development in this location would achieve the objectives of sustainable development, as set out in the NPPF."*
195. I therefore conclude that by reason of the shops, services and facilities on offer in Newick, combined with the accessibility of the site by bus, the location of the site would not result in reliance upon the need to travel by car. In this regard there is no conflict with the Framework which seeks to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. Subject to the provision of a Travel Plan, which could be controlled by planning condition, the scheme also accords with NNP Policy TC1 which requires housing proposals to encourage use of sustainable modes of transport.

Other Material Planning Considerations

Provision of Affordable Housing

196. The Council's *Affordable Housing Needs Assessment (AHNA)*⁵⁸ confirms that to clear the backlog of priority housing register applications in Bands A and B, and new applicants, 389 units have to be provided every year, for five years. To put this into context, since 2006 the highest number of affordable homes completed in any given year was 93 (2011/12)⁵⁹. No affordable houses were built in 2013/14. The need for affordable housing in the area is therefore acute [85].
197. In response to the appellant's evidence the Council suggests that there are only 38 people on the housing register in Newick, and based on the allocations in the NNP over 40 affordable houses will be provided on allocated sites [88]. Local

⁵⁸ CD9.9

⁵⁹ CD9.9 Appendix 2

residents at the Inquiry also advised that Newick had already built new affordable housing at Alexander Mead [98], and it was put to me that the total number of people on a housing register does not equate to the total number of houses that need to be built, as this includes households seeking a 'transfer' where their current tenure is a problem [117].

198. However, based on the planned delivery of 389 affordable units per year the AHNA envisaged that by 2015/16 the backlog would be down to some 576 applicants. Unfortunately this is not the case, and there are currently around 1,753 people on the register. The problem is therefore only getting worse [49].
199. It is also pertinent to consider that assessing applicants on the housing register does not give a full picture of affordable housing need. For example, whilst in 2014 there may have been 38 people in Newick on the housing register, this does not account for people stuck in private rented accommodation, young people still residing with parents and others who have to live elsewhere because they cannot access housing in the village. The AHNA concluded⁶⁰ that over one quarter of the District's households have an income of less than £18,000, "*...making it virtually impossible to afford any market housing.*"
200. The Council also argues that it has been successful in providing affordable housing against policy targets in the past, and that this points to a District not experiencing substantial difficulty in persuading developers to comply with their affordable housing requirements [86]. Between 2006/7 and 2014/15 90% of planning application approvals were for policy compliant levels of affordable housing, and 35% of approvals have delivered more than the required 25%.
201. Nevertheless, despite the Council ensuring that the majority of schemes meet their policy targets, the need for affordable housing has continued to rise exponentially. Not since 2007/08 has even the total number of completions, across all tenures, surpassed the target of 389 affordable houses per year. As a result, there is now a serious need for more affordable housing in Lewes to tackle what is becoming an ever increasing demand. In this context the commitment to provide 20 out of the 50 new homes as affordable (40% provision) is a tangible social benefit of significant weight.

Five-Year Housing Land Supply

202. At the Inquiry a considerable amount of time was spent looking at whether or not the Council could demonstrate a five-year supply of deliverable housing land. The position changed throughout the course of the appeal. At the time the planning application was determined the Council's supply was roughly 1.66 years. By the exchange of evidence this had increased to some 5.67 years⁶¹.
203. Much of the debate surrounded the housing requirement for the District in light of the constraints in Lewes, and the ability for neighbouring authorities to take on additional housing. Following the Inquiry the JCS has been found to be sound and plans for a minimum of 6,900 dwellings up to 2030, or roughly 345 per annum. Whilst this does not reflect the FOAN, the Inspector concluded that it

⁶⁰ CD9.9 paragraph 7.4

⁶¹ CD9.22

would at least 'not plan for failure'. The Report into the Examination⁶² of the JCS confirmed that:

*"...it is effectively common ground between the Councils, the HBF, the CPRE and others, including numerous Parish Councils and major house builders active in the locality, that the agreed OAN figures cannot be met in full in this district at present. This is so, even at the lowest end of the range identified, without unacceptable environmental consequences that would be contrary to the policies and guidance in the NPPF and PPG. This takes into account the constraints of the NP, the flood risks locally and other significant factors, including the capacity of the road network, notably on the A27 and A259, and coastal erosion, amongst other things, such as the two Special Areas of Conservation (SAC) and the Heritage Coast designation. As noted in respect of the DtC, there is no realistic prospect of any material help in achieving new housing delivery from nearby Councils in the near future, pending further work on a sub-regional basis and a potential plan review."*⁶³

204. In response the appellant highlights that the District has areas not in the National Park, not subject to flooding and not constrained by infrastructure. But such a strategic spatial assessment of the District is not before me, nor is all of the information obtained from the JCS hearing sessions. The PPG also makes it clear that such a thorough examination cannot be replicated in the course of determining individual planning applications.⁶⁴

205. On the information provided there is insufficient evidence before me to diverge from the recent JCS Inspector's conclusion on this matter. As a result, I have adopted the same position, namely that there is a five-year supply of deliverable housing land.

