



Department for  
Communities and  
Local Government

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Our Ref: APP/Z3825/W/14/3001703

By email: [james.lloyd@jl-a.co.uk](mailto:james.lloyd@jl-a.co.uk)

12 December 2016

Dear Mr Lloyd

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY STONEGATE HOMES AND LITTLEWORTH PROPERTIES LIMITED  
LAND AT SANDGATE NURSERIES, WEST END LANE, HENFIELD, SUSSEX BN5 9RD  
APPLICATION REF: DC/14/0588**

1. I am directed by the Secretary of State to say that consideration has been given to the report of S J Papworth DipArch (Glos) RIBA, who held a public local inquiry on dates between 23 February and 19 May 2016 into your client's appeal against the decision of Horsham District Council ("the Council") to refuse planning permission for your client's application for planning permission for demolition of existing vacant garden nurseries and associated structures and redevelopment of the site to provide 72 units comprising 6 x 1 bed, 17 x 2 bed, 6 x 3 bed (29) affordable units and 9 x 2 bed, 15 x 3 bed and 19 x 4 bed (43) market residential units with associated car spaces, hard and soft landscaping and new access arrangements from West End Lane and Holland Lane, in accordance with application ref: DC/14/0588, dated 19 March 2014.
2. On 19 May 2015, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves residential development of over 10 units in areas where a qualifying body has 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 planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Procedural matters**

4. The Secretary of State notes that an application for costs was made by the appellant but they subsequently confirmed that this was no longer being pursued (IR3).

## **Matters arising after the close of the inquiry**

5. The Secretary of State was made aware of the High Court Judgment handed down on 13 October 2016 in ***R (on the application of) (1) Stonegate Homes Limited and (2) Littleworth Properties Limited v Horsham District Council and Henfield Parish Council [2016] EWHC 2512 (Admin)*** where the Judge allowed the claim challenging the decision of Horsham District Council to make the Henfield Neighbourhood Plan. The High Court ordered that the decision of 27 April 2016 to make the Henfield Neighbourhood Plan be quashed.
6. On 21 October 2016, the Secretary of State wrote to the parties seeking comments on the implications of that Judgment. On 7 November 2016, he circulated the representations he had received and sought final comments. A list of representations received is at Annex A and copies of all the relevant correspondence may be obtained on written request to the address at the foot of the first page of this letter.
7. The Secretary of State has given careful consideration to all representations received but, for the reasons given below, does not consider that it raises any further issues on which he requires additional information before proceeding to a decision on this case.

## **Policy and statutory considerations**

8. 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.
9. In this case the development plan consists of the Horsham District Planning Framework (the 'District Framework') – adopted 27 November 2015. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR14.
10. 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'), the Community Infrastructure Levy (CIL) Regulations 2010 as amended, the Henfield Parish Design Statement 2008 and Planning Obligations (2007) Supplementary Planning Documents, as well as those documents listed by the Inspector at IR20.
11. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal scheme

or their settings or any features of special architectural or historic interest which they may possess.

## **Main issues**

12. The Secretary of State agrees with the Inspector and considers that the main issues are those set out at IR7 and 8.

### *Housing land supply*

13. The Secretary of State has considered carefully the evidence and Inspector's reasoning in this matter alongside the further representations from the parties. For the reasons given at IR90-107 the Secretary of State agrees with the Inspector that substantial weight should still be afforded to the process and findings of the Examining Inspector (of the District Framework); that the present situation does not indicate either the raising of the buffer to 20% is necessary; or that the Council are unable to demonstrate a 5 year land supply; and that an early Plan review will address the situation (IR108). The Secretary of State's view is that in although there is some loss of housing supply through the removal of the Neighbourhood Plan, that the policies for supply of housing are not out of date to the extent that paragraph 14 of the Framework is engaged and that that subsequent development plan documents are capable of addressing changes resulting to the housing supply requirements.

### *Location of development*

14. The Secretary of State has considered carefully both the Inspector's analysis at IR109-114, and the further representations received. At IR110 the Inspector states that the appellant has identified a 'tension' between policies with reference to the findings of the Inspector on the 'West Chillington' case. However, the Secretary of State agrees with the Inspector at IR111 where he states that, subject to meeting general development control criteria, windfalls within a town or village would be acceptable. He then goes on to explain that Policy 4 should be taken at face value and that it sets out how development around the edges of existing settlements is to be managed, as required under part 6 of Policy 2 (IR112). Overall, the Secretary of State agrees with the Inspector's conclusion that as the site is not allocated in the development plan the proposal is contrary to both District Framework Policy 4 on settlement expansion and Policy 26 on countryside protection (IR115).

### *The character and appearance of the area*

15. Like the Inspector, the Secretary of State notes that the appeal site was found suitable for 40 units in both the Strategic Housing Land Availability Assessment and the later Strategic Housing and Economic Land Availability Assessment, which noted it as being considered developable in between 6 and 10 years from that time (IR117). He further agrees with the Inspector that that density of the proposal itself as such should not be an issue, but the effect of the density is (IR118). He has considered carefully the Inspector's analysis at IR119-129, and agrees with his conclusion that the proposal would be contrary to District Framework policies 25, 32 and 33 and that the aims of the Framework regarding high quality design would not be furthered (IR130).

### *Designated heritage asset*

16. The listed building (Camellia Cottage) though substantially altered from its original built form retains a visual link to the appeal site land and the setting is also affected by the

granted residential development to the north (IR132-134). The Secretary of State agrees with the Inspector that the level of harm to the listed building is 'less than substantial' (IR145) and that considerable importance attaches to this harm. Overall, for the reasons given at IR131-146 the Secretary of State agrees with the Inspector that the proposal would harm the setting of the listed building contrary to the relevant District Framework policy and the setting would not be preserved or enhanced as sought by section 66(1) of the LBCA.

#### *Primary Education Contribution*

17. The Secretary of State notes the failure to agree the Primary Education Provision between the appellant and the Local Education Authority, West Sussex County Council (IR147). He further agrees with the Inspector that, based on the information available, it does not appear to be certain that this aspect of the obligation is necessary to make the development acceptable in planning terms, by being directly related to the development, and reasonably related in scale and kind to the development and is unlikely to comply with Regulation 122 of the Community Infrastructure Levy Regulations (IR148-151 & IR168).

#### *Other matters*

18. For the reasons given at IR152-153 the Secretary of State agrees with the Inspector's conclusion on highways issues. He similarly agrees with the Inspector's conclusions on the other concerns raised by Third Parties (IR154-IR160).

#### **Planning obligations**

19. Notwithstanding the Secretary of State's conclusion at paragraph 16 above, and having regard to the Inspector's analysis at IR84-89 the Secretary of State considers that, with the exception of the Primary Education Contribution, the obligation complies with all other aspects of Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework. However, he does not consider that the obligation would overcome his reasons for dismissing this appeal.

#### **Planning conditions**

20. The Secretary of State has given consideration to the Inspector's analysis at IR81-83, 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. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

#### **Planning balance and overall conclusion**

21. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with a number of District Framework policies as set out in paragraphs 14 – 16 above, and is not in accordance with the development plan overall. Therefore he has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
22. Despite the fact that the parties agreed that the appeal site was considered developable in the medium term all the main matters weigh against the proposal, there is harm identified to the landscape character and appearance of the area and less than

substantial harm to the setting of a listed building, which is also contrary to the Framework. The Council are able to demonstrate adequate housing land supply provision in the Secretary of State's view and, due in part to design considerations and the aforementioned impacts, the proposal is not considered sustainable development from the environmental viewpoint. There are some public benefits to the scheme when considering the harm to Camelia Cottage. Although that balance in respect of paragraph 134 of the Framework is standalone, these also weigh in favour of the proposal in the overall planning balance; largely the boost to housing supply including much needed affordable units. In addition, the roads and junctions are agreed to be capable of catering for the traffic generated in terms of safety and capacity and none of the other miscellaneous matters raised by third parties weigh against the proposal.

23. The Secretary of State therefore concludes that there are insufficient material considerations that indicate that the appeal should be determined other than in accordance with the development plan.

### **Formal decision**

24. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for demolition of existing vacant garden nurseries and associated structures and redevelopment of the site to provide 72 units comprising 6 x 1 bed, 17 x 2 bed, 6 x 3 bed (29) affordable units and 9 x 2 bed, 15 x 3 bed and 19 x 4 bed (43) market residential units with associated car spaces, hard and soft landscaping and new access arrangements from West End Lane and Holland Lane, in accordance with application ref: DC/14/0588, dated 19 March 2014.

### **Right to challenge the decision**

25. 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.

26. A copy of this letter has been sent to Horsham District Council, and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

*Richard Watson*

Richard Watson  
Authorised by Secretary of State to sign in that behalf

## Annex A

### SCHEDULE OF REPRESENTATIONS

#### General representations received since the inquiry

Party	Date
Henfield Parish Council	14 Oct 2016

#### Representations in response to the Secretary of States letter of 21 October 2016

Party	Date
Horsham District Council	1 Nov 2016
Horsham District Council	3 Nov 2016
James Lloyd Associates Ltd	4 Nov 2016
Henfield Parish Council	1 Nov 2016
Henfield Community Partnership	31 Oct 2016
Cllr Mike Morgan	2 Nov 2016
CPRE Sussex Branch	2 Nov 2016
Grommets Ltd	1 Nov 2016

#### Further comments in response to circulated representations

James Lloyd Associates Ltd	18 Nov 2016
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Richborough Estates

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# Report to the Secretary of State for Communities and Local Government

by S J Papworth DipArch(Glos) RIBA

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

Date: 28 July 2016

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TOWN & COUNTRY PLANNING ACT 1990 SECTION 78

Appeal by

STONEGATE HOMES AND LITTLEWORTH PROPERTIES LIMITED

Against the Decision of

HORSHAM DISTRICT COUNCIL

Inquiry held on 23 – 25 February and 17 – 19 May 2016

Sandgate Nurseries, West End Lane, Henfield BN5 9RD

File Ref: APP/Z3825/W/14/3001703

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**File Ref: APP/Z3825/W/14/3001703**

**Sandgate Nurseries, West End Lane, Henfield BN5 9RD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Stonegate Homes and Littleworth Properties Limited against the decision of Horsham District Council.
- The application Ref DC/14/0588, dated 19 March 2014, was refused by the Council by notice dated 25 November 2014.
- The development proposed is demolition of existing vacant garden nurseries and associated structures and the redevelopment of the site to provide 72 units comprising 6 x 1-bed, 17 x 2-bed, 6 x 3-bed (29) affordable units and 9 x 2-bed, 15 x 3-bed and 19 x 4-bed (43) market residential units with associated car parking spaces, hard and soft landscaping and new access arrangements from West End Lane and Hollands Lane.

**Summary of Recommendation: The Appeal be dismissed**

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**Abbreviations**

There is no general need for abbreviations in this Report.

However, since the Development Plan now includes a document entitled '*The Horsham District Local Development Framework Core Strategy*', any possibility of confusion with the '*National Planning Policy Framework*' and the accepted use of the abbreviated form '*The Framework*' for that document, will be overcome by referring throughout this Report to the former as the '*District Framework*' and the latter as the '*National Framework*'.



## Procedural Matters

1. The application was refused on 25 November 2014. The subsequent appeal was to proceed by way of written representations, with a site visit conducted on 5 May 2015. The appeal was recovered for determination by the Secretary of State by Direction made on 19 May 2015. The stated reason for this Direction is that the appeal involves a proposal for residential development of over 10 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority; or where a neighbourhood plan has been made. The procedure was changed to a Public Inquiry pursuant to section 319A of the Town and Country Planning Act 1990 by letters dated 21 September 2015.
2. The Inquiry was originally scheduled to sit on three days, 23, 24 and 25 February 2016. It was apparent shortly before the opening of the Inquiry, on receipt of timings requested from the parties, that a further 3 sitting days would be required. These additional sitting days were agreed at 17, 18 and 19 May 2016 due to commitments in-between. Evidence was heard on 17 May and on the morning of 18 May, with the site inspection being carried out in the afternoon. A discussion on conditions and the Undertaking was held on 19 May followed by final submissions.
3. An application for costs had been submitted by the appellant when scheduled as a written representation appeal. In the event the appellant confirmed during the Inquiry that it was no longer intended to pursue the application.

## The Council's Reasons for Refusal and Objection

4. The Council Committee meeting of 17 November 2014<sup>1</sup> resolved to refuse permission and the Decision Notice dated 25 November 2014<sup>2</sup> cited three reasons for refusal as follows:
  - *Reason 1* The site is identified for development at a lower density in the Strategic Housing Land Availability Assessment and to develop the site at the density proposed would represent an over-development of the site and result in an unacceptable form of development in this location.
  - *Reason 2* The overdevelopment of the site would, by reason of the number of associated traffic movements, prejudice public safety and the efficiency of the access roads running from the site through to the A281 London Road Henfield.
  - *Reason 3* The proposed development is unacceptable as there is no provision for contributions towards improvements to, and maintenance of, transport, education, community facilities and fire and rescue infrastructure, green space, allotments, and a Sustainable Urban Drainage System and is therefore contrary to Policy CP13 of District Framework as it has not been demonstrated how infrastructure needs for the development would be met.
5. Officers reported to a further Committee meeting on 19 January 2016<sup>3</sup> that reasons for refusal 2 and 3 on highways and contributions would not be contested

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<sup>1</sup> Document C3 L Westphal Appendix 2

<sup>2</sup> Document C3 L Westphal Appendix 1

<sup>3</sup> Document C5 E Murphy Appendix B

at Appeal, but that in view of changes to policy, with the adoption of the District Framework on 27 November 2015<sup>4</sup>, there was now an in-principle objection to housing in this location. In addition, as it was considered that a 5 year supply of housing land could now be demonstrated, the planning balance with regard to the listed building Camellia Cottage, was considered to have changed. As a result it was resolved to add a further two reasons for objection as follows;

- *Further objection 1* The proposed development is located in the countryside, outside the defined built-up area boundary of Horsham, on a site not allocated for development within the District Framework, or an adopted Neighbourhood Development Plan. The Council is able to demonstrate a 5 year housing land supply and consequently this scheme would be contrary to the overarching strategy and hierarchical approach of concentrating development within the main settlements. Furthermore the proposed development is not essential to its countryside location and would cause harm to the landscape character of the area. Consequently it represents unsustainable development contrary to Policies 1, 2, 3, 4, 25 and 26 of the District Framework (2015) and paragraphs 7, 14, and 64 of the National Framework (2012).
  - *Further objection 2* The proposed development would cause unacceptable permanent and irreversible harm to the rural setting of the Grade II Listed Building, Camellia Cottage. This harm would not be outweighed by any public benefits arising from the proposed development and as such the proposal is contrary to the provisions of Policies 26 and 34 of the District Framework (2015) and paragraphs 7, 14, 126 and 134 of the National Framework (2012).
6. In addition, the Statement of Common Ground<sup>5</sup> records a failure to agree on the education contribution sought by West Sussex County Council.

### **Main Issues**

7. In view of the above, and the matters set out in the Statement of Common Ground<sup>5</sup>, the main issues are:
- Whether the Council can demonstrate a 5 year supply of housing land, including whether a 5% or 20% buffer should be applied.
  - Whether the proposal accords with policy on the location of development.
  - The effect of the density of the proposed development on the character and appearance of the area.
  - The effect of the development on a designated heritage asset.
  - Whether the Primary Education Contribution accords with Regulation 122 of the Community Infrastructure Levy Regulations 2010.
8. Whilst there is agreement between the main parties over the highway effects, as set out in the Highway Statement of Common Ground<sup>6</sup>, this objection was

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<sup>4</sup> Core Document CD1

<sup>5</sup> Document A8

<sup>6</sup> Document A9

pursued by a District and Parish Councillor and local residents<sup>7</sup>, which prompts a further main issue;

- The effect of the development on the operation of the highway network within Henfield.

### **The Site and Surroundings**

9. A written description of the site and surroundings is in the Statement of Common Ground<sup>8</sup>;

- *The Appeal Site is located on the western side of Henfield, which is a small town/larger village settlement (as classified in Policy 3 of the District Framework) defined as 'settlements with a good range of services and facilities... with reasonable rail and/or bus services' in the southern part of the District.*
- *The Appeal Site immediately abuts and lies outside the present built up area boundary to the settlement along the length of its eastern boundary. As such it is an urban fringe site and is described by the parties as a semi-rural location.*
- *The Appeal Site has two frontages onto the highway with the northern frontage and existing access onto West End Lane, and the southern frontage onto the bridleway of Hollands Lane. The north, west and southern boundaries of the Appeal Site are formed of a screen of trees and hedgerows. The eastern boundary of the Appeal Site is formed by the closed boarded fences and outbuildings to properties in Hollands Road.*
- *The Appeal Site is relatively flat in the central and northern areas of the Appeal Site; however there is a gradual slope down towards Hollands Lane. The existing Appeal Site comprises of open land and glass houses and horticultural buildings, the latter of which are in various states of severe disrepair. In addition, there is some hard-standing within the Appeal Site and predominantly in the more central areas, however this has now become quite overgrown.*
- *The Appeal Site is broadly rectangular in shape but its northern boundary 'indents' around the curtilage of Deer's Farm (Camellia Cottage) – a Grade II Listed Building. The boundaries around the listed building comprise of dense evergreen (a beech) hedgerow with trees within the garden.*
- *Other notable features surrounding the Appeal Site comprise of the inter-war development of two-storey semi-detached properties in Hollands Road to the east, the industrial area to the south east of the southern access to the Appeal Site in Hollands Lane, and the large field on the opposite side of West End Lane that has recently had full planning permission granted on appeal for 160 dwellings. The extant permission on Land North of West End Lane provides a new access onto West End Lane that is diagonally opposite that of the Appeal Site.*

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<sup>7</sup> Documents T1 (red folder), T2 and T4

<sup>8</sup> Document A8

10. The Design and Access Statement<sup>9</sup> contains the following description;

- *The site is on the Western periphery of Henfield, just outside the Built-up Area Boundary. It is accessed via West End Lane to the North, and is bound to the South by Hollands Lane.*
- *A cluster of council-built dwellings lie to the East of the site, while Dears Farm, a converted Grade II Listed Building lies to the West of the site. There are a number of trees located within the site, however there are no relevant Tree Preservation Orders in place. The site is not within a Conservation Area.*
- *The site is currently overgrown and vacant and was last used as a nursery (sui generis) over 5 years ago. There is vehicular access to the site on West End Lane. The existing buildings on the site are associated with its previous use and extend to approximately 483 sqm GEA.*
- *The site is 3.76ha in area.*

11. The Design and Access Statement also contains sections entitled *Existing Site – Flood Risk*, *Existing Site – Site Information & Analysis* and *Existing Site – Summary* which provide further factual information. A useful set of photographs is included within the Design and Access Statement, and there are additional views including from more distant viewpoints in the appendices to both main parties Proofs of Evidence<sup>10</sup>. The factual descriptions in both documents appear generally accurate although the Design and Access Statement description does contain elements of opinion. The various features referred to were identified during the site inspection.