206. That being the case, the Examining Inspector was clear that *"...there is very little flexibility..."* Moreover, the ability to just about demonstrate a five-year supply of housing does not negate the need for more development to come forward. As identified by another Inspector:

*"...irrespective of whether the five-year housing land supply position is met or not, NPPF does not suggest that this has to be regarded as a ceiling or upper limit on permissions. On the basis that there would be no harm from a scheme, or that the benefits would demonstrably outweigh the harm, then the view that satisfying a 5 year housing land supply figure should represent some kind of limit or bar to further permissions is considerably diminished, if not rendered irrelevant. An excess of permissions in a situation where supply may already meet the estimated level of need does not represent harm, having regard to the objectives of the NPPF (paragraph 51)"*⁶⁵

⁶² PID3

⁶³ Paragraph 25

⁶⁴ Paragraph: 033Reference ID: 3-033-20150327

⁶⁵ Appeal Decision APP/D0840/A/13/2209757 – Nicholas Freer PoE Appendix NEF30

Infrastructure and Social Cohesion

207. Representations at the Inquiry referred to the decline of local services and facilities in Newick, with comments that the post office is set to close and that the chemist and butchers are facing difficulties [97]. Concerns have also been raised that the influx of people into the village at too rapid a rate would undermine its social core [109], and that Newick does not need 'commuter housing' [115].
208. The provision of up to 50 new houses in Newick would provide a potential new source of income for shops such as the local chemist and butchers. The appellant's evidence uses the annual expenditure levels in the *Lewes District Shopping and Town Centres Study*⁶⁶ to identify that the original scheme would have generated an additional expenditure of some £21,500 p/a. Rather than exacerbate their decline, the additional housing proposed would therefore have a direct positive economic impact on local shops. Additional demand for buses would also help reverse, rather than exacerbate the decline in services. This reflects the comments made by the Newick Village Society, suggesting that expansion in the 1970s and subsequent population increase 'kept the village alive' [99]. In contrast, over the past 30 years or so the population of Newick has only seen a net increase of 43 people⁶⁷.
209. The Planning Officer's Report also states that Newick has around 2,500 residents and is 'one of the largest' villages in the north of the District. Based on the original scheme for 63 houses the proposal would have generated an additional population of roughly 151 people⁶⁸ (using 2011 census average household sizes). In the context of roughly 2,500 residents this would represent a very modest increase in population. The figure would be even smaller for the revised proposal of only 50 houses, and would not represent a scale of development that would undermine the settlement hierarchy, or 'turn Newick into a town'.
210. Even accounting for the allocations in the NNP, which are not all going to come forward at the same time, no evidence has been provided to demonstrate that the level of growth would be unsustainable or undermine existing services. Following adoption of the Council's CIL Charging Schedule and completion of the Section 106 Agreement it is common ground between the main parties that the effects of the appeal proposal would be adequately mitigated.
211. Despite the appeal site being located outside the defined planning boundary it is still situated close to existing circa 1970s housing off Allington Road. It is also connected to the village by the existing pavement and can be accessed from Footpaths 4a, 7 and 8. Subject to providing an appropriate mix and balance of housing at the reserved matters stage, retaining pedestrian connectivity and including areas of open space, there is no reason why the proposal would not be able to make a positive contribution to the social core of the village, especially given the amount of affordable housing proposed.

⁶⁶ Nicholas Freer PoE appendix NEF39

⁶⁷ Nicholas Freer PoE paragraph 8.17

⁶⁸ Nicholas Freer PoE paragraph 8.21

The Ashdown Forest

212. The Ashdown Forest SPA and SAC are located approximately 7km to the north of Mitchelswood Farm. I have therefore had regard to the effect of the proposal on the integrity of this European site, and considered the representations made at the Inquiry by Dr Kay in particular [112].
213. Although the appeal site is situated close to the boundary of the 7km 'Zone of Influence', it is nonetheless located outside the designated area. This led to the Council's conclusion that, following assessment by Natural England, the proposal would not result in any likely significant effects on the internationally important features the designated areas, either in isolation or combined with other projects. Based on the evidence provided I have no reasons to disagree.

Biodiversity

214. Survey work has been carried out by the appellant to assess, amongst other things, the impact of the proposal on protected species. The Ecological Assessment⁶⁹ found that aside from the house and stables, only two trees had potential for roosting bats. These are located to the north-west and south-east corners of the site, and based on the indicative layout, would be unaffected by the development.
215. In terms of foraging and commuting the horse-grazed semi-improved grassland only has a low potential, as does the copse and other scattered trees given their relatively young age and poor woodland structure. The site does support some habitats of elevated value such as the wooded track to the west and the mature trees and hedgerows to the south/south-east, but these are largely contained around the edges of the site and would be retained. Subject to adhering to mitigation measures during the construction phase and controlling lighting, there would be no significant adverse effect on bats.
216. As part of the survey a single adult Great Crested Newt (GCN) was recorded close to the south-east corner of the site. However, no breeding ponds would be affected by the development, with the nearest pond some 295m further south. In terms of terrestrial habitats the report states that the site is dominated by areas of 'negligible' and 'low' value to GCN. The hedgerow and ditch in the south-east corner (where the GCN was found) is considered to be of 'moderate' value, but there is nothing to indicate that this could not be retained as part of the final design. Using Natural England's Rapid Risk Assessment the survey therefore concludes that an office is highly unlikely.
217. With regard to other protected species the survey found no evidence of badger setts on the site, and whilst it may be used for foraging, given the abundance of suitable areas nearby the scheme would be unlikely to cause any substantial loss of habitat. The majority of habitats within the site also provide negligible potential for dormice, with the only areas of elevated value being the wooded track along Footpath 8, which would be largely unaffected.
218. Finally, the survey work identified no evidence of barn owls, but did find a modest number of nesting birds. The majority of activity was associated with the woodland, trees and hedgerows to the south-east corner. However, the species

⁶⁹ CD1.8

recorded were common and widespread both locally and nationally, with no evidence to suggest that the site is of particular significance. When taking into account that much of the site boundary vegetation would be retained and residential gardens and areas of open space created, the survey concludes that the proposal would not have an adverse effect on the local bird population in the long term.

219. Subject to a scheme of ecological enhancements and mitigation measures the proposal would therefore not give rise to any significant harm to biodiversity. As such there is no conflict with NNP Policy EN2 which states that the protection and/or enhancement of wildlife opportunities, by retaining or providing wildlife corridors and stepping stones such as hedgerows, ditches, strips of tree planting, green open spaces with trees and grass verges to roads, will be supported.

Traffic Generation

220. The Cinder Hill and Oxbottom Lane Traffic Group appeared before the Inquiry and raised concerns regarding the effect of development on the safety of the lane, which is used as a cut-through between the A272 and the A275 [118]. The NNP also confirms that local residents expressed concerns with the volume and speed of traffic on the A272, and the level of traffic and parking issues on Allington Road.
221. The effect of the proposal on the highway network has been considered in the Planning Officer's Report. It confirms that a Transport Statement has been submitted by the appellant⁷⁰ demonstrating that the original scheme for 63 houses would generate 35 two-way vehicle trips in the AM peak, and 38 two-way vehicle trips in the PM peak. As a result, whilst the vehicular use of Cinder Hill and Oxbottom Lane may increase, this would not be on a scale sufficient to cause any significant harm to highway safety, or the character of the lane.
222. Similarly, it is recognised that allowing the appeal would lead to more cars on Allington Road as occupants travelling east would likely drive up to The Green. Nevertheless, neither the Council nor the County Council Highways Officer has raised any concerns in this regard. The Transport Statement development flow assessment also shows that the majority of vehicles leaving the site during the morning peak would turn left onto Allington Road and head straight out onto the A272. Such additional movements would not be noticeable to residents around the school.
223. Based on the information provided I therefore find no robust evidence to suggest that the 50 houses proposed would cause traffic to reach hazardous levels. With the school only a very short walk away residents would be highly unlikely to exacerbate the peak hour on-street parking issues cited by residents. Subject to providing sufficient spaces as part of the final design there would be no need for potential future occupants to park on Allington Road.

Flooding and Drainage

224. The appeal site falls within Flood Zone 1 and is at a low risk of flooding. In terms of surface water the appellant's Outline Drainage Strategy considers two drainage methods, one using infiltration and one using attenuation and storage.

⁷⁰ CD1.10

Both would ensure that the run-off from the proposed development would not exceed that of the existing greenfield rate, and it would therefore not exacerbate any existing capacity problems. The final details could be secured through an appropriately worded planning condition.

225. With regard to foul drainage Southern Water's consultation response confirms that existing properties would be put at risk unless additional off-site sewers or improvements to existing sewers are carried out. However, Southern Water has not advised that this is an insurmountable problem, or that planning permission should be refused. Instead, it is recommended that the issue could be dealt with by a suitably worded planning condition. In the absence of evidence to suggest otherwise, I find no reasons to disagree.

Balancing Exercise and Conclusion on Main Issue

226. At the Inquiry the Council only pursued the first reason for refusing planning permission. That reason encompasses two harms; landscape harm and conflict with the made NNP. It is also common ground that the proposal conflicts with saved LDLP Policy CT1 by reason of its location beyond the planning boundary for Newick.

227. However, Policy CT1 was adopted in 2003 and seeks to limit development within the planning boundaries defined under the LDLP, which expired in 2011. It does not reflect the housing requirement or spatial distribution set out in the recently adopted JCS, and its protection of the countryside from encroachment by inappropriate development is not, as the Council contend, entirely consistent with the Framework. Based on the evidence provided the weight which can be attributed to this policy conflict is therefore reduced, and for the purposes of the Framework it is out-of-date.