12. Additional features noted at the site inspection are;

- The 'Downs Link' is referred to in the Neighbourhood Plan. It is a long-distance right of way that links the North Downs with the South Downs and runs to the east of the site. In the vicinity of Henfield it makes use of the former Christ's Hospital to Shoreham-by-Sea railway line, but since the former station site has been built on, the path deviates further to the east along Station Road as it passes the site.
- The bridleway of Hollands Lane is un-made and has the characteristic of a rural 'green lane' along the southern boundary of the site, but at the location of the proposed access in the south-east corner of the site, the lane is a made-up tarmac road serving commercial premises, linked to the wider highway network.
- The reference to close boarded fences and outbuildings along the boundary with properties in Hollands Road to the east of the site is partly correct, but instances were seen of a more open boundary of chain-link fences.
- With regard to the condition of the site, it appears that grass cutting does take place, and it is correct to say that the structures on the site, such as glass-houses and the frames to poly-tunnels, are in a poor state.

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<sup>9</sup> Document APS4

<sup>10</sup> Document A1 D Allen Appendix 2 Document A2 I Froneman Appendices 2 and 3, and Document C5 E Murphy Appendix V

- The scheme for 160 houses to the north across West End Lane, the Barratt site, said in the earlier documents to be subject to a recent planning permission granted on appeal<sup>11</sup>, was in the process of being developed at the time of the site inspection. The southern part of the site, between a footpath and the lane, was set-out and below-ground infrastructure such as drainage was progressing. The part to the north of the footpath, which is furthest from the appeal site, was not advanced but reptile barriers were in place around the perimeter.

## Planning Policy

13. As noted above, the original reasons for refusal referred to the Horsham District Core Strategy and General Development Control Policies which were both adopted in 2007. On 27 November 2015 Horsham District Council adopted the District Framework and it is these policies that are referred to in the objections resolved at the 19 January 2016 Committee meeting to be defended at appeal.
14. *Horsham District Planning Framework*<sup>12</sup> ('District Framework') was adopted on 27 November 2015 and with the exception of land within the South Downs National Park, this replaces the policies contained in the Horsham District Core Strategy and General Development Control Policies. The policies considered relevant in the Statement of Common Ground are:
  - Policy 1 *Strategic Policy: Sustainable Development* is described as a model policy to ensure compliance with the National Framework, and states that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Framework. It will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. The policy then continues with similar wording to the second part of National Framework paragraph 14 on decision-taking.
  - Policy 2 *Strategic Policy: Strategic Development* seeks to focus development in and around the key settlement of Horsham, and to allow for growth in the rest of the District in accordance with the identified settlement hierarchy. Continued support is given in principle to the sustainable development of settlements through an appropriate scale of development which retains the existing settlement pattern over the plan period. Development around the edges of existing settlements is to be managed in order to prevent the merging of settlements and to protect the rural character and landscape. The Policy continues with references to making effective use of land, protecting landscapes and built heritage.
  - Policy 3 *Strategic Policy: Development Hierarchy* states that development will be permitted within towns and villages which have defined built-up areas. Henfield is listed in the '*Small Towns and Larger Villages*' section where these are settlements with a good range of services and facilities, strong community networks and local employment provision, together with reasonable rail

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<sup>11</sup> Document A6 S Brown Appendix SB30 Ref; APP/Z3825/A/13/2205204

<sup>12</sup> Core Document CD1

and/or bus services. The policy goes on to say that the settlements act as hubs for smaller villages to meet their daily needs, but also have some reliance on larger settlements/each other to meet some of their requirements.

- Policy 4 *Strategic Policy: Settlement Expansion* In view of a matter between the main parties that requires further attention in my Conclusions, it is appropriate to quote this Policy in full as follows, set out and punctuated exactly as it appears in the District Framework;

*The growth of settlements across the District will continue to be supported in order to meet identified local housing, employment and community needs. Outside built-up area boundaries, the expansion of settlements will be supported where;*

- 1. The site is allocated in the Local Plan or in a Neighbourhood Plan and adjoins an existing settlement edge.*
- 2. The level of expansion is appropriate to the scale and function of the settlement type.*
- 3. The development is demonstrated to meet the identified local housing needs and/or employment needs or will assist the retention and enhancement of community facilities and services.*
- 4. The impact of the development individually or cumulatively does not prejudice comprehensive long term development, in order not to conflict with the development strategy; and*
- 5. The development is contained within an existing defensible boundary and the landscape and townscape character features are maintained and enhanced.*

Both policies share the same supporting text which states that built-up area boundaries will be designated. Within these boundaries development is accepted in principle, whereas land outside these boundaries is considered to be in the countryside and development will be more strictly controlled. In addition to built-up areas, it is recognised that in order for some communities to continue to be able to grow and develop it will be necessary for them to be able to expand beyond their current built form. By allocating sites in the Local Plan or in Neighbourhood Plans, it will be possible to meet the identified local needs of these settlements and provide an appropriate level of market and affordable housing, as well as maintaining the viability of the smaller villages and towns, for example supporting local schools, or local shops. This policy will also ensure that the settlement function and pattern of the District is retained, retaining the rural character of the District beyond these settlements

- Policy 15 *Strategic Policy: Housing Provision* states that provision is to be made for at least 16,000 homes and associated infrastructure within the period 2011 – 2031 at an average of 800 *per annum*. This is to be achieved by housing completions for the period 2011 – 2015; homes that are already permitted or agreed for release; Strategic Sites of at least 2,500 homes at Land North of Horsham, around 600 homes at Land West of Southwater and around 150 homes at Land South of Billingshurst; the provision of at least 1500 homes throughout the District in accordance with the settlement

- hierarchy, allocated through Neighbourhood Planning; and lastly, 750 windfall units.
- Policy 16 *Strategic Policy: Meeting Local Housing Needs* sets out the requirements for a mix of housing sizes, types and tenures including the provision of affordable housing.
  - Policy 24 *Strategic Policy: Environmental Protection* states that the high quality of the District's environment will be protected through the planning process and the provision of local guidance documents.
  - Policy 25 *Strategic Policy: The Natural Environment and Landscape Character* sets out how the natural environment and landscape character of the District, including the landscape, landform and development pattern, together with protected landscapes and habitats will be protected against inappropriate development.
  - Policy 26 *Strategic Policy: Countryside Protection* provides that outside built-up area boundaries the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Any proposal must be essential to its countryside location, and in addition meet one of various criteria which include supporting the needs of agriculture or forestry, minerals, waste, quiet informal recreational use or to enable the sustainable development of rural areas. In addition, proposals must be of a scale appropriate to its countryside character and location.
  - Policy 31 *Green Infrastructure and Biodiversity* seeks development that maintains or enhances the existing network of green infrastructure. Proposals that would result in the loss of existing green infrastructure will be resisted unless it can be demonstrated that new opportunities will be provided that mitigates or compensates for this loss, and ensures that the ecosystem services of the area are retained.
  - Policy 32 *Strategic Policy: The Quality of New Development* sets out requirements for high quality and inclusive design.
  - Policy 33 *Development Principles* lists criteria for development to conserve and enhance the natural and built environment including making efficient use of land, and making sure the scale, massing and appearance is to a high standard.
  - Policy 34 *Cultural and Heritage Assets* recognises that heritage assets are an irreplaceable resource, and as such the Council will sustain and enhance its historic environment through positive management of development affecting heritage assets. To this end development will be required, among other things, to preserve, and ensure clear legibility of, locally distinctive vernacular building forms and their settings.
  - Policy 35 *Strategic Policy: Climate Change* seeks to mitigate and adapt to the impacts of climate change.
  - Policy 36 *Strategic Policy: Appropriate Energy Use* sets out policies on energy hierarchy and other methods of reducing energy use.

- Policy 37 *Sustainable Construction* states that proposals must seek to improve the sustainability of development. To deliver sustainable design, development should incorporate the various measures where appropriate according to the type of development and location.
15. *The Henfield Neighbourhood Plan*<sup>13</sup> At the time of the first three sitting days in February 2016 this Plan was still emerging, there having been a delay in the process as the referendum that had been arranged for 22 September 2015 had been cancelled. A further report of the independent examiner in February 2016 resulted in the referendum being held and the Plan being 'made' on 27 April 2016, and hence at the date of the adjourned Inquiry in May the Henfield Neighbourhood Plan is part of the Development Plan. The area covered by the Plan includes Small Dole to the south of Henfield.
- Section 2 *The Parish Profile* lists strengths that include the surrounding countryside, rivers and playing field provision giving health and recreational opportunities and providing a pleasant rural feel to the village. Identified weaknesses include that the village is surrounded by a number of small areas of agricultural land and is therefore vulnerable to sporadic development, and there is a lack of sufficient lower cost housing options and smaller properties for older persons/single person units wishing to downsize. Opportunities include developing existing brown-field sites within the existing village envelopes of Henfield and Small Dole which may be suitable for housing development. Lastly, threats are identified, including the vulnerability of the village and surrounding area to large scale development, particularly given the extensive developments that have recently been given planning approval; developments/improvements to local infrastructure are not keeping pace with new house developments e.g. schools, health and waste water in particular; infill of green space and loss of local agricultural and amenity land; and the loss of community village atmosphere within a strategic village through over-development.
  - Policy 1 *A Spatial Plan for the Parish* states that the Neighbourhood Plan defines the Built-up Area Boundary of Henfield and Small Dole, as shown on pages 22 and 23. Development proposals located inside these boundaries will be supported, provided they accord with the other provisions of the Neighbourhood Plan and the Horsham development plan. Development proposals outside of these boundaries will be required to conform to development plan policies in respect of development in the countryside. Proposals will be resisted if they adversely affect the setting of the South Downs National Park or if they result in the loss of Grade 1/2/3a agricultural land. Only proposals for minor development of an appropriate scale will be supported on land west of the Downs Link, or on the southern escarpment of Henfield village.
  - Minor development is defined in paragraph 4.20 as single dwellings, extensions to existing properties, and necessary agricultural or essential utilities development where permission is required.
  - Paragraph 4.12 states the effect of the policy as being to confine housing and other development proposals to within the built-up area boundaries at

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<sup>13</sup> Core Document CD6



Henfield and Small Dole as defined by this Plan, unless they are minor and appropriate to a countryside location.

- The map on page 22 is of Henfield and defines the Built-up Area Boundary as running along the back of the properties facing east onto Hollands Road, and hence excludes the appeal site. To the north the boundary runs along the eastern side of the former railway line, now the Downs Link path, and hence excludes also the Barratt site, which was granted permission on appeal dated 2 June 2014<sup>14</sup>.
- The Barratt site is referred to in Paragraph 3.9 of section 3 *Planning Policy Context*. A number of consents for what is described as significant housing development are listed with the comment '*Added to this there is potentially another 232 dwellings (93 of them affordable) on land off West End Lane, depending on the outcomes of legal planning processes*'. In fact, the outcome of the Council's High Court challenge was that the application was dismissed, so that permission stands, and the Barratt scheme for 160 of those dwellings is now being built-out<sup>15</sup>. The other 72 are presumably the current appeal proposals.
- Paragraphs 4.18 and 4.19 set out the considerations of the Sustainability Appraisal, stating that the spatial strategy of only allowing for modest development adjoining existing settlement boundaries performs significantly better than the alternatives. These alternatives are set out in paragraph 4.19, the one pertinent to the appeal proposal was to favour sites on the western boundary of the village that consolidate the recent consent at West End Lane. This is stated to have scored badly overall as any further significant development in that area, which lies furthest from the village centre, would place unsustainable pressure on the local road system.
- Policy 2 *Housing Site Allocations* lists 5 sites at Henfield and one at Small Dole that are stated in paragraph 4.21 as according with the provisions of Policy 1 and in each case succeeding pages set out the likely number of dwellings that would be supported together with any specific requirements.
- Policy 7 *Car Parking* sets a minimum off-road car parking provision according to the size of new housing unit.
- Policy 9 *Education* requires proposals for housing development to have regard to the prior availability of primary school and secondary school places in the local catchment area.
- Policy 12 *Design* sets out principles to which development should have regard.
- Policy 13 *Transport and Access* applies to all development proposals within the Henfield Neighbourhood Plan area and details requirements on road schemes, pedestrian access and use of footpaths.

The appellant submitted a Statement of Facts and Grounds<sup>16</sup> in an application dated 13 May 2016 for permission to bring judicial review proceedings against

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<sup>14</sup> Document A6 S Brown Appendix SB30

<sup>15</sup> Document A2 I Froneman Appendix 9

<sup>16</sup> Document A20

Horsham DC and Henfield Parish Council challenging the 'making' of the Plan. Further reference will be made to this as part of the Case for the Appellant, but as at the close of the Inquiry, the Henfield Neighbourhood Plan is part of the Development Plan for the area covering the appeal site.

16. *Supplementary Planning Document – Henfield Parish Design Statement 2008*<sup>17</sup>

- The introduction refers to the concept dating back to 1996 and a Countryside Commission document '*Village Design*'. The statement is not about whether development should take place; that is a job for District policy. It is about how any planned development should be carried out so that it is in harmony with its setting and makes a positive contribution to the local environment.
- Section 3 concerns the character of the landscape setting. In section 3c on buildings in the landscape it is said that West End in particular is under constant pressure for development, most of which has been resisted. Although there are a good many houses in West End Lane, Lawyers Lane and Stonepit Lane combined, they all lie within the countryside where national policy discourages new development. Consequently, it is considered that there should be no further development west of Downs Link, apart from minor extensions.

17. *Supplementary Planning Document – Planning Obligations 2007*

- The document was adopted in June 2007 and provides details on services and facilities and the priorities of provision that will be required when land is proposed for a development and where a planning obligation would be sought. It should be read in conjunction with the latest costs schedule, which is included in Annex B (2009).

18. *National Planning Policy Framework ('National Framework')*

- The Council's further objections refer specifically to paragraphs 7, 14, 64, 126 and 134.
- The Introduction states at paragraph 1 that the National Framework sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so. It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.
- Paragraph 7 lists the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles, which are further detailed.
- Paragraph 14 states that at the heart of the National Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means; approving development proposals that accord

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<sup>17</sup> Document C3 L Westphal Appendix 4

with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Framework taken as a whole; or specific policies in it indicate development should be restricted.

- Paragraph 17 sets out a set of core land-use planning principles, being genuinely plan led, not simply about scrutiny but being creative, being proactive towards economic development, seeking high quality design, taking account of different roles and character of areas, supporting a transition to a low carbon future, conserving and enhancing the natural environment, encouraging the effective use of land, promoting mixed uses, conserving heritage assets, actively managing patterns of growth, and taking account of and supporting improving health, social and cultural wellbeing.
- Paragraph 47 seeks to boost significantly the supply of housing and paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites, which feeds back into the provisions of paragraph 14.
- Paragraph 56 states that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 in the same section on 'requiring good design' states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- In the section 'conserving and enhancing the historic environment' paragraph 126 sets out the aims with regard to heritage assets, whilst paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.
- Paragraphs 133 and 134 differentiate between 'substantial harm' and 'less than substantial harm' with regard to the effect on a designated heritage asset. The Council refer to the latter in respect of the listed Camellia Cottage and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- Paragraph 198 states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

#### 19. *Planning Policy Guidance*

- The web-based Planning Practice Guidance contains guidance on various matters of relevance to this appeal. In particular there is a section on

Neighbourhood Planning and the relationship of the Neighbourhood Plan to the Local Plan, in this case the District Framework<sup>18</sup>. A later paragraph makes clear the relationship between paragraphs 198, 49 and 14 of the National Framework, and with section 38(6) of the 2004 Act<sup>19</sup>.

20. Other documents are listed in the Statement of Common Ground or were referred to in evidence;

- *Horsham District Council Strategic Housing Land Availability Assessment – Review July 2014*<sup>20</sup>
- *Horsham District Council Strategic Housing and Economic Land Availability Assessment November 2015*<sup>21</sup>
- *Horsham District Planning Framework Authority Monitoring Reports 1 April 2014 – March 2015*<sup>22</sup>
- Historic England - *Historic Environment Good Practice Advice in Planning Notes 1 The Historic Environment in Local Plans, 2 Managing Significance in Decision-Taking and 3 The Setting of Heritage Assets* (March 2015)<sup>23</sup>
- Historic England - *Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment* (2008)
- *Horsham District Landscape Capacity Assessment April 2014*<sup>24</sup>
- *Natural England National Character Area Assessment; Low Weald (2014)*<sup>25</sup>

21. Legislation referred to in evidence includes;

- Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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<sup>18</sup> Paragraph: 004 Reference ID: 41-004-20140306 onward

<sup>19</sup> Paragraph: 083 Reference ID: 41-083-20160211

<sup>20</sup> Core Document CD3

<sup>21</sup> Core Document CD4

<sup>22</sup> Core Document CD5

<sup>23</sup> Document A2 I Froneman Appendix 4

<sup>24</sup> Document A1 D Allen Appendix 3

<sup>25</sup> Document C3 L Westphal Appendix 6

## Planning History

22. This is set out in the Statement of Common Ground<sup>26</sup>;
23. *There have been no recent and relevant planning decisions on the Appeal Site itself. However of relevance to the determination of this scheme, is the Strategic Housing and Economic Land Availability Assessment (July 2014) and Strategic Housing Land Availability Assessment (November 2015) designation for the Appeal Site (SA 317), which confirms that it is developable within a 6-10 year period.*
24. *These Assessments specify that the Appeal Site could be suitable for the provision of 40 units over a site area totalling 3.7ha. The full justification and caveats are contained within Core Documents 3 and 4.*
25. *Also, as a material consideration, is the appeal decision on land to the north of West End Lane (referred to as 'Land North of West End Lane' and containing the Council Number: DC/13/0787) for 160 units with associated access, open space and landscaping. It is this development that was seen to be progressing at the site inspection as previously referred to.*
26. Having regard to the nature of the site and its surroundings, these references appear the only relevant matters, as previous uses of the site have not been actively pursued for some time, although the lawful use could be resumed at any time as there are no physical impediments.

## The Proposed Development

27. The description of development on the application form remains correct;
- *Demolition of existing vacant garden nurseries and associated structures and the redevelopment of the site to provide 72 units comprising 6 x 1-bed, 17 x 2-bed, 6 x 3-bed (29) affordable units and 9 x 2-bed, 15 x 3-bed and 19 x 4-bed (43) market residential units with associated car parking spaces, hard and soft landscaping and new access arrangements from West End Lane and Hollands Lane.*
28. The Design and Access Statement<sup>27</sup> sets out at page 23 the 'Design Principles'. At pages 24 to 33 the evolution of the design as a result of consultation and pre-application discussions is detailed, under the headings of 'Design Development'. The submitted scheme is analysed at pages 34 onwards under the following headings:
- *Layout – Access* The submitted scheme makes use of two access points, one to a relocated position on West End Lane and a new access onto Hollands Lane. These points are joined by two internal roads progressing within a single plot depth of the boundaries, with a central area in-between.
  - *Layout – Gradation of Density* Three zones are indicated; a suburban zone of 26 dwelling per hectare backing onto Hollands Lane and Hollands Road in the south-east corner and the nearest part of the central area; a transition zone

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<sup>26</sup> Document A8

<sup>27</sup> Document APS4

at 22 dwellings per hectare as a strip of dwellings from Hollands Lane through part of the central area; and a rural zone at 11 dwellings per hectare from Hollands Lane at the south west corner of the site, along the plots backing onto the west boundary and including the proposed development at the north end of the site from the east to the west boundaries and abutting West End Lane. Comparisons are made with the grain of existing nearby development on Hollands Road, Manor Close, Chanctonbury View and Staples Barn, and with the proposed Barratt scheme on the opposite side of West End Lane, stated to be 22 dwellings per hectare.

- *Layout – Arrangement of Houses* Reference is made to the variety in the existing built form due to the piecemeal development of Henfield and the aim of continuing this character and appearance by mixing house types, sizes and styles.
- *Layout – Plot Size* Stated to be generous and to exceed policy standards
- *Layout – Parking Standards* Tables are provided to show compliance with West Sussex County Council Standards.
- *Layout – Retention of Existing Trees* Existing trees and vegetation at the boundaries are to be retained with those lost for the new access being replaced elsewhere. Those to be removed are stated to be low/moderate in value.
- *Layout – Listed Building Camellia Cottage* This is a matter between the parties, but the Design and Access Statement describes a densely vegetated boundary and garden, and states that the rural nature of West End Lane that is part of the setting of the building will remain.
- *Layout – Amenity Space* In addition to what are described as a substantial garden to each house, provision is shown of wild flower pathways, external seating areas, allotments, children's play areas and a Sustainable Urban Drainage pond.
- *Layout – Unit Mix* The proposal includes 1, 2, 3 and 4 bed homes of varied design and use of materials, 40% being affordable split between rented and shared ownership. The homes have been designed to 'Lifetime Homes' standards with 10% easily adapted for wheelchair users.
- *Appearance – Layout Features* Page 46 of the Design and Access Statement sets out the proposed layout with captions on how the layout is said to have been designed to respond to pre-application discussions and local consultation.
- *Appearance – Architectural Style* The design is said to be in keeping with Henfield as described in the Henfield Parish Design Statement. Houses are two-storey with varying roof heights and a staggered layout. Local design cues have been taken in respect of the use of local brick types, local roof tiles, traditional pitched dormers, steep roof pitches, hipped gables, indigenous hedgerows and grass verges. Individual house types are illustrated at pages 49 to 58 with street elevations following that.

- *Landscape – Concept* The stated aims are to make as little impact on the site as possible, minimising the urbanising effect and the effect on the West End Lane entrance, among other measures.
  - *Landscape – Details* set out an open quality with staggered dwellings and added trees. The western and southern site boundaries are to be held in common ownership to afford protection to them.
  - *Analysis of Dwelling Sizes* in the area is set out.
29. Having regard to the Council's objections and those of others, the claims of the Statement will be tested in my Conclusions.

### **Other Agreed Facts**

30. The Statement of Common Ground<sup>28</sup> lists at section 4 matters of agreement;
- *Generally* The following matters do not feature in the Council's objections; housing mix, amenity, affordable housing and tenure; highway matters; flooding/drainage; landscaping; ecology and arboriculture; archaeology; Environmental Impact Assessment (agreed that this is not such development); economic impact; section 106 Unilateral Undertaking; third party comments; and conditions.
  - *Current Housing Land Supply* The District Framework sets out the spatial approach to meeting development needs during the period 2011 to 2031. The Examining Inspector's Report was published on 8 October 2015 and confirmed that the Plan is sound subject to a number of modifications. The modifications include increasing the minimum housing requirement proposed in Policy 15 from 13,000 in the submitted plan (650 dwellings per annum to 16,000 (800 per annum). This change is set out in Main Modification 12.
  - *Housing Requirement* The shortfall accrued since the base date should be met in the current 5 year period, and there is a Table showing the effect of both a 5% and a 20% buffer, this being an issue between the parties.
  - *Housing Supply* The Appeal Site has been considered as developable (6-10 years) within the Strategic Housing Land Availability Assessment and the Strategic Housing and Economic Land Availability Assessment, subject to the caveats contained therein.
  - *Housing Mix, Amenity, Affordable Housing and Tenure* The provision of 32 small dwelling units, of which 23 will be provided as affordable housing, is a significant provision of new dwellings in a sustainable location. There is an evidential need for Affordable Housing within the District. The proposed development will provide the full 35% requirement for on-site affordable dwellings in accordance with Policy 16 of the District Framework. The Council's Housing Services Manager is supportive of the proposed scheme, and especially the larger proportion of rented units. The appeal is in full detail form and so the position, size and spacing of the residential units are fixed for consideration, and would provide a good standard of residential amenity, set within an attractive residential environment.

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<sup>28</sup> Document A8

- *Flooding and Drainage* The Appeal site is located within Flood Zone 1 (1:1000 year chance of flooding). It is therefore considered to be at low risk of flooding from all sources. The conceptual drainage scheme that has been designed for the site, and which is set-out in detail within the Flood Risk Assessment, recommends a drainage design that will create betterment to the existing conditions. The development would not therefore increase flood risk both on the site and in the surrounding area. Subject to details of the drainage scheme being received and agreed by the Local Planning Authority, in accordance with Southern Water, the application is considered to comply with the requirements of section 10 of the National Framework and the associated technical guidance on flooding.
- *Landscaping* The Council's Landscape Officer has assessed the application and raises no objection subject to landscaping and a management plan being secured by condition. The Inspector's decision on the appeal on the Barratt scheme is material to the consideration of this appeal in terms of landscape character and the cumulative effects of development. The full planning permission for 160 residential dwellings on the opposite side of West End Lane would bring the developed edge of Henfield out to the west, and beyond the cutting of the Downs Link and the western edge of Hollands Road.
- *Ecology and Arboriculture* The ecology report<sup>29</sup> concluded that there would be no harmful effects. A landscape and Ecological Management Plan is to be produced prior to construction. The Appellant has provided arboricultural information<sup>30</sup> in support of this application, and this shows that there will be limited impact on trees, and that where development is proposed adjacent then this is protected by condition.
- *Archaeology* On the basis of the available evidence<sup>31</sup>, it is advised that due to a clear potential for early prehistoric remains across the Appeal Site, the high significance of such remains should they be present and the typically low frequency of artefacts and features associated with sites of these periods, an archaeological evaluation be carried out on the application site. In the first instance this should be limited to excavating test pits across the site. This will allow for the examination of the geological deposits across the site and the assessment of the potential for deposit or finds dating to the early prehistoric period. In addition, these works shall allow the identification of the level of truncation in different areas of the site. It may be possible to combine these observations with the excavation of geotechnical pits across the site. If no significant remains are encountered during the evaluation, any further work should be limited to a watching brief carried out on intrusive groundwork associated with the proposed development.
- *Environmental Impact Assessment* As a result of the location and surroundings, there are no impacts so significant as to be dealt with outside the normal planning application process and the Environmental Impact Assessment is not required.

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<sup>29</sup> Document APS12

<sup>30</sup> Document APS8

<sup>31</sup> Document APS11



- *Sustainable Design* The energy strategy<sup>32</sup> has been developed in accordance with the relevant planning policies in the District Framework.
  - *Economic Impact* The scheme has to be assessed in respect of the District Framework as well as in respect of the three main functions of sustainable development: a social role; an economic role; and an environmental role. The proposed scheme provides some social and economic benefits through the provision of housing and expenditure in the local area.
  - *Heritage* In light of the Council's addition of a heritage objection, it is agreed, that the appeal site falls within the setting of the grade II listed Camellia Cottage and that this is the only relevant heritage asset in respect of the appeal. There is an historical connection between the farmstead and the surrounding agricultural fields. Residential development on the appeal site would be within the building's setting, and have a harmful impact by reason of encroaching across the open fields and into the building's setting, thereby adversely affecting its significance as a heritage asset. The parties are agreed that Paragraph 134 of the National Framework is engaged in this case but are not agreed as to the result of its application.
  - *Unilateral Undertaking* This was given by Stonegate Homes Limited made in favour of Horsham District Council and West Sussex County Council as agreed with both Councils. The Council and the County Council also confirm that regulation 123 is complied with as both Councils have checked their database and there are not 5 or more existing planning obligations relating to the infrastructure projects referred to therein. The matter of the primary education contribution however is not agreed.
  - *Conditions* The Appellant agrees with the conditions set out in the Officer's Report to Development Control (South) Committee subject to changes in relation to the removal of Condition 23 (Code for Sustainable Homes), an additional condition in relation to water usage (Policy 37) and changes to condition 22 to refer to the Councils Air Quality Planning Guidance, 2014 (Policy 24). These changes are also agreed. An updated set of conditions<sup>33</sup> was presented to the Inquiry and discussed, and will be reported on later.
31. The Highways Statement of Common Ground<sup>34</sup> is between the appellant and West Sussex County Council Highways Department and makes reference to the Transport Statement and Travel Plan<sup>35</sup>. The following matters are listed as being common ground;
- Both parties agree that the site is suitably located for future residents to take advantage of travel by foot, cycle and public transport with appropriate mitigation measures.
  - Henfield is considered to be in a sustainable location with an adequate range of everyday facilities, as well as having some access to public transport. The site is within 2km walking distance of all Henfield's facilities and services.

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<sup>32</sup> Document APS5

<sup>33</sup> Document C17

<sup>34</sup> Document A9

<sup>35</sup> Document APS17

- Both parties agree that the vehicle trip distribution and assignment is acceptable and robust in building towards the traffic impact analysis of the development's vehicle impact on the local highway network.
- Both parties agree that the traffic impact set out in the Transport Assessment is robust and suitably assesses the site's impact on the local highway network. Therefore, it is agreed that the roads and junctions local to the appeal site are adequate, in terms of safety and capacity, to cater for the development traffic.
- Both parties therefore agree that the impacts arising from the appeal proposal are not 'severe' and that, for this reason, should not be prevented or refused, in accordance with paragraph 32 of the National Framework.
- Following the submission of the March 2014 planning application, the County Council stated that they were 'neutral' about whether one or two accesses to the site are appropriate. The County Council continues to be neutral on this issue and accept that the reason for the second access (via Hollands Lane) follows pre-application discussions with the Planning Authority. Planning Officers stated that the provision of two separate vehicular accesses would represent a benefit of the scheme by reducing the quantum of development related traffic on West End Lane.
- It would be necessary to introduce a means of controlling traffic speeds in West End Lane in order to achieve the appropriate sight lines at the access junction. Both parties agree that this is so and that the measures proposed and agreed to be implemented by the developer of the land to the north of West End Lane (the Barratt site) will achieve this objective.
- Both parties agree that if the development of the appeal site proceeds first, the appellant will be responsible for implementing the agreed traffic calming measures.
- No footway extension was necessary to the west on West End Lane as a result of the development, but consider that it would be appropriate for the appellant to contribute to the enhancement of paths and bridleways near the appeal site and, hence, open up opportunities for residents to make utility or leisure trips by slow transport modes.
- Both parties agreed that it would be appropriate for other highway improvements (as shown in principle in the report and drawings *'Road Safety and Mobility Audit Stage 1 Report March 2014'*) (in addition to the West End Lane Traffic Calming measures) to be undertaken by the appellant up to a maximum value of £81,500. It was agreed in the s106 agreement that a highways scheme would be agreed prior to commencement and to include various works listed in the Statement of Common Ground<sup>36</sup>.
- The County Council consider that no footway is necessary on the southern side of West End Lane because there are currently places of refuge available for pedestrians between the site's eastern boundary and the existing pedestrian work and/or any pedestrians proposing to walk between the site and Hollands Road would be able to make use of the proposed footway along

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<sup>36</sup> Document A9 para 3.19

the northern side of West End Lane, which is located within the Barratt's site boundary and/or there will be pedestrian access from southern part of the site along Hollands Lane that connects with an existing footpath immediately east of the site. This provision is considered appropriate as it extends the existing pedestrian route (highways land) into the site (private land).

- On contributions, there is agreement as to how the £81,500 would be spent if not all is required as originally proposed, and for a calculated Total Access Demand contribution of £154,835. It is agreed that the maximum cost of the highways works secured in the s106 undertaking should be deducted from this amount; an agreed TAD contribution has therefore been secured of £73,335. This is to be used for various works listed in the Highway Statement of Common Ground<sup>37</sup>.
  - It is agreed that a condition should be attached to any permission granted for the appeal site securing the delivery of a travel plan.
32. As a matter of fact, the Barratt scheme has proceeded first and some of the provisions of the Statement of Common Ground have been overtaken by events.

### **The Case for the Council**

The material points in relation to each of the main issues are;

#### *Housing Land Supply*

33. The question of housing land supply was tested and considered thoroughly at the examination of the District Framework and the subsequent Inspector's Report. Various documents submitted show the detail at which the matter was considered with many stakeholders involved<sup>38</sup>. In particular, a lengthy session was held on 6 November 2014 attended by 44 different bodies<sup>39</sup>. In addition to those documents the Council answered questions during the November and July 2014 sessions.
34. The Inspector issued an Initial Note to Council in July 2015<sup>40</sup> making clear that he was satisfied with the evidence submitted and that the housing requirement could be satisfied up to at least 2021. *'I have come to the view that the housing requirement for the plan period should be 800 dwellings per year (dpa). This would result in a total of 16,000 dwellings between 2011 and 2031.'* He continues later: *'From the evidence about the Housing Trajectory, I consider that up to 2021 at the very least the revised requirement can be provided from existing allocations and commitments, including the North Horsham allocation.'*
35. It is not for a decision maker in a s78 appeal to reopen the issue of housing land supply so soon after the matter had been considered in such detail. The web-based Planning Practice Guidance states *'The examination of Local Plans is intended to ensure that up-to-date housing requirements and the deliverability of sites to meet a 5 year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining*

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<sup>37</sup> Document A9 para 3.23

<sup>38</sup> Document C1 E Faith appendices 1, 6 and 7, and Document C2 appendices RB1 to RB8

<sup>39</sup> Document C2 E Faith appendix RB1

<sup>40</sup> Document C1 E Faith appendix 6

*individual applications and appeals where only the applicant's/appellant's evidence is likely to be presented to contest an authority's position*<sup>41</sup>.

36. Whilst the appellant has provided appeal decisions where Inspectors have revisited the question of housing land supply, such as at Chard<sup>42</sup>, there are other appeal decisions referred to in the Council's evidence where the Inspector declined to re-open the matter of land supply<sup>43</sup>, and found Horsham to have a 5 year supply<sup>44</sup>. Conclusive weight should be placed on the Examining Inspectors' findings, particularly as 497 additional dwellings have been granted permission since the Examination<sup>45</sup>.
37. The Examining Inspector provided for the normal 5% buffer to be applied but the appellant asserts that a 20% buffer should be applied, based on an alleged persistent under-delivery as set out in National Framework paragraph 47. This view expressed at the Inquiry differs from that in the appellant's Planning Statement<sup>46</sup> their Appeal Statement of Case November 2015, and the first draft of the Statement of Common Ground. S Brown for the appellant accepted that the factual position had not changed in the meantime. This view also differs from the appeal Decisions referred to in E Faith's Proof of Evidence<sup>47</sup> and those referred to above. This matter was explored at the Examination of the District Framework at the request of another developer, and was addressed in the RMC Appeal Decision at Storrington<sup>48</sup>. The housing requirements prevailing through the period should be taken into account together with economic trends and E Faith's evidence sets out the considerations with regard to these matters.
38. The appellant accepted that the purpose of increasing the buffer is to provide a realistic prospect of achieving the planned supply, and that is being achieved with the only dip being due to economic circumstances, as accepted by the Examining Inspector. Where retrospective figures have been imposed, or where economic circumstances have caused an effect, the Council has been able to react accordingly to ensure delivery. The appeal Decisions referred to by S Brown for the appellant<sup>49</sup> are not comparable, one being an Council with a diminishing supply over the preceding 4 years and in the other the Inspector concludes on there being a persistent under-delivery based on more than half the years being below the target. The position in Horsham is of being cumulatively ahead measured against the prevailing requirement for 8 out of 14 years and in the last 2 years it has been delivering in excess of the annual requirement. This is an even stronger position than was examined for the District Framework.
39. It is permissible to include permissions granted post April 2015 in order to provide as up-to-date information as possible, so long as there is proper allowance for any losses also during the same period. This is true of the

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<sup>41</sup> Paragraph 033 reference ID 3-033-20150327

<sup>42</sup> Document A4 S Brown appendix SB10

<sup>43</sup> Document C10 Ref: APP/Z3825/W/15/3129950 and 3136264

<sup>44</sup> Document C9 Ref: APP/Z3825/W/15/3135385 and C11 Ref: APP/Z3825/W/15/3136166

<sup>45</sup> Document C1 E Faith appendix 4 italicised text

<sup>46</sup> Document APS9

<sup>47</sup> Document C1 E Faith paragraph 3.3.5

<sup>48</sup> Document C1 E Faith appendix 12a

<sup>49</sup> Document A4 S Brown appendices SB12 and SB13

Council's figures, so that the concern expressed in the Knights Lane Appeal<sup>50</sup> does not apply, and in that Appeal the figures were more marginal in addition. This is the approach taken by the Examining Inspector<sup>51</sup>.