228. In saving CT1 beyond 2007 the Secretary of State confirmed that it must be read in the context of other material considerations. This includes the Framework, and where relevant policies are out-of-date, its presumption in favour of sustainable development. In achieving sustainable development the Framework sets out three dimensions; the economic, social and environmental. It also confirms that these roles are mutually dependant, and I have considered the proposal on the same basis.

229. Allowing the appeal would contribute towards the supply of housing. Put into context the FOAN for the area from 2010 to 2030 is between 9,200 and 10,400 homes per year, but the JCS only makes provision for a minimum of 6,900 over the plan period. This is by no means the fault of the Council, or the residents of Newick. Instead, it is due to factors such as the coverage of the National Park, local flood risk issues and road capacity problems. Nevertheless, such issues do not apply to the appeal site, and the Council accepts that it is unaffected by planning constraints.

230. In the context of an area where the FOAN cannot be met, one so heavily constrained by other factors, and one where the five-year supply of deliverable housing land is marginal, the contribution that the appeal scheme would make to the supply of housing weighs heavily in its favour. Potential future occupants of the site would also generate additional expenditure within Newick and help support the shops and services which residents cite as in decline.

231. Part of the economic role of sustainable development is ensuring that sufficient land is available in the right places at the right time. With this in mind JCS Policy SP2 identifies a minimum of 100 houses for Newick, in addition to some 200 homes in locations to be determined. The Council does not propose conflict with this policy, and accepts that further non-strategic allocations may be required in Newick as part of the site allocations process. The provision of 50 additional properties in the village would therefore be consistent with the spatial distribution of housing in the JCS, and the fact that the site was not allocated in the Core Strategy does not indicate that it is unsuitable. In this regard the proposal is consistent with the economic role of sustainable development.
232. Furthermore, of the 50 houses proposed, 20 would be affordable. In a District where the need for affordable housing is described as 'acute' this carries substantial weight in favour of allowing the appeal. As noted by a colleague, *"These are real people in real need now"*⁷¹. With the evidence pointing to a need rising year-on-year, this is a significant material consideration. The benefits of providing 20 affordable homes are also amplified by the fact that there is nothing to restrict development coming forward in a timely manner, and the site is not, unlike others in Newick, subject to the requirement to provide SANG.
233. It has also been established that Newick has a range of services to meet the day-to-day needs of its residents. Despite its location on the other side of Newick to The Green it is still possible to walk to local pubs, shops, the medical centre and primary school. Larger settlements such as Haywards Heath and Uckfield are reasonably close-by and can be reached by bus, with weekday services going from stops less than 200m away. The scheme therefore also resonates with the social dimension of sustainable development which seeks to support strong, vibrant and healthy communities with accessible local services.
234. Although the proposed houses would be close to existing properties in the Parish of Chailey, this would not be readily apparent on the ground due to existing landscaping. There would be no obvious coalescence of settlements. The LCS also confirms that some areas on the fringes of the built up area, such as parts of the appeal site, have been degraded by equestrian uses, are bounded by visual barriers and offer the greatest scope for change in landscape terms. Thus, subject to providing an appropriate landscape buffer and achieving a carefully thought-out design at the reserved matter stage, the magnitude of harm on the setting and landscape character of Newick would not be significant. In this regard there is no conflict with the aims and objectives of LDLP Policy CT1. Through mitigation measures the scheme would also protect and improve habitats, consistent with the environmental role of the planning system.
235. When taking all these factors into account, I consider that the proposal represents the sustainable development for which there is a presumption in favour. Combined, the socio-economic benefits of allowing the scheme would be substantial, augmented by the housing context, wider constraints of the area and acute need for affordable housing.

⁷¹ Appeal Refs APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426 paragraph 8.124 (Stephen Hinsley PoE Appendix SH11-6

236. On the other hand I have taken into account that national planning policy seeks to ensure that planning is genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Paragraph 198 of the Framework is clear that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.
237. Weighed against the proposal is therefore the location of the appeal site on the western edge of the village. Newick Parish Council has been proactive in working hard to prepare and adopt a NP. This has reviewed the planning boundary and allocated land for approximately 100 new houses as per the requirement of the JCS. As part of this allocation process the appeal site was considered, and discounted due to its location at the 'wrong end' of the village.
238. However, whilst the Council and a significant number of local residents opposing the scheme cite this as conflict with the NNP, in my opinion it neither implies, nor explicitly states that other sites coming forward elsewhere in the Parish are unacceptable in principle. The allocations helpfully identify suitable sites for housing, but the NP does not place a cap on new housing. This was established by the Examiner. The Examiner also concluded that there was insufficient detail regarding the 'green gap' between the parishes of Newick and Chailey to justify the inclusion of a policy which sought to protect a specific area of open space in the village, or preclude development in the location proposed.
239. Furthermore, although the appeal would take the number of proposed new houses from around 100 to roughly 150, Newick is one of the largest villages in the north of the District. It has a population of approximately 2,500 and a good range of services and facilities commensurate with its size. Through the adoption of the Council's CIL charging schedule the proposal would also contribute to the provision of local infrastructure. Thus, despite empathising with local residents' concerns, there are no robust reasons to suggest that allowing an additional 50 houses would be so significant as to undermine the spatial distribution of housing in the JCS or the NNP, or lead to an unsustainable level of growth in Newick.
240. When taking all these factors into account, unlike in *Crane v SSCLG* I am not persuaded that there is conflict with the NP. As a result, weighed against the significant socio-economic advantages of the development the adverse impacts of granting planning permission would fall short of significantly and demonstrably outweighing the benefits. In such circumstances paragraph 14 of the Framework directs that planning permission should be granted, and the other material considerations presented justify departing from saved LDLP Policy CT1.
241. I appreciate that this recommendation will disappoint local residents who have invested considerable time and effort in preparing the NNP. I am also aware of the Government's 'localism' agenda and the importance of NP's in ensuring a plan-led system. Nevertheless, the involvement of local residents must be balanced against other material considerations such as the Framework which seeks to boost significantly the supply of housing. The Framework also has a clear presumption in favour of sustainable development.