40. The District Framework makes provision for 1,500 units to come forward by way of Neighbourhood Plans, and the Examining Inspector's comments on uncertainty should be seen in the context of that being an early stage in the process. 83% of the District has been designated as producing a Plan and the *'Provisional Neighbourhood Plan Trajectory'* presented to the Inquiry<sup>52</sup> shows the various positions with regard to Plan areas; Nuthurst and Henfield that have been 'made' and Storrington, Thakeham and Pulborough. Sites will move from 'developable' to 'deliverable' as defined in footnote 11 to the National Framework when Plans are 'made'. For that reason the Henfield sites should be moved across. These sites are identified in the Strategic Housing and Economic Land Availability Assessment, as a result of being found available, suitable and achievable. With only two Plans being 'made' and a total of 129 deliverable sites allocated, this demonstrates that the Examining Inspector was justified in his view.
41. The deliverability of strategic sites at Bewbush and North of Horsham was considered in detail at the Examination of the District Framework and the proposed build-out rates were accepted by the Inspector<sup>53</sup>. Whilst there has been some slippage, delivery rates are still on target.

#### *The Location of Development*

42. Previously Policy DC1 in the General Development Control Policies directed development to within settlement boundaries, but due to a shortfall in supply the Council adopted the Facilitating Appropriate Development Supplementary Planning Document which provided for development outside boundaries subject to satisfying pre-conditions. That was the background against which the Barratt scheme was allowed on appeal.
43. With the acceptance of a 5 year housing land supply, the District Framework has been adopted, which at Policy 4 continues the strategy found in the previous Policy DC1, and there is no Facilitating Appropriate Development document to allow development outside boundaries. Policy 1 of the Neighbourhood Plan also specifically seeks to prevent development to the west of the built-up area.
44. Doubt has been cast on the wording of Policy 4 of the District Framework, with a previous Appeal Decision suggesting a re-wording<sup>54</sup>. The Council had written to the Planning Inspectorate explaining the error of this approach<sup>55</sup>, and no other Inspector has followed it. There is no conflict as suggested by the appellant between Policy 4 and Policy 15 as windfall sites are to comply with strategic policies, which must include Policy 4. Rewriting Policy 4 would undermine Policy 26 and the aims of protecting the countryside. The appeal proposal does not comply with Policy 26 as it is not essential to a countryside location and fails to

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<sup>50</sup> Document A13

<sup>51</sup> Core Document CD2 paragraph 44

<sup>52</sup> Document C2 E Faith appendix RB9

<sup>53</sup> Document C1 E Faith appendix 6

<sup>54</sup> Document A4 S Brown appendix SB1 Ref APP/Z3825/W/15/3022944

<sup>55</sup> Document E Faith appendix RB10

accord with the criteria. Reliance on the Barratt appeal decision is misplaced as that was taken under a different policy background.

#### *The Character and Appearance of the Area*

45. It is accepted that the site is adjacent to the built-up area and development on Hollands Road, and as such is not wholly rural in character and appearance. However it is in an area that is described as being a pastoral landscape of isolated farmsteads, and loose-knit groups of cottages<sup>56</sup>. Its use as nurseries is compatible with a rural location, but development as proposed would cause harm contrary to Policies 25 and 26.
46. The Low Weald Character Area Profile<sup>57</sup> identifies the area as having isolated farmsteads intermixed with small villages and a generally pastoral landscape with arable farming. There are field boundaries and irregular shaped fields, rural lanes or tracks.
47. The arrangement of the site fails to manage the gradation of density sufficiently to avoid harm, and the distribution of open space and landscaping, a matter to which the Barratt Inspector attached weight, is not present here. The 'bird's eye view' in the Design and Access Statement Addendum confirms the Council's view that the site would not achieve a successful transition between the built-up edge of Henfield and the countryside.

#### *Heritage Asset*

48. It is agreed that Camellia Cottage is listed Grade II and the development would be within its setting; that the appeal site separates the listed farmhouse from the settlement and forms part of its historic agricultural setting; that development would cause less than substantial harm, and that such harm should be given considerable importance and weight. The issue between the parties is where on the scale of 'less than substantial harm' the effect falls and whether the public benefits outweigh that harm. The Council's case is that the harm is at the higher end of the scale<sup>58</sup>.
49. Development of the appeal site will end the sense that the listed farmhouse is isolated or separate from Henfield. With the development in place there would be no feeling when walking out along Hollands Lane that Henfield had been left behind. This loss of the last vestige of the separation would strike at the heart of the listed building's significance. The Historic England guide *Historic Environment Good Practice Advice in Planning Note 3 The Setting of Heritage Assets* says that negative change could include severing the last link between an asset and its original setting<sup>59</sup>. Whilst the appeal site would only affect one quadrant as asserted by the appellant in evidence, with the Barratt scheme having affected another, the effect would be felt over a greater area such as from the south-west quadrant.
50. Even if it is determined that there is a shortfall in the 5 year housing land supply, there is still harm to the listed building remaining in the paragraph 134 balance,

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<sup>56</sup> Document C5 E Murphy appendix J, Document C8 and document A1 D Allen Appendix 3

<sup>57</sup> Document C3 L Westphal Appendix 6

<sup>58</sup> Document C5 E Murphy paragraph 2.8

<sup>59</sup> Document A2 I Froneman Appendix 4

and the exercise to be carried out is not the so-called 'tilted balance' of paragraph 14, as determined in the judgment in the Forest of Dean case<sup>60</sup>.

### **The Case for the Local Education Authority, West Sussex County Council**

51. This concerns only the matter of the primary education contribution for the 'Age of Transfer' scheme, as all matters, including Highways are agreed with the County Council. The County Council were not represented at the Inquiry and the following is based on written representation reported in the Statement of Common Ground and appellants note to the Inquiry<sup>61</sup>.
52. The County Council considers that this obligation is Regulation 122 compliant as although this 'Age of Transfer' scheme has not yet been costed, it considers that the amount sought will make a fair and proportionate contribution towards the total cost based on the child-product as a result of the approved housing mix for this development. The County Council considers there are not 5 other s106 contributions already entered into that could be pooled and is therefore Regulation 123 compliant.

### **The Case for the Appellant**

In the same order as for the Council's case, the material points in relation to each of the main issues are;

#### *Housing Land Supply*

53. The Council has a troubled history of housing supply, with the Core Strategy based on the Structure Plan, though it did not meet the requirements of the emerging South-East Plan. An intended early review was abandoned, and a non-statutory Facilitating Development Supplementary Planning Document conceived as a stop-gap, failed to deliver. There is therefore a longstanding shortfall agreed at 'just over 2,320 dwellings'<sup>62</sup>. The assessed requirement in the District Framework is 4,000 dwellings to which must be added the shortfall before adjusting this by the 5% or 20% buffer. This higher level of buffer should not be seen as a penalty for under-delivery, but as a matter of securing the delivery of that which is needed.
54. Reliance should not be placed on the effect of an economic downturn, as there were substantial shortfalls in 5 out of 7 years of economic boom prior to the collapse of 2008/9. National Framework Policy 47 is clear that planned supply is to be met, and is not concerned with economic trends. The recent 2 years of increasing supply is too short a period to identify a trend that will continue. The Examining Inspector relied on the length of the Plan period to catch up<sup>63</sup> but National Framework paragraph 47 is concerned with boosting supply now. The requirement figure will need to be recalibrated upward as part of the early review which lay at the heart of the acceptance of the minimum figure.
55. Following the Council's preferred 'prevailing requirements and completions' approach, there has been a shortfall in 9 of the last 14 monitoring periods; 64%,

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<sup>60</sup> Document A15 Forest of Dean DC v SoSCLG and Gladman Developments [2016] EWHC

<sup>61</sup> Document A19

<sup>62</sup> Document A4 appendix SB5 and document C13

<sup>63</sup> Core document CD2 paragraph 46

- indicating a 20% buffer, and this is a shortfall against the South-East Plan requirement that was not objectively assessed housing need and was hence understated<sup>64</sup>. In fact the real shortfall is greater as a result of the requirement for West of Bewbush not being met and the South East Plan required it to be met elsewhere in the District<sup>65</sup>.
56. All other matters relating to the requirement are agreed so that with a 5% buffer the requirement is 5,014<sup>66</sup> and with a 20% buffer it is 5,730<sup>67</sup>. The components of supply<sup>68</sup> that are at issue are completions on two allocated strategic sites, neighbourhood planning, and additional permissions post-monitoring year.
57. It is not explained why or how the Council anticipate an increase in delivery West of Bewbush from 55 dwelling a year to 150, so that the appellant's more conservative figure should be preferred, reducing the 5 year supply by 245 or so dwellings. North of Horsham has slipped even during the adjournment of this Inquiry and an outline application is still awaited. The various stages after that to start delivery, with infrastructure requirements and the need to find a house-builder indicate a longer timescale than the Council state and the appellant's view of 50 units only starting in 2019/20 is to be preferred, increasing the shortfall by a further 250 or so units.
58. Neighbourhood planning is to provide 100 units a year as assumed by the Examining Inspector<sup>69</sup>. The Council's only supplied information is the *'Provisional Neighbourhood Plan Trajectory'*<sup>70</sup>. However, since the Examination of the District Framework the Neighbourhood Plan for Storrington, one of the largest second-tier settlements with an allocated 254 dwellings, has failed its examination. This was stated in evidence by Steven Brown but is omitted from the Council's material. As presented the provisional trajectory only shows 48 units delivered in the 5 year period.
59. With regard to additional permissions post-monitoring period, this is an irregular practice contrary to published guidance<sup>71</sup> and the Waterbeach appeal Decision<sup>72</sup> and was regarded with reserve in the Knights Lane Tiddington Decision<sup>73</sup>. There is no equivalent rolling forward of the requirement side of the equation, but in fact the permissions that the Council seek to introduce only keep pace with the passage of time in any event and cannot address the shortfall, as the 794 units equate to about 8 months supply.
60. The effect of these considerations is that with a 20% buffer the Council's assessment of supply at 5,760 units only needs to fall by 31 units to be below the 5 year level. At a 5% buffer the surplus is 746 units, less than the total added for additional permissions. The Council is in a similar position to that

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<sup>64</sup> Document A11 page 57 paragraph 7.6

<sup>65</sup> Document C13

<sup>66</sup> Document C2 E Faith page 11 Table 1

<sup>67</sup> Document A4 S Brown page 61 Table 2

<sup>68</sup> Document A4 S Brown 5.79

<sup>69</sup> Core document CD2 paragraph 47

<sup>70</sup> Document C2 E Faith appendix RB9

<sup>71</sup> Planning Practice Guidance Paragraph: 033 Reference ID: 3-033-20150327

<sup>72</sup> Document A4 S Brown appendix SB13

<sup>73</sup> Document A13



reported on in the 'land south of Leaden Way' appeal at Ledbury; *'it seems to me, that were delivery to be jeopardised on any of the sites relied on by the Council it could not, on its own evidence, demonstrate a 5 year supply'*<sup>74</sup>.

### *The Location of Development*

61. Part of the housing supply is to be provided by an allowance of 750 windfall units, and thus if permitted the appeal proposal would assist in delivery of this figure. The proposal accords with District Framework Policy 1 which allows for growth away from Horsham, and promotes the management of development 'around the edges of existing settlements' with the text at paragraph 4.9 contemplating the expansion of settlements 'beyond their current built form'. Policy 3 establishes a hierarchy with a role for second-tier villages such as Henfield, largely realised by urban expansion sites.
62. Policy 4 however only permits such expansion if adjoining the settlement edge, and if allocated in the Local Plan or Neighbourhood Plan. That reading of the policy would exclude windfall sites as they are, by definition, not allocated sites. A recent appeal Decision identified this tension<sup>75</sup> and treated criterion a) of the policy as being an alternative rather than as a cumulative requirement. This is permissible and would avoid sustainable sites and development being excluded because they had not been allocated. The Council object to this interpretation, but even if the Council is right on the criteria on Policy 4 being cumulative, the result is an unresolved tension in the District Framework tending to bring it into conflict with the National Framework. This is an important material consideration in favour of allowing sustainable windfalls.
63. Although the appeal site is not currently allocated to meet the pressing identified need, its release for this purpose would be consistent with the broad thrust of the strategic policies of the Plan, provided that it was also found that, on balance, it was sustainable development. This proposition holds good whether or not it is determined that there is an adequate housing land supply. The Allocations Development Plan Documents has yet to be prepared and that must inevitably allocate further sites to support the continuing supply of housing land. The current commitments made by Neighbourhood Plans will not be the last word in allocation for the foreseeable future.
64. The recently 'made' Henfield Neighbourhood Plan followed the 2007 Core Strategy built-up area boundary and excludes the appeal site as well as the Barratt site, despite this being granted permission. That fact, together with the unusual features that surround the making of the Plan detract substantially from the weight that should be attached to it. There is no evidence of the landscape or highway harm that has led to land west of the Downs Link being considered unsustainable and evidence to the contrary, including the Barratt site Inspector's findings, have been ignored. The Claim Form provides the detail on this<sup>76</sup>.
65. The Report to the Council Committee<sup>77</sup> recognised that the Barratt permission had brought the settlement edge significantly out to the west and the boundary

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<sup>74</sup> Document A14 paragraph 22

<sup>75</sup> Document A4 S Brown appendix SB1

<sup>76</sup> Document A20

<sup>77</sup> Document C3 L Westphal Appendix 2

adopted in the Neighbourhood Plan is flawed and misleading. The case now is that the Barratt scheme is proceeding. Claims of highway harm were not accepted by the Inspector at the Barratt appeal<sup>78</sup>, and the Highway Authority has accepted that no harm would occur from the present appeal scheme, subject to improvements having been made. There is no reason to exclude the site from the Neighbourhood Plan on this account.

#### *The Character and Appearance of the Area*

66. The assessment of the application by Officers to the November 2014 Committee states insignificant harm to landscape character<sup>79</sup>. That careful professional assessment remains as relevant today as when it was written, as those assessments are not influenced by 5 year housing land supply or other considerations resulting from the passage of time to this Inquiry;

- The site is *'heavily influenced'* by the former horticultural use of the site, including former buildings and poly-tunnel structures, so that officers described it as having *'a developed nature'* that detracts *'from the rural idyll of a field in the countryside.'*
- In visual and landscape terms the site *'is characterised by its containment by dense tree and hedgerow boundaries along the south and west sides'* and is also *'well screened by trees and hedgerows'* on the northern boundary with West End Lane with *'the only inter-visibility between the site and the street scene being at the entrance on the north west corner'*
- These features, together with the levels of the site, *'means that any visual effects of development would be localised'*
- The way in which the design of the proposals scales the density down the site from east to west is described as a *'sensitive approach to providing a residential scheme on the application site'*.
- *'The design, massing, scale and layout of the development are considered to be appropriate in terms of the landscape context of the site. Whilst the building of houses on green-field sites would naturally cause some amount of harm to the landscape character of the countryside, the proposed built form would not have a significant prejudicial impact on the landscape character of the site and its surroundings'*
- As a result the same landscape officer who gave firm evidence against the grant of permission in the case of the Barratt site advised members that he had no objection to the appeal scheme subject to the imposition of conditions.
- The buildings themselves are found to be *'well proportioned, of an appropriate scale and appearance, and would therefore be acceptable in this location'*.
- The scheme *'is considered to respond to the characteristics of the site in terms of its transitional function. It takes the opportunity to create a step-change in the density and grain of development to reflect its rural*

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<sup>78</sup> Document A6 S Brown Appendix SB30

<sup>79</sup> Document C3 L Westphal Appendix 2 paragraph 8.3.2

*surroundings, whilst it harmonises and sits sympathetically with the existing development in Hollands Road'.*

- The scheme *'achieves good design that takes the opportunities where available for improving the character of the area'.*
67. That Report was written in the knowledge of the Barratt scheme and the effect that it would have on the actual location of the settlement edge north of West End Lane.
68. Members rejected this advice and the reason for refusal on density appears to be based on the reference to 'about 40 dwellings' in the Strategic Housing Land Availability Assessment whereas the appeal scheme is for a greater number. However, the Officers' assessment addressed that point. The reference to 40 units appears to stem from concerns over highway capacity which have been shown to be overcome, and are based on the site having a single means of access. It has not been shown that harm would occur through the proposed increase in density.

#### *Heritage Asset*

69. The Barratt Appeal Decision gives a recent authoritative assessment of the effect on the setting of the listed building, Camellia Cottage. The January 2016 Committee Report did not suggest that there had been any change to the effect between the assessment made in November 2014 and then, but alleged that the planning balance had changed in respect of the adoption of the District Framework and the housing land supply situation. This should have meant that consideration at this Inquiry would be on the other considerations part of the National Framework paragraph 134 balance. In the event, the Council introduced a new consultant witness who suggested a greater degree of harm, albeit still within the paragraph 134 spectrum, and differs from the findings of the Barratt Appeal Inspector.
70. It is common ground that:
- The site lies within the setting of the Grade II listed building and its curtilage buildings.
  - That is so not because of the degree of inter-visibility between the two, although there may be some glimpses between the two in winter months, but because of the assumed historic relationship between the listed building when it was a farmhouse and its surrounding land of which the appeal site forms part.
  - Thus paragraph 134 is engaged and the harm caused should be given appropriate weight as in the Barnwell Manor case and balanced against the public benefits of the scheme.
  - Policy 34 of the District Framework reflects the national guidance and therefore requires no separate consideration.
  - The inquiry has the benefit of a recent assessment of the setting of the listed building and its significance by an Inspector assessing a similar allegation made in respect of the Barratt scheme that extends the settlement up to the listed building.

71. The Barratt Appeal Inspector concluded that appreciation of the listed building did not depend on that land remaining open and the same applied to the present appeal site. Little weight should be attached to the Council's 'last vestige' argument having mind to the other viewpoints and open land across which the listed building can be seen. Of the four quadrants centred on the listed building, one has been developed by the Barratt scheme, one would be affected by the appeal scheme but two would remain. The listed building will not be subsumed into or engulfed by development, but will have at the closest, a house 56m away and further than the closest Barratt house at just under 51m.

#### *Primary Education Contribution*

72. This is a matter between the appellant and the County Council as Local Education Authority, and so the Local Planning Authority has no counter case on this issue.

73. The Appellant considers that the County Council has not demonstrated that the primary education contribution complies with Regulation 122 of the Community Infrastructure Levy Regulations. The County Council confirmed that the same is to be spent on the 'Age of Transfer' scheme for Steyning/Storrington. The Appellant therefore considers that this does not comply with Regulation 122 as there is neither an agreed option yet for the scheme within Steyning/Storrington nor does the amount sought relate to a scheme that has been costed. In addition, the County Council has justified the obligation on the basis of capacity at local primary schools exceeding 100% as opposed to being relating to the 'Age of Transfer' scheme.

74. An obligation for payment of the money sought has been included within the s106 undertaking but this provides that in the event that the Secretary of State found that it did not comply with Regulation 122, the obligation to pay the same would be of no legal effect.

#### *Conclusions*

75. The land is in a sustainable location on the edge of the settlement and Policies 1, 2, 3, 4 and 15 of the District Framework, when read purposively, provide for development here. The site is only outside the settlement boundary because the District Framework replicated the west boundary of the 2007 Core Strategy, and the Local Plan has not reviewed this position in light of the Barratt scheme permission. That reduces the weight that should be accorded the Neighbourhood Plan, as there is no evidence that the harm that is claimed would occur by development to the west. It is irrational to claim that the Barratt site is within the countryside and beyond the built-up area and the Inspector who granted that permission addressed the possibility of landscape and highway harm, finding the impacts acceptable.

76. In the planning balance there is on the one side the less than substantial harm to the setting of the listed building in terms of paragraph 134 of the National Framework, and breach of the recently adopted District Framework and the Neighbourhood Plan. The weight that might otherwise be attached to the breach of policy may be reduced by reference to the following factors;

- The tension or weakness of the literal reading of the strategy of the District Framework identified by the West Chiltoningon Inspector<sup>80</sup>; a literal reading could lead to the rejection of otherwise sustainable sites. Such a reading would provide an inflexibility in the District Framework inconsistent with the National Framework.
  - Further allocations are required in this District and will be made by the Allocations Development Plan Document. Provision would be made in a second-tier settlement in the ranking introduced in local policy and as such would be sustainable.
  - New sites will soon need to be identified in order to satisfy the review of the housing land requirement to be undertaken within 3 years of November 2015.
  - The requirement of paragraph 47 is to boost significantly the supply of housing and the District Framework only identifies the minimum required to meet short term needs. Other appeal decisions<sup>81</sup> have shown that the appropriate course can be to approve otherwise sustainable applications despite the minimum 5 year supply being identified.
  - That the Neighbourhood Plan does not appear to have resulted from any systematic capacity study but from a pre-determined refusal to consider sites on the west of the settlement. This may well have been a reaction to the Barratt application and was not derived from any objective analysis or supported by any evidence. The authors of the Neighbourhood Plan persisted in this view in the teeth of the Inspector's rejection of their case against the Barratt proposal on the same or very similar grounds.
  - The satisfactory nature of the proposal as a built-up area extension site as evidenced by the report to committee of November 2014 and the evidence to this inquiry from Matthew Wright and David Allen.
77. There are positive economic sustainability benefits<sup>82</sup> and social benefits<sup>83</sup> which would receive a substantial boost if it were concluded that the Council cannot demonstrate a 5 year supply of housing land. There would also be environmental sustainability benefits<sup>84</sup>. The proposal is sustainable development and should be permitted under paragraph 14 of the National Framework. The planning balance lies in approving this relatively modest urban extension.

### **Written Representations and Third Party Submissions**

78. In addition to written representations made to the Council at the time of their consideration of the application, and which are on the appeal file, letters were written to, or passed on to, the Planning Inspectorate in response to the notification of the appeal<sup>85</sup>. Since these were written prior to the 'making' of the Henfield Neighbourhood Plan, references to the proposal being premature no

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<sup>80</sup> Document A4 S Brown appendix SB1 Ref APP/Z3825/W/15/3022944

<sup>81</sup> Document A4 S Brown paragraph 3.98 and appendix SB3

<sup>82</sup> Document A4 S Brown paragraphs 6.16 to 6.21

<sup>83</sup> Document A4 S Brown paragraphs 6.22 to 6.29

<sup>84</sup> Document A4 S Brown paragraphs 6.30 to 6.37 and Table 7 page 88

<sup>85</sup> Documents T1 (red file)

longer apply, but these comments relate to policies that are now part of the Development Plan.

- *Henfield Parish Council* refers to earlier representation and to oral submissions made to the Council Committee Meeting on 17 November 2014 and which are appended to the appeal submissions. The objections are to the landscape and environmental impact, exacerbation of traffic congestion and highway safety, and excessive demands on local infrastructure provisions, education, health and sewerage disposal.
- *Henfield Community Partnership Limited* refers to their original submission and to oral submissions made to the Council Committee Meeting on 17 November 2014, which again is appended to these later submissions. The Community Partnership raise matters of sustainability due to the location relative to the High Street and the likelihood of commuting to work or railway stations. Traffic impacts are stated, with car parks found to be near to capacity. There is concern as to demands on infrastructure, education, health and sewerage. At the time that the letter was written the Henfield Neighbourhood Plan was not yet made and concerns are expressed as to prematurity. The proposal is contrary to community wishes as expressed in the Plan.
- *Hands Off Henfield* are described as a community based group opposed to speculative, unsustainable developments within the village. Their letter is dated 18 June 2014 but has been sent in again as their appeal submissions. The application is considered premature with regard to the emerging Neighbourhood Plan, and unwelcome, undermining the principle of localism. There is reference to District policies that are now not applicable, but the gist of the objection is that there is no housing need once account is taken of recent permissions. Concern is expressed over the location relative to transport and services, surface water drainage and schools. Poor bus connections to railway stations are cited, and there are no buses to Crawley where greater employment prospects exist. Traffic congestion is referred to with large flows on narrow roads.
- *Grommets Ltd* are situated on Hollands Lane Industrial Estate and object to the new access proposed onto the lane. It is almost directly opposite their entrance and will restrict their vehicle movements, and the road is effectively single track due to the lorries using it. The location of refuse service 'pods' on Hollands Lane is in too close proximity to the new housing.
- *Local Residents* Letters of objection were received from people living near the site or who consider they would be affected by the development. Concerns cover similar issues to those expressed by the Parish Council and the community groups; drainage and flooding, wildlife, the road system including the risk of harm to cyclists and horse riders, schools, health services including the local chemists, Hollands Lane being an ancient droveway, light pollution, and loss of agriculture adversely affecting food security. There is concern that this would be a precedent for further development of 'banked' land to the west of the village, to there being other places to build away from Henfield, and to this being premature in relation to the Neighbourhood Plan.

79. Five people spoke at the Inquiry as follows:

- *Cllr M Morgan, District and Parish Councillor*<sup>86</sup> supported the Parish Council and Community Partnership submissions. The Henfield Village Appraisal identified a site to the north of the village that has been built over the past 20 years, and now has approved sites for a further 262 dwellings to be absorbed into village life. Car parks are already almost at capacity and congestion will worsen. Whilst the County Council use formulae and find no adverse effect, local people do not agree. Locations were referred to for my inspection of the traffic and this inspection was carried out.
- *R Smith, Campaign to Protect Rural England, Sussex Branch*<sup>87</sup> The Examining Inspector for the District Framework found that there was a 5 year supply of housing land, and the proposal is contrary to Policy 4 for being in the countryside, outside the built-up area boundary and it is not allocated for development. What benefits that might accrue would not outweigh the harm. The proposal is against the National Framework core planning principle of being genuinely plan-led.
- *E Scott, Resident*<sup>88</sup> Infrastructure has not kept pace with development over the past years, and extra cars from this development would cause harm to the narrow roads and junctions. There is little local employment and new residents would likely commute. The site is valuable agricultural land and is not allocated for development, nor included within the 5 year housing land supply. The site is a foraging area for badgers and the time of the Phase 1 Habitat Survey prepared by Arbtech<sup>89</sup> is doubted, as it found no evidence whereas badgers have been seen to use the site at dusk for foraging.
- *A Murphy, Resident* Concerned about the effect on the quality of life sought when her family moved out of a city. There will be pressure on school places, and other services and the effect on the roads will cause harm to old people and children walking to school. The gardens would be too small for play and the roads would be too dangerous to be able to play out. The development shows a poor understanding of what the community wants. This is not the right place for affordable housing and risks turning the village into something different to what it is.
- *J Stonor, Resident* The proposed second entrance is onto Hollands Lane which is a private road, and there is an electric pole at that corner with a pole route and overhead lines running across the site. National Grid say that they do not have any knowledge of the proposals and would have a right of veto, having to move the poles. Can planning permission be granted while this still needs to be finalised?
- *K Dyas, Resident* is concerned that the southern boundary onto Hollands Lane has been ignored although the second access limits the effect on West End Lane. Hollands Lane has a leafy character and appearance and there are views from that part of the site and surroundings. The site is not 'almost brown-field land' as claimed, it was a nursery but not for many years and the land has become rural. With regard to Camellia Cottage harm has been

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<sup>86</sup> Document T2 speaking notes

<sup>87</sup> Document T3 speaking notes

<sup>88</sup> Document T4 speaking notes

<sup>89</sup> Document APS12

caused by the Barratt development and the appeal proposal would double the harm. The argument appears to be that some harm would be caused to views, but we do not want any harm. There should be no development west of the old railway line as stated in the Neighbourhood Plan policy. Local democracy should be considered as the Plan was agreed by referendum. This is not a 'nimby' stance, but considers that Henfield has offered enough already and this is too much.

- *Dr M Carter, Resident*<sup>90</sup> As owner-occupier of the listed Camellia Cottage spoke in favour of the development, as there is a housing crisis in the country. The site is of no aesthetic value and contains dishevelled buildings. It has been in the Strategic Housing Land Availability Assessment for years. As found by the Barratt Inspector<sup>91</sup>, the setting of the listed building was only marginally affected by that equidistant but much larger development. Taking account of the nature of the garden of the listed building, extensions to it and changes to its curtilage buildings, development of the appeal site would have no adverse effects, or if any, would be outweighed by the benefits of the development. As a member of the Neighbourhood Plan Housing and Development Committee, it was not entirely clear why the appeal site was excluded.

80. Some of the local residents who spoke at the Inquiry accompanied the site inspection and ensured that features to which they had referred were pointed out. Of particular use in this respect was the visit to the curtilage of the listed building.

### Conditions

81. The application was placed before the Council Committee meeting of 17 November 2014 with an officer's recommendation to grant permission. A full set of conditions was attached to the Report and the Statement of Common Ground contains the agreement<sup>92</sup> that *'the conditions set out in the Officer's Report to Development Control (South) Committee subject to changes in relation to the removal of Condition 23 (Code for Sustainable Homes), an additional condition in relation to water usage (Policy 37) and changes to condition 22 to refer to the Councils Air Quality Planning Guidance, 2014 (Policy 24). These changes are also agreed.'* The Council produced a revised set of conditions<sup>93</sup> at the appropriate session of the Inquiry and further discussion took place then, the following numbering being from that list, and does not therefore fully reflect the numbering of the conditions in Annex A to this Report;

- *Condition 1* This is the standard three year commencement period and there is no reason to vary the time in this case.
- *Condition 2* The Planning Practice Guidance states that specifying the application drawings by means of a condition is good practice and creates certainty for all parties, particularly where applications have been subject to a

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<sup>90</sup> Document T5 speaking notes

<sup>91</sup> Document A6 S Brown Appendix SB30

<sup>92</sup> Document A8 paragraph 4.14.1

<sup>93</sup> Document C17



number of revisions<sup>94</sup>. Furthermore, if permission has been granted subject to a condition which lists the plans it is possible to make an application under section 73 of the 1990 Act to vary those plans in order to make 'minor material amendments'. If such an application is approved, the effect would be to grant a new planning permission with a revised plan condition referring to different plans showing the relevant 'minor material amendment.' The Planning Practice Guidance provides advice on this matter<sup>95</sup>. The list in Annex A is taken from the agreed Statement of Common Ground.

- *Conditions 3 and 4* Control is necessary over the appearance of the buildings and boundary treatments, notwithstanding the information provided on the application drawings and the Design and Access Statement to ensure the quality of the development. The original reference in Condition 4 to the need to 'maintain' screen walls and/or fences is to be changed to 'retain'.
- *Condition 5* It is right that control should be exercisable over lighting in view of the location of the site at what would become a new edge of the built form of Henfield, adjacent to rural land.
- *Condition 6* The site does have variations in land levels with a general slope to the south. Control of slab levels would ensure that the effects in external views remain as assumed in the appellant's appraisals and in this Report.
- *Condition 7* The provision of storage for refuse and recycling bins should be a matter for the submission of details and approval, to ensure the quality of the development. However the wording originally presented was not correct and the new wording ensures that the proposals are submitted and approved before commencement, with the provision only required prior to occupation of any dwelling.
- *Condition 8* At the time of the Committee Meeting the Town and Country Planning (General Permitted Development) Order 1995 was in force, as amended, and the Report referred to the *Town and Country Planning (General Permitted Development) (Amendment) (No2) (England) Order 2008 (or any order amending or revoking and re-enacting that Order with or without modification)*. The reference should now read the *Town & Country Planning (General Permitted Development) (England) Order 2015*. The proposal is to remove permitted development rights in Part 1 of Schedule 2 to the Order as follows;

*Class A (enlargement, improvement or other alteration of a dwellinghouse,*

*Class B additions etc to the roof of a dwellinghouse*

*Class C other alterations to the roof of a dwellinghouse*

*Class D porches*

*Class E buildings etc incidental to the enjoyment of a dwellinghouse and*

*Class F hard surfaces incidental to the enjoyment of a dwellinghouse*

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<sup>94</sup> Paragraph 22 Reference ID 21a-022-20140306

<sup>95</sup> Paragraphs 17 and 18 References ID 17a-017-20140306 and ID 17a-018-20140306

These restrictions would apply to dwelling types B, C, D, E, F, G and H which are the semi-detached dwellings, or short terraces of three dwellings, where it would be reasonable to retain control over these aspects of future development. The remaining dwellings are the type A, 1 bed 2 person apartments, the type I and J detached 4 bed 6 person dwellings.

- *Condition 9* seeks to remove permitted development rights as to fences, gates and walls erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road. The same comment as with condition 8 applies with regard to the 2015 Order, but in this case the restriction is to a cover all dwelling types where the permitted development applies. This appears reasonable in order to retain control over the public face of the development.
- *Conditions 10 and 11* seek to ensure that trees are protected during construction and this is necessary to maintain the natural features on and around the site.
- *Condition 12* Requires submission of a hard and soft landscaping scheme and sets out the expected level of detail. Planting shall be carried out according to a timetable to be agreed in writing with the Local Planning Authority prior to commencement of the development. Further provisions ensure replacement within 5 years of any that are lost. This condition is necessary to ensure the quality of the development.
- *Condition 13* Concerns underground trenching including the positions of soakaways, service ducts, foul, grey and storm water systems and all other underground service facilities, to ensure no detriment to the landscaping features. This is required to ensure that the landscaping is of the standard sought under condition 12.
- *Condition 14* For similar reasons the long-term Landscape Management and Maintenance Plan sought in this condition is necessary. The appellant objected to the need for the Plan to include 'aims and objectives' and the Council were satisfied that this reference could be removed.
- *Condition 15* requires a scheme for traffic calming of West End Lane adjacent to the site entrance, and this was a matter referred to by the appellant's highway witness. The Barratt scheme has proceeded first and the Highways Statement of Common Ground provided agreement in this event<sup>96</sup>. There was discussion about the need for a programme and this is agreed.
- *Conditions 16 and 17* seek details of the access points to both West End Lane and Hollands Lane, and whilst there is no objection from the Highway Authority, it is essential that the entrances to the site and the access to the highway are constructed to the required standard. The original use of the words 'visibility zones' is to be replaced with 'visibility splays'.
- *Condition 18* Requires details of the surface water drainage to prevent the discharge of water onto the public highway, which is necessary to avoid harm. The condition is amended to encompass the requirements of the original condition 24. An implementation clause has been added.

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<sup>96</sup> Document A9

- *Condition 19* Requires space to be laid out within the site in accordance with the approved plans for a maximum 175 cars/minimum 144 cycles to be parked, in line with the aims of sustainable development and the Transport Assessment.
  - *Conditions 20 and 21* cover the need for a Construction Management Plan to control the effects of the building works on neighbours and the environment, and to ensure that an effective vehicle wheel cleaning facility is in place during the works. This control is essential to protect road users and nearby residents. The need for wheel washing facilities in Condition 21 is to be incorporated into the Construction Management Plan of Condition 20.
  - *Condition 22* The need for a Travel Plan was referred to in the Highway Statement of Common Ground and the trigger to implement it before 40 dwellings have been occupied appears reasonable in the context of the site. A reference to air quality in the Statement of Common Ground in relation to this Condition was agreed to refer to the High Street and it is not relevant to add control here.
  - *Condition 23* It was agreed that it is no longer appropriate to refer to the Code for Sustainable Homes due to changes in the regime for controlling housing standards.
  - *Condition 24* The scope for possible archaeological finds was referred to in the Statement of Common Ground and this level of control appears reasonable in relation to that scope.
  - *Condition 25* There was discussion at the Inquiry as to the wording and intent of this condition on contamination, and it was agreed that the standard staged approach would be applicable in this instance. The appellant stated that no contamination had been identified.
  - *Condition 26* The provision of children's play sites is shown on the drawings and referred to in the Design and Access Statement. A condition is necessary to ensure their provision at the appropriate time.
  - *Condition 27* With the removal of the Code for Sustainable Homes condition, there remains a need to control the use of water. As drafted the details were to be submitted prior to the commencement of any dwelling, but re-wording this to be the commencement of development would be more certain.
82. It is concluded that with the agreed amendments, the conditions accord with the tests set out at paragraph 204 of the National Framework, being necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These tests are repeated in the web-based Planning Practice Guidance and further guidance is given with regard to each test<sup>97</sup>.
83. The revised conditions are set out in Annex A to this Report and are recommended in the event that the Secretary of State allows the appeal.

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<sup>97</sup> Paragraph: 004 Reference ID: 21a-004-20140306

## Section 106 Unilateral Undertaking

84. An Undertaking<sup>98</sup> dated 2 September 2014 was submitted together with a Planning Obligations Statement prepared by Bespoke Property Consultant<sup>99</sup>. The Statement of Common Ground provides details also<sup>100</sup>.
85. The Council have published a Supplementary Planning Document '*Planning Obligations*' (June 2007)<sup>101</sup> which sets out such matters as the statutory background, policy background, the Council's approach and methodology, thresholds and negotiations. The Supplementary Planning Document lists three groups, Group A being solely for affordable housing, Group B for sustainable transport and highways; open space, sport and recreation; community facilities and services; children and young people's services; recycling and refuse facilities; and fire and rescue. Group C covers health provision, crime prevention, adult services, safeguarding the environment, and public art.
86. The appellant's Obligations Statement sets out the methodology and calculation in each Group. With regard to Group A the Statement reports on there being 40% provision of affordable housing. Group B concerns Horsham District requirements at £142,324 and West Sussex County Council requirements at £603,344 and the calculators in Appendix A and B to the Statement has been used to determine these amounts. In respect of the discretionary items in Group C, public art is agreed to attract a contribution of £14,489.
87. As set out in the Statement of Common Ground<sup>102</sup>, the Council and the County Council also confirm that regulation 123 is complied with as both Councils have checked their database and there are not 5 or more existing planning obligations relating to the infrastructure projects referred to therein. This document gives further confirmation of how the total figures are made up.
88. The appellant however makes clear that the 'age of transfer' contribution is objected to<sup>103</sup>, as set out in the Appellant's Case above. This contribution is included in the completed Undertaking, but payment is conditional on the requirement being confirmed in the Appeal Decision. For that reason the matter has been identified as a Main Issue in this Report.
89. With that provision for determination of the need for the 'age of transfer' contribution, a finding on whether the Unilateral Undertaking is acceptable and accords with Regulation 122 of the Community Infrastructure Levy Regulations 2010 will form part of the Conclusions to this Report which follow.