Recommendation

Appeal Ref APP/P1425/W/15/3119171

242. For the reasons given above, and having had regard to all other matters raised, I recommend that the appeal should be allowed and planning permission be granted subject to the conditions in Appendix C to this Report and the accompanying planning obligation.

Matthew Birkinshaw

INSPECTOR

Richborough Estates

APPENDIX A - APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms C Parry of Counsel	Instructed by Lewes District Council
She called	
Mr D Wynn	Trees and Landscape Officer, Lewes District Council
Miss N Carpenter	Senior Planning Officer (Strategic Policy Team) Lewes District Council
Mrs S Sheath	Senior Planning Officer (Development Management Team) Lewes District Council

FOR THE APPELLANT:

Mr C Young of Counsel	
He called	
Mr S Hinsley	Senior Director, Tetlow King Planning Ltd
Mr P Gibbs	Director, David Jarvis Associates
Mr N Freer	Partner, David Lock Associates

INTERESTED PERSONS:

Chris Armitage	Newick Parish Council
Cathy Wickens	Newick Parish Council
Tony Turk	Newick Village Society
John Lucas	Ex Newick Parish Council Chairman and local resident
Dr John Kay	CPRE Sussex
Michael Morton-George	Cinder Hill and Oxbottom Lane Traffic Group
Malcolm McDonnell	Ramblers
John Harmer	Ramblers and Countryside Officer
Malcolm Smith	Local resident
Ruth Bailey	Local resident
Andrew Wilson	Local resident
Gary Marshall	Local resident
John Sampson	Local resident

APPENDIX B – DOCUMENTS

CORE DOCUMENTS

- CD1.1 Mitchelswood Farm, Newick Location Plan Ref ZMG734-001
- CD1.2 Letter to N Carpenter dated 9 September 2014
- CD1.3 Illustrative Masterplan Ref ZMG734/016
- CD1.4 Landscape Screening Plan Ref ZMG734/017
- CD1.5 Arboricultural Impact Assessment Ref 8853_AIA.001
- CD1.6 Design and Access Statement, dated September 2014
- CD1.7 Planning Statement, dated September 2014
- CD1.8 Ecological Assessment Including Information to inform Habitats Regulations Assessment, Ref ECO3189.EcoAss.vf
- CD1.9 Flood Risk Assessment, dated September 2014
- CD1.10 Transport Statement, dated September 2014
- CD1.11 Travel Plan Statement, dated September 2014
- CD1.12 Planning Officer delegated report
- CD1.13 Lewes District Council Decision Notice Application Ref LW/14/0703
- CD1.14 Natural England Consultation Response, dated 24 September 2014
- CD1.15 Memo from Environmental Health to Sarah Sheath, dated 14 October 2014
- CD1.16 Newick Parish Council Consultation Response, dated 6 October 2014
- CD1.17 Lewes District Council Policy Comments, dated 21 October 2014
- CD1.18 Southern Water Consultation Response, dated 8 October 2014
- CD1.19 Trees & Landscape Comments, dated 6 October 2014
- CD1.20 Email correspondence from Leighton Rowe to Sarah Sheath dated 17 November 2014
- CD1.21 East Sussex County Council Highways Authority Consultation Response, dated 29 January 2015
- CD1.22 Sussex Police Consultation Response, dated 24 September 2014
- CD1.23 East Sussex County Council Environmental Advice Team Consultation Response, dated 7 November 2014
- CD1.24 Draft Section 106 Agreement

- CD2.1 Planning Appeal Form
- CD2.2 Statement of Case on behalf of the Appellant DLA Delivery
- CD2.3 Lewes District Council Statement of Case
- CD2.4 Statement of Common Ground
- CD2.5 Notification of Public Inquiry

- CD3.1 Lewes District Local Plan Part 1 Joint Core Strategy – Proposed Submission Document
- CD3.2 Lewes District Local Plan Part 1 Joint Core Strategy – Proposed Submission Document Focussed Amendments
- CD3.3 Lewes District Council Local Plan Part 2: Site Allocations and Development Management Policies Issues and Options Topic Paper 1, dated November 2013
- CD3.4 Lewes District Council Local Plan Part 2: Site Allocations and Development Management Policies Issues and Options Topic Paper 2: Housing, dated November 2013
- CD3.5 Lewes District Council Local Plan Part 2: Site Allocations and Development Management Policies DPD Appendices

- CD3.6 Lewes District Council Local Plan Part 2: Site Allocations and Development Management Policies Issues and Options Topic Paper 5, dated November 2013
- CD3.7 Lewes District and South Downs National Park Authority Landscape Capacity Study, dated September 2012
- CD3.8 Lewes District Council and South Downs National Park Rural Settlement Study, dated January 2013 – Version 2
- CD3.9 Lewes District Local Plan Part 1 Joint Core Strategy – Proposed Main Modifications – Addendum to the Sustainability Appraisal (Including Consideration of Reasonable Alternatives to Core Policy 10 Part 3 concerning the protection of the Ashdown Forest SPA/SAC).
- CD3.10 Lewes District Local Plan Part 1: Joint Core Strategy – Submission Document Proposed Modifications Schedule 1, dated July 2015
- CD3.11 Lewes District Local Plan Part 1: Joint Core Strategy – Submission Document Proposed Modifications Schedule 2, dated July 2015
- CD3.12 Lewes District Local Plan Part 1: Joint Core Strategy – Submission Document Proposed Modifications Schedule 3, dated July 2015
- CD3.13 Lewes District Local Plan Part 1: Joint Core Strategy – Submission Document Proposed Modifications Schedule 4, dated July 2015
- CD3.14 Lewes District Local Plan Part 1: Joint Core Strategy – Submission Document Proposed Modifications Version
- CD3.15 Submission Joint Core Strategy (as proposed to be modified) Draft Infrastructure Delivery Plan, dated July 2015
- CD3.16 Lewes District Local Plan Part 1: Joint Core Strategy – Update on the Duty to Cooperate Compliance Statement – Proposed Modifications Background Paper, dated October 2015

- CD4.1 Joint Core Strategy Main Modifications Representations submitted by David Lock Associated, dated 2 October 2015

- CD5.1 Letter from Nigel Payne, Inspector, dated 10 February 2015
- CD5.2 Letter from Tom Jones and Neville Harrison, Lewes District Council and South Downs National Park Authority, dated 5 October 2015

- CD6.1 Newick Parish Council Neighbourhood Plan
- CD6.2 Newick Parish Council Neighbourhood Plan “Newick Now to 2030” Decision Statement, dated January 2015
- CD6.3 Newick Neighbourhood Plan “Newick Now to 2030” Examination Report, dated December 2014
- CD6.4 Newick Parish Council Proposed Neighbourhood Plan Independent Examination Issue
- CD6.5 Newick Neighbourhood Plan – Report on Sustainability Appraisal and Development Site Selection
- CD6.6 Newick Neighbourhood Plan Basic Conditions Statement
- CD6.7 Newick Neighbourhood Plan Consultation Statement
- CD6.8 Second Witness Statement of Edward Sheath, dated 14 July 2015

- CD7.1 Representations to the Newick Neighbourhood Plan Consultation by David Lock Associates, dated May 2014
- CD7.2 Representations to the Newick Neighbourhood Plan Independent Examination Version, dated 13 October 2014
- CD7.3 Counsel’s Opinion on behalf of David Lock Associates Delivery

- CD8.1 Assessment of consistency of 'saved' Lewes District Local Plan Policies (2007) with the National Planning Policy Framework (2012)
- CD8.2 Lewes District Local Plan Chapter 4
- CD8.3 Lewes District Local Plan Chapter 7
- CD8.4 Lewes District Local Plan Chapter 10
- CD8.5 Newick Planning Boundary