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<sup>98</sup> Document A18

<sup>99</sup> Document APS10

<sup>100</sup> Document A8

<sup>101</sup> Document A18 appendix C

<sup>102</sup> Document A8 paragraph 4.12.3

<sup>103</sup> Document A8 paragraph 5.0.1 fifth bullet point

## Inspector's Conclusions

Having regard to the main issues, my conclusions are as follows. Numbers in brackets [ ] refer to paragraph numbers in this Report;

### *Housing Land Supply*

90. In line with the advice in the web-based Planning Practice Guidance<sup>104</sup>, the starting point in this consideration should be the process and Inspector's findings in the Examination of the District Framework. The Guidance makes clear that this process should involve thorough consideration and examination of the issue prior to adoption of a Plan, and in the case of the District Framework, this process began with the submission of the document in August 2014, hearings were held between November of that year and July 2015, the Inspector's Report being dated 8 October 2015 and the District Framework was adopted on 27 November.
91. The Council has supplied documents and details of the Hearings, together with the Inspector's Initial Note to Council in July 2015 and it appears that there was plenty of opportunity for developers and other stakeholders to put their case for or against the outcome eventually endorsed by the Inspector. The final Report followed the advice in the Initial Note and in paragraph 50 states that the Plan does not identify enough housing for the whole plan period, on a basis of 800 dwellings a year and that there is no contingency in the delivery trajectory, other than the allowance for non-development of existing permissions on small sites. [33, 34]
92. The Inspector went on to say that there would be a shortfall in later years which the Council needs to address in the early review. He then said that he had taken what he considered to be a pragmatic approach to ensure that new housing can be delivered in the early part of the plan period, in accordance with the Ministerial Statement of July 2015, a reference to the possibility of an early review of a Local Plan being appropriate as a way of ensuring that the Plan is not unnecessarily delayed by seeking to resolve matters which are not critical to the plan's soundness or legal competence as a whole. [37]
93. As a result of this, Main Modification MM2 resulted in the following text within the adopted District Framework under the heading 'Delivery Mechanisms' at paragraph 3.27;
- *'The housing trajectory demonstrates that the Council can deliver around 10,000 dwellings in the first 15 years of the plan. There are however a number of uncertainties towards the mid to end of the plan period, including the future of Gatwick Airport. In recognition of this, the Council is committed to a review of the plan which will commence within the first three years from the adoption of the District Framework. The purposes of the review will take into account any updated housing needs requirements together with a review of the process for housing delivery, including Neighbourhood Development Plans. Prior to this review, the Council has also programmed a Site Allocations document which will enable a range of*

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<sup>104</sup> Paragraph 033 reference ID 3-033-20150327

*smaller sites including Gypsies and Travellers, employment and smaller scale housing sites to meet local needs.'*

94. The Examining Inspector found the standard 5% buffer justified, rather than the 20% buffer that would be required were there to be a finding of persistent under-delivery. The matter was the subject of submissions at the Examination with the case for a 20% buffer specifically being put forward and rejected in the Inspector's Report. [37]
95. That is a significant difference between the parties since the effect of increasing the buffer is to change what appears to be 5 year supply, however marginal or unlikely to continue later into the Plan period, to one below that required figure as of the date of the Inquiry. Whilst this stance differs from that previously taken by the appellant in their Statement of Case and in earlier drafts of the Statement of Common Ground, this was fully explored during the Inquiry. [53 – 60]
96. It is the case that previous Inspectors determining planning appeals in the Horsham District have found a 5% buffer justified, three of them being issued during the adjournment of the present Inquiry, in addition to the four originally put forward by the Council. The result in each case has been the use of a 5% buffer and a finding that the Council can demonstrate a 5 year supply. [36]
97. As referred to by previous Inspectors in Decisions submitted by the parties, there is no definition of persistent under-delivery in the National Framework or Guidance, but the wording of paragraph 47 of the former is clear; Councils should identify and update annually a supply of sites sufficient to provide 5 years' worth of housing, and the level of the buffer is determined by delivery, in order to provide a realistic prospect of achieving the planned supply. [37]
98. The appellant is of the view that it is incorrect to take account of market conditions in considering delivery rates. But, that is what the Examining Inspector had done in order to conclude that the 5% buffer should be applied. Whilst a Council should be in a position to have an effect over the supply side of the equation, and that is what paragraph 47 requires of them, the actual rate of delivery of that identified supply of sites is not so much under their control, particularly in the case of the downturn around 2008. The Examining Inspector refers at his paragraph 36 to the effect of this in Horsham District, with sales volumes showing 'dramatic falls' in 2008. The following paragraph refers to the 'significant impact' of the recession on sites west of Crawley which had a slow pace of development during the recession. [54]
99. That appears a reasonable approach, with the matter to be tested against the paragraph 47 aim of achieving the planned supply, and whether the delivery side of the equation has persisted despite all efforts by the Council to react to the situation. Clearly the recession of 2008 onwards was a significant event that affected the supply of mortgages and hence the ability of purchasers to proceed, and as a consequence, would have reduced the extent to which house-builders would have had the confidence to commit to 'delivery' in the form of building houses that may not sell within a reasonable timescale.
100. Part of this consideration must be the prevailing housing requirement, and in particular that of the South-East Plan published in May 2009 but concerning 2006 to 2026. The prevailing requirement up to the publication date would

have been those of the West Sussex Structure Plan reflected in the Core Strategy, and on publication there was a need to 'back-date' the requirement to 2006. The Council refer to the findings of an Inspector at 'Former RMC Engineering Works, Washington' and at the time of writing in Autumn 2012 he identified a shortfall in supply whilst concluding that prior to that time there had not been persistent under-delivery, when considered against the prevailing requirements. [37, 55]

101. It is of note that the 'RMC' Inspector, having concluded that there was a shortfall went on to consider the various policies of the Core Strategy extant at that time, and the degree to which they were out-of-date. He referred to the '*Facilitating Appropriate Development Supplementary Planning Document* which the Council had adopted in 2009. As stated by that previous Inspector, the introduction to that document explains that it '*has arisen from the need to provide 'flexibility' to ensure that there is sufficient housing supply during the life of the existing adopted Core Strategy (2007). The document sets out the requirements against which those planning applications for development, put forward by landowners/ developers as a response to the evolving circumstances, on green-field and brown-field sites which adjoin defined settlement boundaries in the District, will be considered.*' [37]
102. The introduction went on to say that '*As a set of criteria for judging acceptable development, the policy can be applied to all forms of development, although it is expected that it is likely to be a key determining factor in applications for housing development prior to the adoption of the Core Strategy Review. It is considered that a more responsive, pro-active way forward is required if the Council is to continue to be in a position to deliver a 5 year rolling supply of housing land as required by Government guidance.....and to achieve the supply figures in the South East Plan.....It can achieve the flexibility required by the Inspectors who examined the Core Strategy (2007) and enable the provision of the necessary housing within the District, as soon as market conditions allow.*'
103. It is that Document that provided the policy background for the grant of permission on the Barratt site, as it adjoined the defined settlement boundary. It appears a pragmatic response to the situation that the Council found itself in at that time and indicates an acceptance that notwithstanding the market position, action should be taken to address the need for flexibility in the application of policy. In that case General Development Control Policy DC1 precluded such housing development outside settlement boundaries, but this was relaxed in order to address housing need, provided the criteria of the Facilitating Appropriate Development document were met. [42]
104. To conclude on the matter of the buffer, it appears right that the measure should be the prevailing requirement as that is the known target for the Council to aim at, albeit that it is a minimum. In the case of Horsham it is clear from the introduction to the Facilitating Appropriate Development Supplementary Planning Document that the Council were willing to apply policy flexibly to address the situation, pending the adoption of new policy, and the Barratt permission is an indication of housing coming forward as a result. The fact that this was through an Appeal reduces the Council's case somewhat, but the aims of the Document were clear, but still required judgement as to the effect of development. In all it is considered that the 5% buffer is appropriate to this Council at this time.

105. There does not appear anything wrong in the Council advising on permissions post the April 2015 monitoring date as a way of providing an up-to-date situation and the Council's evidence is that the quoted figures do take account of all other matters such as losses during the same period. The Council has supplied evidence to the effect that the Examining Inspector took account of similar figures. However, as stated by the appellant, these additional figures appear only to keep pace with the requirement rather than address any shortfall. [39, 59]
106. Neighbourhood Plans are presumed to provide at the rate of 100 units a year, 1,500 in total, as set out in the Examining Inspector's Report at paragraph 47. The Inspector did comment on uncertainty and in the meantime there has been a delay at Storrington, which is one of the larger second-tier settlements, and this was to provide 254 of the total dwellings. The Council has produced a Neighbourhood Plan Trajectory, and explained that sites were identified in the Strategic Housing Land Availability Assessment or the Strategic Housing and Economic Land Availability Assessment as being available, suitable and achievable, but the trajectory did not convert these to being more definite until allocated. Clearly there is uncertainty still, perhaps more so than when the Examining Inspector reported, but it is early in the process, and with the potential for 84% of the District to be covered by Neighbourhood Plans there is scope for the present apparent slow start to speed-up. [40, 58]
107. Turning to the strategic sites, the Examining Inspector described land at North of Horsham as a 'key element of the Plan'. The Report goes through in detail the issues pertaining to the proposal and its deliverability, and refers to the allocation being 'subject to a large number of objections'. He notes 'some minor slippage' in progress but concludes that there would be enough flexibility for any delays to be recovered over the longer term. The evidence of the appellant is of a reserved matters application being submitted soon, and the Council state that this would be in-line with the assumed timetable. West of Bewbush the appellant accepted a revised figure of 85 dwellings a year, but questioned how the increase to 150 dwelling predicted by the Council would be achieved. Such an increase would indicate two further developers in action on the site. [41, 57]
108. There is room for doubt as to the situation, and that appears to have been the case as reported by the Examining Inspector, but then in terms of uncertainties towards the mid to end of the plan period. It was for those reasons that the early review was committed to in the adopted District Framework. Whilst the situation has changed in the meantime, the overall conclusions are that substantial weight should still be afforded to the process and findings of the Examining Inspector, and the present situation does not indicate either the raising of the buffer to 20% or that the Council are unable to demonstrate a 5 year supply of housing land. The early review will address the situation within a short while and an allocations Development Plan Document will need to address any change to the requirements.

#### *The Location of Development*

109. The location of development is covered by the policies of the District Framework as previous set out. Policy 1 provides for sustainable development and Policy 2 is an over-arching policy that covers the amount and location of



development, with reference to managing development around the edges of settlements. The hierarchy of settlements is set by Policy 3 with Henfield as a 'small town and larger village' in the second-tier, and development will be permitted within towns and villages which have defined built-up areas. The text to both Policy 3 and Policy 4 states that some communities will need to grow and develop some expansion outside the built-up area will be necessary, but then makes clear the process will be by way of allocating sites in the Local Plan or Neighbourhood Plans. Policy 15 provides for windfall sites. The protection of the environment, landscape character and the countryside are the subjects of Strategic Policies 24, 25 and 26, the latter stating the limited circumstance under which development outside the built-up areas will be permitted.

110. The appellant identifies a 'tension' between policies and refers to the findings of an Inspector on the 'West Chiltington' case. In that Decision the Inspector firstly identifies that in Policy 4 all of the criteria have to be met due to the linking 'and' between the penultimate and the ultimate criteria (actually numbered 4 and 5), but then finds that Policy 15 seeks windfall sites, and concludes that these cannot come forward due to the wording of Policy 4 and the need for only allocated sites to be permitted outside built-up area boundaries. That Inspector's suggested way round this was to re-word the policy to allow the criteria to be considered individually rather than cumulatively. This prompted the Council's letter to the Planning Inspectorate, and since the Appeal had been dismissed on another matter that was where the matter rested. It is the case that no other Appeal Decision has considered Policy 4 in that way, although the appellant in the present case advocates the same or similar approach. [44, 62]
111. Policy 15 does allow for windfalls in making up an element of the supply of housing. The reason why there is no specific policy on the location of windfalls, as the West Chiltington Inspector found, is that Policy 3 states that development will be permitted *within* towns and villages, and that can include windfalls, whilst Policy 4 prevents it *outside* towns and villages unless allocated. That may well limit the scope for windfalls, but there is the possibility within a town or village of previously developed land falling out of one use and being put forward for housing use. Such land would not necessarily be identified in a strategic assessment and hence would not be allocated. Subject to meeting general development control criteria, such windfalls within a town or village would be acceptable. [61, 62]
112. As a result the wording of Policy 4 should be taken at its face value, if a site is not allocated in a Local Plan or a Neighbourhood Plan, it fails the first criterion and hence the expansion of the settlement is not able to be supported by development of that site, no matter how well the site performs against the other criteria, which are there to control the quality and effects of development that is on allocated sites. It is Policy 4 that sets out how development around the edges of existing settlements is to be managed, as required under part 6 of Policy 2.
113. There is a minor matter of wording in the first criterion of Policy 4, in that the decision to allocate a site would have been taken as part of the Local Plan or Neighbourhood Plan making process, whereas the criterion could be taken to introduce a second 'filter' in not permitting sites that are not adjoining an

existing settlement edge. That could be taken to preclude allocated sites that do not adjoin a settlement edge, but more likely as this is a Strategic Policy, the reference is a guide to how sites should be allocated. In any event the Appeal site does adjoin the settlement, but is not allocated.

114. With regard to the Henfield Neighbourhood Plan, the boundary of the built-up area is set and Policy 1 states that only proposals for minor development of an appropriate scale will be supported on land west of the Downs Link. That follows the similar aims stated in the Henfield Parish Design Statement that there should be no further development west of Downs Link, apart from minor extensions. The appeal site is therefore excluded from the area considered suitable for other than minor development, whilst the Barratt site is, as an established fact, outside this area, and west of the Downs Link.
115. The Appeal site is not allocated in any Local Plan or the Henfield Neighbourhood Plan, and whilst the appellant points to what are seen as inconsistencies and unexplained decisions surrounding the 'making' of the Neighbourhood Plan, that is part of the Development Plan for the purposes of section 38(6) of the 2004 Act, and the site's unallocated status informs the conclusion that the proposal is contrary to District Framework Policy 4 on settlement expansion, and Policy 26 on countryside protection as the proposed development is not essential to a countryside location, and is contrary to Policy 1 of the Henfield Neighbourhood Plan and the delineated built-up area boundary. [43]

*The Character and Appearance of the Area*

116. The Council allege harm to the countryside and poor design contrary to Policy 25 on the natural environment and landscape character, Policy 32 on the quality of new development, and Policy 33 on development principles. [47]
117. The site was found suitable for 40 units in the Strategic Housing Land Availability Assessment in July 2014 and the later Strategic Housing and Economic Land Availability Assessment, noted as being considered developable in between 6 and 10 years from that time. The Council point to the fact that the present proposal is for approaching double that amount, whilst the appellant refers to highway matters being a constraint previously, and that these are overcome by the second access and the findings of the Barratt Inspector. The findings of the Officer's Report to the November 2014 Committee meeting do give a positive endorsement. [66 – 68]
118. Density as such should not be the issue, but the effect of the density is. The National Framework seeks a high quality of built environment as part of the social role of sustainable development, and high quality design as one of the core planning principles, with the effective use of land being another, albeit in the context of previously developed land. Paragraph 56 states that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
119. The Statement of Common Ground and the Design and Access Statement give a largely factual description of the site and its surroundings, as previously reported. The site inspection resulted in the following more subjective appraisal:

- The rear boundary line of Hollands Road, which forms the east boundary of the appeal site is a straight, and in some parts, hard edge to the settlement, softened somewhat by vegetation that has grown on the appeal site. It is however a strong delineation between the built-up area and the countryside.
- To the south is the bridleway of Hollands Lane with a hedge line between, and this right of way provides a rural continuation of the lane which at the south-east corner of the site is heavily influenced by the yards and buildings on the south side of the lane which are utilitarian in appearance and the area has a light industrial character. Further along the lane the site is higher than the right of way and the hedge line has been breached in places.
- Along the western boundary there is the existing hedge line separating the site from agricultural land before the tarmac highway of Lawes Lane. That western boundary moves east at the point where the curtilage of Camellia Cottage reduces the site width nearer the northern boundary, and that curtilage is defined by the dense planting of domestic vegetation associated with the cottage, although its car barn is clearly visible near the mutual boundary.
- Along the northern boundary, great change was taking place by the time of the site inspection in May with the development of the Barratt site. That site extends from the car park to the Downs Link long-distance path to the junction of West End Lane and Stonepit Lane and whilst the site for 160 dwellings extends to the north of a footpath from Stonepit Lane to the car park, it was the southern part of the site fronting onto West End Lane that was being worked on, with a new site entrance introduced opposite the appeal site and a haul road in operation from the south-west corner. This development alters the character and appearance of not only West End Lane and the car park, both formerly on the edge of open land, but it alters the setting of the appeal site from facing onto a rural field, to that of facing a suburban housing scheme.
- The site itself contains disused and somewhat unkempt buildings and the remains of some poly-tunnels, but is largely open or covered by vegetation, and due to the mowing that is said to occur, is not overgrown. As a nursery or as now, its character and appearance would not be at odds with its surroundings, even allowing for the Barratt scheme, due to the largely rural presentation along the west and south boundaries.