- CD9.1 Lewes District Council and South Downs National Park Authority Strategic Housing Land Availability Assessment (SHLAA) Main Report June 2014
- CD9.2 Lewes District Council and South Downs National Park Authority SHLAA Section 7 Appendices
- CD9.3 Lewes District Council and South Downs National Park Authority SHLAA Map
- CD9.4 Lewes District Council and South Downs National Park Authority Strategic Housing and Economic Land Availability Assessment (SHELAA) Main Report October 2015
- CD9.5 Lewes District Council and South Downs National Park Authority SHELAA Section 7 Appendices
- CD9.6 Lewes District Council and South Downs National Park Authority SHELAA Map
- CD9.7 Assessment of Housing Development Needs Study: Sussex Coast HMA, GL Hearn, dated April 2014
- CD9.8 Updated Demographic Projections for Sussex Coast HMA Authorities, Final Report, dated August 2013
- CD9.9 Lewes District Council Affordable Housing Needs Assessment 2013-2018, Dated January 2014
- CD9.10 Lewes District Assessment of the Local Need for Housing, dated April 2011
- CD9.11 Lewes District Council Housing Market Assessment of Lewes, dated 2008
- CD9.12 Lewes District Council and South Downs National Park Authority Authority Monitoring Report (AMR) , dated February 2013
- CD9.13 Lewes District Council and South Downs National Park Authority AMR, Dated January 2014
- CD9.14 Lewes District Council and South Downs National Park Authority AMR 2014
- CD9.15 Housing Supply Position as at 1 April 2013
- CD9.16 Housing Supply Position as at 1 August 2013
- CD9.17 Housing Supply Position as at 1 October 2013
- CD9.18 Housing Supply Position as at 1 January 2014
- CD9.19 Housing Land Supply Position as at 1 April 2014
- CD9.20 Housing Land Supply Position as at 1 October 2014
- CD9.21 Housing Land Supply Position for the Lewes District as at 1 April 2015
- CD9.22 Lewes District Local Plan Part 1: Joint Core Strategy Updated Housing Trajectory and Five Year Housing Land Supply as at 1 October 2015, dated January 2016
- CD9.23 Lewes District Council and South Downs National Park Authority Core Strategy Background Paper – Identifying a housing delivery target for the District, dated September 2011
- CD9.24 Lewes District Council and South Downs National Park Authority Core Strategy Background Paper – Identifying a housing delivery target for the District Revised Version, dated January 2013
- CD9.25 Lewes District Council and South Downs National Park Authority Joint Core Strategy Background Paper – Justification for the Housing Strategy, dated May 2014
- CD9.26 Policy Constraints Report, dated March 2014

- CD9.27 Lewes District Council and South Downs National Park Authority Lewes District Local Plan: Part 1 Joint Core Strategy Spatial Strategy (Housing) (MM01, MM02 and MM03)

- CD10.1 National Planning Policy Framework
- CD10.2 Written Statement to Parliament Planning Growth, delivered on 23 March 2011
- CD10.3 National Planning Practice Guidance (online - <http://planningguidance.communities.gov.uk/>)
- CD10.4 Technical Guidance to the National Planning Policy Framework
- CD10.5 Department for Communities and Local Government, Housing and Growth, Dated 6 September 2012
- CD10.6 Speech by Planning Minister Nick Boles MP, delivered on 10 January 2013
- CD10.7 Laying the Foundations: A Housing Strategy for England, dated November 2011
- CD10.8 Her Majesty's Most Gracious Speech to both Houses of Parliament, delivered on 4 June 2014
- CD10.9 Mansion House 2014: Speech by the Chancellor of the Exchequer
- CD10.10 Living Working Countryside – The Taylor Review of Rural Economy and Affordable Housing
- CD10.11 HM Treasury - The Plan for Growth, dated March 2011
- CD10.12 HM Treasury – National Infrastructure Plan 2013, dated December 2013
- CD10.13 HM Treasury – Budget 2014

- CD11.1 Planning Application Report LW/14/0924
- CD11.2 Notice of Planning Permission LW/14/0924
- CD11.3 Letter from Natural England regarding planning application LW/14/0924, dated 14 January 2015
- CD11.4 Map showing part of the District within 7km of the Ashdown Forest
- CD11.5 Habitats Regulations Assessment Addendum, dated March 2014
- CD11.6 Habitats Regulations Assessment Background Paper, dated March 2014
- CD11.7 Ashdown Forest Special Protection area (SPA) Strategic Access Management and Monitoring Strategy Tariff Guidance – December 2015 for Wealden District Council, Lewes District Council and Tandridge District Council
- CD11.8 Lewes District Council Community Infrastructure Levy Charging Schedule, dated October 2015
- CD11.9 Lewes District Council Supplementary Planning Guidance Note on The Provision of Kerbside Recycling Facilities as part of New Residential Development, dated January 2004
- CD11.10 The East Sussex County Landscape Assessment

INQUIRY DOCUMENTS

- ID1 Opening Submission for the Appellant
- ID2 Opening Submission for the Local Planning Authority
- ID3 Bernard Wheatcroft Ltd. v SSE
- ID4 Revised Illustrative Layout (Ref ZMG734/022) and Revised Site Location Plan (Ref ZMG734-024)
- ID5 Statement by Mrs R Bailey
- ID6 Bus timetable for service 31 and 121
- ID7 Statement by John Lucas
- ID8 SSCLG v South Gloucestershire Council & Anon. (COA) [2016] EWCA Civ 74
- ID9 Newick Neighbourhood Plan 'Options Collected' Document
- ID10 Appeal Decision Ref APP/Y3940/A/14/2222641
- ID11 Appeal Decision Ref APP/L3815/W/14/3000690
- ID12 Draft Section 106 Agreement
- ID13 SSCLG Decision Letter APP/H2835/A/14/2221102
- ID14 Letters from Will Cousins, dated 8 February 2016
- ID15 Lewes Joint Core Strategy (December 2015) Resumed Hearings Programme with Ins
- ID16 Statement of Common Ground relating to Housing Land Availability
- ID17 Revised Services Plan (Ref ZMG734-021 Revision B)
- ID18 Revised Indicative Photomontage VP 11 (Ref DJA17 P1.2)
- ID19 Freedom of Information Request Lewes District Council Ref FOI/491
- ID20 Newick Neighbourhood Plan Character Assessment
- ID21 National Planning Practice Guidance extract
- ID22 SSCLG Decision Letter APP/D3830/A/12/2189451
- ID23 Statement by Tony Turk on behalf of the Newick Village Society
- ID24 Statement by Malcolm Smith
- ID25 Letter from Will Cousins to Walker Morris LLP, dated 10 February 2016
- ID26 Listed of Agreed Planning Conditions
- ID27 Land Registry Title Transfers
- ID28 Signed Section 106 Agreement
- ID29 Statement from Lewes District Council, dated 12 February 2016
- ID30 Closings on behalf of the Local Planning Authority
- ID31 Closings on behalf of the Appellant

POST-INQUIRY DOCUMENTS

- PID1 Letter to PINS from DLA, dated 1 March 2016
- PID2 Letter to PINS from Lewes District Council, dated 2 March 2016
- PID3 Report to Lewes District Council and the South Downs National Park Authority on the Examination into the Lewes District Local Plan – Part 1 – Joint Core Strategy
- PID4 Report to Lewes District Council and the South Downs National Park Authority on the Examination into the Lewes District Local Plan – Part 1 – Joint Core Strategy Main Modifications
- PID5 Letter to PINS from Lewes District Council, dated 8 April 2016
- PID6 Letter to PINS from DLA, dated 18 April 2016 with enclosures.

Richborough Estates

APPENDIX C – CONDITIONS SCHEDULE

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development 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 not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The approved access shall be constructed in the position shown on the submitted illustrative masterplan (Ref ZMG734/022) and shall be laid out and constructed in accordance with details first submitted to and approved in writing by the local planning authority. The works shall be carried out as approved and prior to the first occupation of any of the dwellings hereby permitted.
- 5) No development shall take place until a surface water drainage scheme for the site, 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:
 - 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 development); and
 - Details of how the scheme shall be maintained and managed after completion and for the lifetime of the development.

The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 6) 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.
- 7) No development shall take place until a detailed scheme of ecological enhancements and mitigation measures, to include on-going management as necessary, based on the recommendations of the Ecological Assessment (September 2014) by Aspect Ecology Ltd 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.

- 8) 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.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- the number, frequency and type of vehicles to be used during construction;
 - methods of access and routing of vehicles, including those of site operatives;
 - parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in the construction;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of any temporary Traffic Regulation Orders);
 - lighting for construction and security;
 - details of public notification prior to and during construction works; and
 - measures to safeguard public rights of way or temporary diversions during the construction process.
- 10) No demolition or construction works shall take place outside 0800 hours to 1800 hours Mondays to Fridays and 0830 hours to 1300 hours on Saturdays and no works shall be carried out on Sundays or Bank Holidays.
- 11) No development shall take place until detailed drawings, including levels, sections and construction details of the proposed estate roads, along with details of surface water drainage and outfall disposal have been submitted to and approved in writing by the local planning authority. The roads shall thereafter be constructed in accordance with the approved drawings and details.
- 12) No development shall take place until a soil survey report, to include the results of California Bearing Ratio (CBR) tests taken along the lines of the proposed estate roads have been submitted to and approved in writing by the local planning authority.
- 13) No construction of the dwellings hereby permitted shall take place until the estate roads have been completed to base course level, together with provision of surface water, foul sewers and main services, in accordance with the details approved under Condition 11.

- 14) No development shall take place until a programme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved programme.
- 15) The dwellings hereby approved shall not be occupied until 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 of Archaeological Investigation to the satisfaction of the local planning authority, in consultation with the County planning authority.
- 16) If, during development, contamination is found to be present at the site then no further development shall be carried out until a Remediation Strategy, based on site investigations, has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall be carried out as approved and provide full details of the remediation measures required and how and when they are to be undertaken. None of the dwellings hereby permitted shall be occupied until a verification report demonstrating completion of the works in the Remediation Strategy and their effectiveness has been submitted to and approved in writing by the local planning authority. It shall also include as necessary a long-term monitoring and maintenance plan for 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. The plan shall thereafter be implemented as approved.
- 17) No development shall take place until an external lighting scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all street lighting and the illumination of public areas where required. Development shall be carried out in accordance with the approved scheme which shall be adhered to at all times thereafter.
- 18) None of the dwellings hereby approved shall be occupied until a residential Travel Plan Statement has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the Travel Plan which shall include:
 - Targets for the reduction of single occupancy car trips;
 - A methodology for implementing and monitoring the effect of the Travel Plan; and
 - Remedial measures should the targets of the Travel Plan not be met.



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.