120. The site lies within the Low Weald Character Area although that covers a large part of the countryside in this location. Nevertheless the descriptions referred to of isolated farmsteads and arable land hold true for the appeal site and its surroundings and the site plays a role in the relative isolation of one of those farmsteads that will be considered in more detail in the next section, as it is the listed Camellia Cottage. Whilst there are shortcomings in the hard edge presented by the rear of the Hollands Road development, and these were identified by the Barratt Inspector, the appeal site does act as an undeveloped setting for the settlement although the previous continuity of this to the north has been stopped-off by the Barratt development. [46]

121. It is correct to say that the Barratt site does not provide a precedent for development of the appeal site, since, as asserted by the Council, it was only permitted under the provisions of the Facilitating Appropriate Development Supplementary Planning Document and in the light of the then situation over housing supply. However, development of the Barratt site is now a fact, and that development does influence the character and appearance of a significant part of the West End Lane area. [67]
122. On the principle of development with regard to the visual landscape effect, and having mind to the hard edge of the Hollands Road development and the presence of the West End Lane frontage of the Barratt scheme, there is capacity within the landscape and townscape for some limited built form close to the north-east corner of the site and along the eastern boundary. This would soften the hard edge of Hollands Road and graduate development into the countryside in a more organic way. That finding is contrary to that of the Horsham District Landscape Capacity Assessment of April 2014, but the map accompanying that document shows the Barratt site as undeveloped and similarly to have '*no/low capacity for development*'. That assessment is therefore somewhat overtaken by events, and a re-appraisal as part of this Appeal, informed by the site inspection is justified.
123. The approach of varying the grain of built form away from the present edge of development is similar to that advocated in the appeal scheme with a gradation of density across the site from the higher levels to the east adjoining the built-up area boundary, to the lower levels on the western side, together with a larger rear garden zone at the proposed new boundary with undeveloped countryside. [66]
124. However, the gradation proposed is limited in its visual effect with a relatively tight grain of development apparent for a considerable distance on both legs of the roadway when entering from the Hollands Lane side, whilst on entering from the West End Lane side the grain of development would appear loose and not characteristic of either the established development to the east or that being built to the north. Further into the site on both legs of the roadway a tighter grain would be apparent whilst the open space that contributes to the aim of an overall lesser density moving westwards is grouped either in the middle of the site or hidden as back gardens adjoining the western boundary. [47]
125. An aerial view or drawn plan may indicate a gradation, but the experience would be of a tight knit development for the most part with largely only private appreciation possible of a lower density and the link with the countryside beyond, and limited public indication of the rural context of the site other than being a suburban extension of the built form of Henfield.
126. Whilst it is not the purpose of this Report to re-visit the merits of the design of the Barratt scheme, it is clear from a reading of paragraph 36 of that Appeal Inspector's Decision that weight was attached to the layout of houses being:
- '*set back from the roads to the west and south, from the footpath that bisects the site, and from the field boundary with the open countryside to the north. The open spaces at the edges of the site and beside the footpath are intended to be landscaped and planted to include hedges, trees, allotments, ponds and other open space.*'

In that case the site was bounded also on the eastern side by the undeveloped Downs Link and a similar device was utilised there. The present appeal scheme is too inward looking and leaves the edges against the open countryside as garden land, lacking the openness and accessibility afforded the margins of the Barratt scheme.

127. The result of these considerations as experienced when walking along West End Lane or Hollands Lane and from within the public areas of the appeal scheme would be of a development that does not relate successfully to the surrounding landscape, turning its back for the most part on the boundaries rather than integrating and grading the use of land and landscaping with the surrounding fields, lanes or paths. Notwithstanding the stated intention of holding the southern and western boundaries in common ownership, the risk is that over time owners could seek defensible boundaries similar to many along the rear of Hollands Road, resulting in a hard edge further into what is presently attractive landscape and countryside. [28]
128. That risk of a hard edge is avoided in the Barratt scheme by the frontages facing outward and a communally managed public accessible strip being inserted between the buildings and the countryside. In any event, frontages are generally more easily managed under the development control or permitted development regime.
129. In conclusion, the aim of gradation has not been successfully carried through, with the poor distribution of buildings and open space resulting in a form of development that would intrude into the landscape rather than be assimilated into it, risking perpetuating along a new line deeper into the countryside, the identified faults of the Hollands Road development. The appearance of the scheme as experienced 'on the ground' would be of an uncharacteristically tight grain of development, particularly as entered from the Hollands Lane end, failing to present the open, vegetated public face, and interface with the countryside likely to be achieved at the Barratt site.
130. The proposal would be contrary to Policies 25, 32 and 33 on the quality of development and its effect on the landscape. In particular the expectation of criterion 3 of Policy 32, to *'contribute to a sense of place both in the buildings and spaces themselves and in the way they integrate with their surroundings and the historic landscape in which they sit'*, has not been met, and the requirements of criteria 3 and 4 of Policy 33 are failed in that the scheme is not of a sufficiently high standard of layout and does not respect the character of the surrounding area. The aims of the National Framework regarding high quality design would not be furthered.

#### *Heritage Asset*

131. It does appear to be the case that the Council's stance on this issue has changed. In the matter of the paragraph 134 balance, originally the harm was considered to remain the same but the benefits were considered to have reduced, through the adoption of the District Framework and the Examining Inspector's finding that a 5 year supply of housing land can be demonstrated. At the Inquiry a case was put forward that appeared to raise the level of harm, stated to be *'at the higher end of the scale'* within the paragraph 134 *'less than substantial'* range, in addition to arguing that the present public benefits fail to outweigh that harm. Be that as it may, section 66(1) of the Planning

(Listed Buildings and Conservation Areas) Act 1990 is clear as to the duty placed on the decision maker and it is right that a fresh appraisal be carried out, informed by the views of the parties and the site inspection. [48 – 50, 69]

132. The heritage asset is now called Camellia Cottage but the Grade II listing description refers to it as *'Deer's Farmhouse'* and identifies a *'C16 timber-framed house with plaster infilling, ground floor rebuilt in red brick. Tiled roof. Casement windows. Two Storeys. Three windows'*. Such a 1980 listing description does not attempt to identify what is significant. Later points of note are the addition of a substantial extension to the southern end of the original building, the addition of a car barn near the mutual boundary with the appeal site, and the use of the curtilage buildings as dwellings.
133. As shown in the photographs produced by the parties, and evident at the site inspection, the setting of the listed building differs now from what would have been the historic relationship between a farmstead and its land, and between the farmhouse and both the curtilage farm buildings and the land. Whilst a farmhouse would traditionally have had an area of cottage garden, and grander ones than Camellia Cottage may have had more formal grounds, the likelihood would be for a small farmhouse such as the original here, that there would be a definite link between the house and the land, for overseeing.
134. Camellia Cottage retains an element of that link to the south and west, albeit that this is the end of the cottage that has been subject to the substantial extension, but to the east, towards the appeal site, a dense domestic garden has been developed which limits the association. That may well be as a result of the change in use of both the farmhouse as a non-farming dwelling, and of the appeal site, as nurseries, but the effect now is of a more tenuous link between the listed building and its historic land in that direction. The chimneys on the original part of the farmhouse are an important part of the building's architectural and historic significance and these are seen in views from the site, although a reciprocal view from the house itself is not available due to the intervening vegetation.
135. However, the view from West End Lane and approaching from Stonepit Lane is more clearly of an historic farming group since the farmhouse presents its original northern end to the road and the relationship of the curtilage buildings and entry onto the road appears agricultural in character and appearance<sup>105</sup>. From that entry to the farmstead the view encompasses the present field entry to the nurseries on the site, and this indicates a connection between the farmhouse and tended land.
136. It is appropriate in this assessment of current significance to have regard to the changes that the Barratt scheme will bring about. That scheme was hardly above ground at the time of the site inspection but the development of houses on the opposite side of West End Lane and close to the junction with Stonepit Lane will alter the situation. At the time of the Inspection the haul road was in this location, but long-term the approved arrangement is for the dwellings to sweep round on a curve between the two Lanes, leaving a margin of un-built landscaped land on both frontages and a large triangular area, shown with a pond, at the corner opposite the farmhouse. [69, 71]

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<sup>105</sup> See Photographs Document C5 E Murphy Appendix V references h to m

137. The Barratt Inspector referred to this arrangement as follows;

- Paragraph 58 *'The appeal scheme has been designed to set development away from the corner opposite the former farmstead. The nearest part of the appeal site would be occupied by a pond, of which there are also several within the curtilage of Dears Farm. Distant views would be available from the new dwellings towards Camellia Cottage and Dears Farm. However that would not affect appreciation of their heritage significance.'*
- Paragraph 59 *'It is concluded on this issue that the appeal site includes part of the setting of the listed Camellia Cottage and of the buildings that were within its curtilage at the date of listing. The development of the appeal site would result in a significant alteration to that setting which would not be preserved or enhanced in the terms of Section 66. That merits considerable weight and importance in the planning balance. However appreciation of the heritage significance of Camellia Cottage as a late medieval farmhouse in the countryside does not depend upon the appeal site remaining open. It has already been compromised by alterations and extensions to the farmhouse and the other buildings and by changes to the curtilage and by other built development nearby. The additional effects on setting are thus more marginal than if the buildings and their setting were in a more original condition. The remaining heritage significance of the farmstead group is not obvious in distant views from and across the appeal site. It can best be appreciated in closer views from West End Lane and Stonepit Lane and from within the curtilages of the buildings. The effects of the proposed development on the setting and heritage significance is thus less than substantial and the context and limited extent of the effects is also relevant in the planning balance.'*

138. That appraisal appears thorough and correct, and similar considerations apply to the relationship with the present appeal scheme. Whilst the visual link between the farmhouse and the site as worked land is tenuous, that link still exists and is discernible along West End Lane. The Barratt scheme has responded to the need for accessible open space to be left near the listed building, and in the absence of the present appeal scheme the result would be a pleasant area of landscaping to offset the effect of the chalet dwelling, The Paddocks, that the previous Inspector referred to in paragraph 56 as a compromising feature on the isolated setting of the listed building. That paragraph contemplated the development of the appeal site and stated the view that;

- *'the Council's recent Strategic Housing Land Availability Assessment contemplates the further development of the nursery site between Hollands Road and Camellia Cottage which, if implemented, would effectively end that isolation by joining the former farmstead to the built-up area'.*

139. The appellant refers to quadrants of land around the listed building, arguing that the Barratt scheme has affected one quadrant, that the appeal site is another, and that two further quadrants to the south-west and north-west would remain. This should not be a matter purely of percentages, but of the quality of the surrounding land. Certainly, those latter two quadrants would remain as they are now, but the south-west is affected by the presence of the substantial southern extension to the farmhouse, although the original north

end and framing can be seen, and the north-west is affected, as identified by the Barratt Inspector, by The Paddocks. [71]

140. This finding and the presence of the Barratt scheme puts more emphasis on the remaining quadrant, the appeal site. It is concluded now that if the development of the appeal site did in fact visually join the former farmstead to the built-up area, that would end the isolated character and appearance of the farmstead, and would cause considerable harm to its setting.
141. The effect would be modified by the retention and augmenting of the West End Lane boundary, and the movement of the access would reduce the obvious presence of built form immediately adjacent to the farmhouse curtilage. But, the view in from the West End Lane entry would show built form on both sides and proceeding in from that direction would reinforce the perception of built form backing on to both the Hollands Road edge and the listed building curtilage. The central landscaped area may reduce the link further into the site, but it is at its closest where it does the most harm in visually joining the farmhouse to the built-up area. There is no buffer area similar to that at the Barratt scheme to disconnect that linkage.
142. The appellant points to the distances between buildings and the listed building on the two schemes<sup>106</sup> and it is the fact that a dwelling on the Barratt scheme is just over 50m away from the historically and architecturally significant north end of the farmhouse, whilst the nearest dwelling on the appeal scheme is 56m from the less significant later southern extension. Here, as with the matter of quadrants, numbers are of limited importance, and it is the quality of the spaces between that would make the difference in perception. The 56m passes over the private rear garden of that and neighbouring houses and over the private garden curtilage of the listed building. Neither style of land would replicate the more open setting that is enjoyed at present. [71]
143. The difference in this style of land has been recognised in the layout of the Barratt scheme notwithstanding that closer placement of buildings, and the Inspector in that case found the arrangement largely satisfactory and any harm readily justified by the public benefits. The Planning Balance in that case made clear that;
- *'the heritage significance of the listed buildings is only apparent in limited locations into which the development would only intrude marginally. Also the setting of the listed buildings has previously been eroded by alterations, extensions and other nearby development. The marginal effect on setting is thus limited in extent. The effect on setting has merited considerable weight and importance in my final judgement below because of the duty under Section 66 (ie the desirability of preserving listed buildings and their settings). But the early provision of new homes in circumstances of a local shortfall also merits considerable weight and importance, particularly as the recent regional and national shortfall in house-building has been widely reported, as has the current high level of demand.'*
144. The situation in the case of the present appeal site and scheme is of the erosion of a further part of the setting, and this is the more important part due

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<sup>106</sup> Document A12



to the direct line between the listed building and the nearest dwellings on Hollands Road and the nearby part of West End Lane, and the relatively narrow neck of land between them. Whilst, in the circumstances of the previous erosions as identified by the Barratt Inspector, there is no compelling case for keeping the whole of the appeal site open and undeveloped, the appeal scheme removes a view of open land through the present gate and proposes too great a presence of buildings and domestic land at the boundary.

145. The level of harm is 'less than substantial', a differentiation required between paragraphs 133 and 134 of the National Framework. For the purposes of the balancing exercise to be carried out, the harm found in this Report is less than that identified and argued by the Council, within the 'less than substantial' range. Nevertheless, considerable importance and weight attaches to this harm as determined by case law<sup>107</sup>. [48]

146. In this case paragraph 134 applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. This will be considered in the planning balance, but for the present the proposal would harm the setting of the listed building contrary to Policy 34 of the District Framework and the setting would not be preserved or enhanced as sought by section 66(1) of the 1990 Act.

#### *Primary Education Contribution*

147. The issue concerns a failure to agree between the appellant and the Local education Authority, West Sussex County Council, their respective cases being reported as presented. Without the benefit of examination in chief, cross examination and the opportunity for Inspector's questions, the evidence in favour of the County Council's request is limited. The document presented by the appellant gives the background<sup>108</sup>. [51, 52]

148. It appears that no similar request was made in respect of the Barratt scheme although there was some doubt over whether 'temporary' classrooms had in fact been there so long as to no longer justify the term. In this case the request for payment is towards an 'age of transfer' scheme which concerns proposed changes to the age at which children transfer to secondary school, from there being a primary, intermediate and secondary arrangement, to one where the transfer is from primary to secondary only. [73]

149. Whilst the total amount requested has been calculated by way of the anticipated 'child-product' from the housing mix for the development, which is a reasonable methodology, and whilst the scheme appears to be either running or under consideration for the area, there does not appear to be a direct link between the costs of the scheme and the monies requested. The County Council appear to accept that the scheme has not been costed but are of the view that the amount sought would make a fair and proportionate contribution towards the total cost.

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<sup>107</sup> Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWCA Civ 137.

<sup>108</sup> Document A19

150. Regulation 122 of the Community Infrastructure Levy Regulations 2010 provides that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation 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 to the development.
151. The child-product method would ensure that there is a connection between the numbers of children benefitting, or needing to be accommodated in any scheme, but the appellant's unopposed evidence is that there is not yet an agreed option for the scheme, as well as pointing to the agreed fact that the scheme has not been costed. It is unclear how the capacity of the local school affects the equation in relation to the 'age of transfer' scheme. On the information available it does not appear to be certain that this part of the obligation is fairly and reasonably related in scale to the development.

#### *Highways*

152. As stated, the effect on the road system has been agreed between the main parties as being acceptable, having mind to the findings of the Barratt Inspector, the proposed second site access and improvement works proposed. This is set out in the Highways Statement of Common Ground. The traffic impact analysis is agreed and the roads and junctions are agreed to be capable of catering for the traffic generated in terms of safety and capacity. Measures to control traffic speeds to ensure satisfactory sight lines are agreed and will be provide as part of the Barratt scheme. The second entry onto Hollands Lane would not affect the carriageway and the local business's lorry turning should not be adversely affected. In conclusion on the highway objections, the impacts are not 'severe' and development should not be prevented or refused, in accordance with paragraph 32 of the National Framework. [31]
153. A letter of representation was added to the Document T1 folder late as a result of a misunderstanding as to whether it had been sent to the Planning Inspectorate already, and the appellant was given an opportunity to respond, in order to avoid a perception of unfairness<sup>109</sup>. In the event this did not add further to the evidence on highway matters.

#### *Other Concerns Raised by Third Parties*

154. Whilst much of the third party representation, both in writing and orally at the Inquiry, supported objections raised by the Council, there were other matters raised.
155. With regard to sustainability and accessibility, Henfield is a second-tier settlement identified in Policy 3 which has a range of services and local employment provision, acting as a hub for smaller villages. The policy accepts that such settlements would rely on larger settlements or each other to meet some needs, indicating that some outward commuting would take place. Henfield does not have a railway but the policy allows for bus services. The site is not so distant from the town centre, bus stops or other services to preclude walking or cycling. [78, 79]

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<sup>109</sup> Document A22

156. Flooding has been the subject of a risk assessment by the appellant<sup>110</sup> in accordance with the Environment Agency's guidance. The findings have been accepted by the Council and the Agency. The site is in Flood Zone 1, at low risk of fluvial flooding. Surface water drainage would be by way of a sustainable drainage scheme to avoid down-stream flooding, by ensuring that the run-off rate is no greater than the existing 'green-field' amount. Rainwater will be directed to a retention lagoon within the site where discharge by existing watercourses to the River Adur can be controlled. In fact the proposal provides betterment over the present situation. Foul drainage capacity has been identified at a manhole stated to be approximately 1.4km north-east of the site and that is where the connection would be made. [78, 79]
157. The land is vacant but could be used for agricultural production, and the vacant nature of the land would be available for wildlife as stated by objectors. The Phase 1 Habitat Survey<sup>111</sup> has however not been objected to by the Council or relevant authorities. [78]
158. Similar considerations apply to concerns over pressure on services and the need for the housing with reference to the size and character of Henfield. The Council would have considered these matters during the consultation period, and the s106 Undertaking makes provision for mitigation where appropriate. The Neighbourhood Plan addresses the character of Henfield. [78, 79]
159. Concern over light spillage and the effect on the night sky could be addressed by the proposed condition which would allow the Council control over external lighting. [78]
160. The existence of the electric pole route across the site can be overcome through re-routing as set out by the appellant in answer to a third party query<sup>112</sup>. [79]

#### *Planning Balance*

161. Harm has been identified to the landscape character and appearance of the area, and to the setting of a listed building. These failings are contrary to the requirements of Development Plan policies and National guidance on the protection of the environment, and in addition with regard to the listed building, the statutory requirements of section 66(1), a matter that must be afforded considerable importance and weight in the balancing exercise. The location of the development is contrary to adopted policies in the District Framework and the 'made' Henfield Neighbourhood Plan.
162. With regard to whether this is sustainable development, the site is accessible to services and transport, and in the economic role set out in the National Framework, the proposal would support growth and assist in sustaining services through the introduction of new residents bringing increased spending, but the land cannot be said to be in the right place due to Development Plan restrictions. The social role would be furthered by supporting services and by supplying housing to meet need, since paragraph 47 of the National Framework

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<sup>110</sup> Document APS16

<sup>111</sup> Document APS12

<sup>112</sup> Document A17

- makes clear the need to boost significantly the supply of housing, and 5 year housing figures are minima. However the proposal does not represent a high quality of built environment. The environmental role in particular is not well served due to the adverse effects on landscape and the built historic environment. It is concluded that the proposal is not sustainable development.
163. The conclusion that the policies of the Development Plan with regard to the supply of housing should be considered up-to-date as a result of the recent Examination and adoption of the District Framework, but taking account of the early review that has been committed to, leads to the conclusion that the provisions of the last bullet point of paragraph 14 of the National Framework are not engaged.
164. As set out, there would be public benefits, the hard edge to the Hollands Road development would be softened, and the site is presently unused with unattractive buildings. The additional supply of housing, and affordable housing in particular, would be welcome, and the development appears ready and able to proceed without delay, with few remaining obstacles to be overcome, as this is an application and appeal for full planning permission.
165. However, the visual benefits are limited as the hard edge and the condition of the site are not widespread in their effect, and do not undermine the significance of the listed building. With respect to the supply of housing, the two recently adopted parts of the Development Plan have determined that the site is not in a suitable location for housing development.
166. In the balance it is concluded that the harm to the setting of the listed building is not outweighed by public benefits, and that the other harm to landscape and the aims of the Development Plan on the location of development is so great as to dismiss the appeal. There are no material considerations sufficient to indicate a decision other than in accordance with the Development Plan.
167. Were the Secretary of State to determine that policies for the supply of housing are out-of-date, due to the housing land supply situation, and that paragraph 14 is engaged, my view is that as a result of the Forest of Dean case, and the paragraph 134 balance being a stand-alone balance having regard to the considerable importance and weight to be afforded the desirability of preserving the listed building or its setting, the balance would still rest against the grant of permission.

### **Recommendation**

168. I recommend that the appeal be dismissed.
169. However, should the Secretary of State disagree with my recommendation, I am of the view that the conditions set out in Annex A should be attached to a planning permission, in addition to the Section 106 Undertaking. This course of action would also require the Secretary of State to determine whether the Primary Education Contribution complies with Regulation 122. My advice is that it does not.

*S J Papworth*

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

D Lintott he called;	of Counsel
Emma Faith	Senior Planning Officer Horsham District Council
Eimear Murphy	Consultant Murphy Associates
Lesley Westphal MRTPI	Senior Planning Officer Horsham District Council

FOR THE APPELLANT:

M Lowe he called;	of Queen's Counsel
P Caneparo	TTP Consulting
Ignus Froneman B.Arch.Stud ACIFA IHBC	Heritage Collective
David Allen DipLA CMLI	Allen Pyke Associates
Matthew Williams BA(Hons) SipArch MA RIBA	Managing Director Create Design Ltd
Steven Brown BSc(Hons) DipTP MRTPI	Principal Wolf Bond Planning

INTERESTED PERSONS:

Cllr M Morgan	Parish Councillor
R Smith	Campaign to Protect Rural England, Sussex Branch
Dr M Carter	Resident
E Scott	Resident
A Murphy	Resident
K Dyas	Resident
J Stonor	Resident

## DOCUMENTS AT START OF INQUIRY

### Proofs of Evidence

#### Council;

Document	C1	Emma Faith Updated Proof with Appendices 1 – 14
Document	C2	Emma Faith Rebuttal Proof with Appendices RB1 – RB15
Document	C3	Lesley Westphal Proof with Appendices 1 – 11
Document	C4	Lesley Westphal Rebuttal Proof with Appendices RB1 – 3
Document	C5	Eimear Murphy Proof with Appendices A – V,

#### Appellant;

Document	A1	David Allen Proof, plus Appendices DA1 – DA4 separately bound
Document	A2	Ignus Froneman Proof, with summary and Appendices 1 – 9 separately bound (as revised with numbered viewpoint map)
Document	A3	Matthew Williams Proof with Appendices 1 – 3
Document	A4	Steven Brown Proof and Appendices SB1 – SB35 separately bound
Document	A5	Steven Brown Rebuttal 19 February 2016 (bound in front of Document A4 Appendices)

#### Interested Parties;

Document	T1	Letters of objection received by the Planning Inspectorate
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#### Application Plans and Statements (also on memory stick)

Document	APS1	Application Form (tabbed in white folder)
Document	APS2	Covering letter James Lloyd Associates 18 March 2014 (tabbed in white folder)
Document	APS3	Application Drawings as listed Document APS2
Document	APS4	Design and Access Statement and Addenda 1 and 2
Document	APS5	Energy Strategy prepared by MG Partnership
Document	APS6	Viability Report prepared by Bespoke Property Consultants
Document	APS7	Request for a Screening Opinion prepared by JLA Limited (tabbed in white folder)
Document	APS8	Arboriculture Report prepared by Crown Consultants
Document	APS9	Planning Statement including Addendum prepared by JLA Limited (tabbed in white folder)
Document	APS10	Planning Obligations Statement prepared by Bespoke Property Consultant
Document	APS11	Archaeological Desk-Based Assessment prepared by Heritage Collective
Document	APS12	Phase 1 Habitat Survey prepared by Arbtech
Document	APS13	Technical Note on Barratts Scheme prepared by JLA Limited, Allen Pyke Associate's, CREATE Design and TTP Consulting (tabbed in white folder)
Document	APS14	Statement of Community Involvement prepared by Bellenden

- Document APS15 Landscape Character and Visual Impact Assessment including Addendum prepared by Allen Pyke Associates
- Document APS16 Flood Risk Assessment and Conceptual Drainage Design prepared by RAB Consultants with appendices
- Document APS17 Transport Statement and Travel Plan prepared by TTP Consulting
- Document APS18 Heritage Statement prepared by Heritage Collective

#### Core Documents

- Document CD1 Horsham District Planning Framework (Excluding South Downs National Park) November 2015
- Document CD2 Inspector's Report to Horsham District Council on the Examination into the Horsham District Planning Framework
- Document CD3 Strategic Housing Land Availability Assessment (SHLAA) Review July 2014
- Document CD4 Strategic Housing and Economic Land Availability Assessment (SHELAA) November 2015
- Document CD5 Authority Monitoring Reports 1 April 2014 – 31 March 2015
- Document CD6 Henfield Neighbourhood Plan (submitted 17 May 2016)

#### DOCUMENTS SUBMITTED AT INQUIRY

##### From the Council;

- Document C6 Opening Statement
- Document C7 Emma Faith Appendix RB12b: Extract form 2011/12 Authority Monitoring Report
- Document C8 *'A Strategy for the West Sussex Landscape'*
- Document C9 Appeal Decision Ref: APP/Z3825/W/15/3135385 'Land east of Hatari' 22 March 2016
- Document C10 Appeal Decisions Ref: APP/Z3825/W/15/3129950 and 3136264 'Land north of Monk's Gate' dated 4 March 2016
- Document C11 Appeal Decision Ref: APP/Z3825/W/15/3136166 'Mill Lane' dated 4 April 2016
- Document C12 Monument details *'Dears Farm Historic Farmhouse'* (now Camellia Cottage) to be read with Eimear Murphy Proof of Evidence
- Document C13 Table Clarifying how Emma faith Appendix RP14 relates to Table 4 in original Proof of Evidence
- Document C14 Supplementary Table: Comparison of Mr Brown Table 1 etc
- Document C15 Henfield Neighbourhood Development Plan Examination Version, Summary of Examiner's Recommendations
- Document C16 Status of Henfield Neighbourhood Development Plan
- Document C17 Proposed conditions
- Document C18 Closing submissions (revised as delivered)

##### From the Appellant;

- Document A6 Opening Statement
- Document A7 David Allen Rebuttal photographs
- Document A8 Statement of Common Ground produced by appellant and

- Document A9 signed also by Council  
Document A9 Highway Statement of Common Ground produced by appellant and signed also by West Sussex County Council
- Document A10 Horsham District Landscape Character Assessment October 2003, extract '5.5 Henfield'
- Document A11 South East Plan May 2009
- Document A12 Create '*Proposed Site Plan with Distances to Neighbours*'
- Document A13 Appeal Decision Ref: APP/J3720/W/15/3017900 and 3132950 'Land at Knight's Lane' 14 March 2016
- Document A14 Appeal Decision Ref: APP/W1850/W/15/3009456 'Land south of Leaden Way' 4 April 2016
- Document A15 High Court Decision [2016] EWHC 421 Admin 'Forest of Dean'
- Document A16 Steven Brown Rebuttal – Responding to Emma Faith's Supplementary Table 16 may 2016 (corrected version)
- Document A17 Note for Inspector on Second Access onto Hollands Lane and Power Cables (Re J Stonor submissions)
- Document A18 Dated and Signed Section 106 Agreement prepared by Russell-Cooke Solicitors 2 September 2015
- Document A19 Note for Inspector on Education Contribution in s106 Agreement date 2 September 2015
- Document A20 Statement of Facts and Grounds CO/2515/2016
- Document A21 Closing submissions (revised as delivered)
- Document A22 Response to further third party submission

From Third Parties;

- Document T2 Speaking Notes Cllr M Morgan
- Document T3 Speaking Notes R Smith Campaign to Protect Rural England
- Document T4 Speaking Notes E Scott
- Document T5 Speaking Notes Dr M Carter



## ANNEX A

### Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby approved shall be carried out in full compliance with the approved plans as listed below:
  - B10P01 - Existing OS Plan
  - B10P10 - Existing Site Plan
  - PL10P00 P1 - Proposed Site Plan
  - A90P00 P3 - Proposed Landscape Plan
  - A90P01 P1 – Landscape Management Plan
  - A90D00 P2 - Proposed Landscape Details
  - PL10E10 P1 - Existing -Proposed West End Lane Elevations
  - PL10E11 P1 - Existing -Proposed Hollands Lane Elevations
  - PL10E12 P1 - Proposed Street Elevation 01
  - PL10E13 P1 - Proposed Street Elevation 02
  - PL10E14 P1 - Proposed Street Elevation 03
  - PL20P1T1 P1 - Apartment A 1 Bed Type 1
  - PL20P2T1 P1 - House B 2 Bed Type 1
  - PL20P2T4 P1 - House B 2 Bed Type 1 - Terrace
  - PL20P3T1 P1 - House C 3 Bed Type 1
  - PL20P2T2 P1 - House D 2 Bed Type 2
  - PL20P2T3 P2 - House E 2 Bed Type 3
  - PL20P2T5 P1 - House E 2 Bed Type 3 - Terrace
  - PL20P3T2 P2 - House F 3 Bed Type 2
  - PL20P3T3 P2 - House G 3 Bed Type 3
  - PL20P3T4 P2 - House H 3 Bed Type 4
  - PL20P3T5 P2 - House H 3 Bed Type 4 - Detached
  - PL20P4T1 P2 - House I 4 Bed Type 1
  - PL20P4T3 P2 - House I 4 Bed Type 1 – Handed
  - PL20P4T2 P2 - House J 4 Bed Type 2
  - PL20P4T4 P2 - House J 4 Bed Type 2 - Handed
  - PL20P3T6 P2 - House G and F - Semi Detached
- 3) No development shall be commenced until a schedule of materials and samples of such materials and finishes and colours to be used for external walls and roofs of the approved buildings have been submitted to and approved in writing by the Local Planning Authority and all materials used shall conform to those approved.
- 4) No development shall commence until details of screen walls and/or fences have been submitted to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until such screen walls and/or fences associated with them have been erected. Thereafter the screen walls and/or fences shall be retained as approved.
- 5) No external lighting or floodlighting shall be installed without the prior written approval of the Local Planning Authority. Any that is installed with the permission of the Local Planning Authority shall be maintained only in accordance with the approved details.

- 6) No development shall commence until precise details of the finished floor levels of the development in relation to a nearby datum point along West End Lane/Hollands Lane have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.
- 7) No development shall commence until details of the provision for the storage of refuse/recycling bins have been submitted to and approved in writing by the Local Planning Authority. The approved provision shall be put in place in relation to any particular dwelling prior to the occupation of that dwelling and shall be retained thereafter.
- 8) Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification) no development falling within Classes A, B, C, D, E and F of Part 1 of Schedule 2 to the order shall be erected, constructed or placed within the curtilage of the dwelling types B, C, D, E, F, G and H hereby permitted.
- 9) Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road.
- 10) The burning of any materials from site clearance or from any other source shall not take place within 10m of the furthest extent of the canopy of any tree, group of trees, or hedgerow, targeted for retention on the site or on land adjoining.
- 11) The development shall be carried out only in full accordance with the details contained in the submitted Tree Implications Report, and no works on site shall commence until the tree protection details hereby agreed are fully implemented, and a pre-commencement meeting on-site has been held between the Council's Arboricultural Officer, the Site Manager and any other persons as so required. Any reasonable requirements as set out within this meeting shall be complied with in full and the approved protection measures retained until the relevant time as agreed post-completion of the development.
- 12) No development shall commence until full details of hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall be submitted concurrently as a complete scheme, unless otherwise agreed with the Local Planning Authority, and shall comprise:
  - A detailed plan and specification for topsoil stripping, storage and re-use on the site in accordance with recognised codes of best practice.
  - Planting and seeding plans and schedules specifying species, planting size, densities and plant numbers.
  - Tree pit and staking/underground guying details.
  - A written specification (National Building Specification compliant) for hard landscape and soft landscape works (including ground preparation, cultivation and other operations associated with plant and grass establishment).
  - Existing and proposed levels, contours and cross/long sections for all earthworks, including for SUDS features

Hard surfacing materials: layout, colour, size, texture, coursing and levels. Walls, fencing and railings: location, type, heights and materials.

Minor artefacts and structures – location, size and colour and type of street furniture, play equipment, signage, refuse units and lighting columns and lanterns.

The approved scheme shall be implemented in full accordance with these details. Planting shall be carried out according to a timetable to be agreed in writing with the Local Planning Authority prior to commencement of the development. Any plants which within a period of 5 years die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 13) No development shall commence until details of all underground trenching requirements for services, including the positions of soakaways, service ducts, foul, grey and storm water systems and all other underground service facilities, and required ground excavations there for, have been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate effective coordination with the landscape scheme submitted pursuant to condition 12), and with existing trees on the site. All such underground services shall be installed only in accordance with the approved details.
- 14) No development shall commence until a detailed long term Landscape Management and Maintenance Plan for all landscape areas has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
- A description of Landscape Components.
  - Management Prescriptions.
  - Details of maintenance operations and their timing.
  - Details of the parties/organisations who will be maintain and manage the site, to include a plan delineating the areas that they will be responsible for.
- The plan shall demonstrate full integration of landscape, biodiversity and arboricultural considerations. The areas of planting shall thereafter be retained and maintained in accordance with the approved Landscape Management and Maintenance Plan.
- 15) No development shall commence until a scheme for the traffic calming of West End Lane adjacent to the site entrance, including full construction details and details of the timing of implementation and phasing of the works, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in place in accordance with the approved timing.
- 16) No further development shall commence until the proposed access to West End Lane has been designed/constructed and provided with visibility zones in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The visibility splays shall be permanently maintained to a specification to be agreed with the Local Planning Authority and shall be kept permanently clear of any obstruction to a height of 600mm.
- 17) No development shall be occupied before the proposed access to Hollands Lane has be designed/constructed and provided with visibility splays in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority, and has been subject to, and has resolved any problems arising from,

- a Stage 1/2 Road Safety Audit. The visibility splays shall be permanently maintained to a specification to be agreed with the Local Planning Authority and shall be kept permanently clear of any obstruction to a height of 600mm.
- 18) No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme is to prevent the discharge of water onto the public highway and is to include a timetable for implementation. The approved scheme shall be implemented in accordance with the approved timetable.
- 19) No new development shall be occupied until space has been laid out within the site in accordance with the approved plans for maximum 175 cars/minimum 144 cycles to be parked. The parking spaces shall be used and retained exclusively for their designated purpose.
- 20) No development shall commence until a Construction Management Plan, to include details of:
- Element 1: Public Safety, Amenity and Site Security
  - Element 2: Operating Hours, Noise and Vibration Controls
  - Element 3: Air and Dust Management
  - Element 4: Storm water and Sediment Control
  - Element 5: Waste and Materials Re-use
  - Element 6: Traffic Management
  - Element 7: Wheel washing
- has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction period.
- 21) Prior to the occupation of the development the applicant shall:
- (a) Submit for the written approval of the Local Planning Authority a Travel Plan in accordance with the aims and objectives of the National Planning Policy Framework in general accordance with West Sussex County Council guidance on travel plans.
  - (b) The applicant shall then implement the approved travel plan before 40 dwellings have been occupied and for each subsequent occupation of the development, thereafter maintain and develop the travel plan.
- 22) No development shall commence until the final details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority (in consultation with Southern Water) The details shall be implemented as approved.
- 23) No development or works shall be carried out on the land until the applicant or their agents or successor in title has secured the implementation of a programme or archaeological works in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.
- 24) No development shall commence until a site investigation has been carried out to address areas of potential contamination and all results have been submitted to and agreed in writing by the Local Planning Authority. If contamination is found mitigation measures and a timetable for implementation are to be submitted to

and approved in writing by the Local Planning Authority. All agreed mitigation measures are to be completed in accordance with the agreed timetable.

- 25) No development shall commence until details of a Locally Equipped Area for Play (play space), including the specification of play equipment, has been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented in full and opened for public use prior to the occupation of the 75<sup>th</sup> percentile of dwelling units, unless where agreed otherwise in writing by the Local Planning Authority.
- 26) No development shall commence until full details of means to limit water use of each dwelling or flat to 110litres per person per day shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling or flat shall be occupied until the approved water limiting measures have been installed and are operational in the dwelling of flat. The approved water limiting measures shall be retained in accordance with the approved details, other than replacement with other water limiting measure of equal or better efficacy.

Richborough Estates



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

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

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

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

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

#### **Challenges under Section 288 of the TCP Act**

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

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

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

### **SECTION 3: AWARDS OF COSTS**

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

### **SECTION 4: INSPECTION OF DOCUMENTS**

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