



Appeal Decision

Inquiry held on 9, 10, 11 & 12 October 2012

Site visit made on 16 October 2012

by Roger Clews BA MSc DipTP MRTPI

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

Decision date: 19 November 2012

Appeal Ref: APP/Z3825/A/12/2176793

Former RMC Engineering Works, Storrington Road, Washington, W Sussex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 [“the 1990 Act”] against a refusal to grant outline planning permission.
 - The appeal is made by Cemex [“the appellants”] against the decision of Horsham District Council [“the Council”].
 - The application Ref DC/10/1457, dated 16 July 2010, was refused by notice dated 16 May 2012.
 - The development proposed was described on the application form as *Outline application for up to 100 residential units and associated ground preparation works, highways access, and the first phase of the Sandgate Country Park* – but see paragraphs 3 and 4 below.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 78 residential units, associated ground preparation works, associated highway and access works, and the first phase of the Sandgate Country Park at the former RMC Engineering Works, Storrington Road, Washington, West Sussex in accordance with the terms of the application, Ref DC/10/1457, dated 16 July 2010, subject to the conditions set out in the attached schedule.

Unilateral Undertaking

2. An executed Unilateral Undertaking by RMC Engineering and Transport Ltd and Hall Aggregates (South Coast) Ltd¹ was submitted during the inquiry. I consider its various provisions in the Reasons section of this decision.

Procedural matters

3. The site address was given differently on the application and appeal forms and on the Council’s decision notice. It was agreed at the inquiry that the correct address is as shown in the decision heading above. It was also agreed that the description of the proposed development would be clearer and more precise if the words “highways access” in the original description were replaced with the words “associated highway and access works”. This has been done in the decision at paragraph 1 above.
4. The application was made in outline with all matters other than access reserved for later determination. By letter dated 2 September 2011, the maximum number of dwellings was reduced from 100 to 78, and alterations were made to

¹ They are, respectively, the freehold owners of the site (a wholly-owned subsidiary of Cemex, the appellant company) and the owners of nearby land at Sandgate Park.

the proposed access arrangements. Further public consultation took place on the revised proposals. The reduction in dwelling numbers is also reflected in the decision at paragraph 1.

5. During the inquiry Mr Green, for the Council, submitted a statement arguing that certain of the application plans fixed details of layout, scale and landscaping, and pointed out that there appeared to be no plan fixing details of the access arrangements. Mr Taylor, for the appellants, submitted a statement rebutting the Council's arguments in respect of layout, scale and landscaping.
6. I made an oral ruling rejecting Mr Green's main arguments². Thus I shall deal with the appeal on the basis that layout, scale, appearance and landscaping are reserved matters. I also ruled that the appellants could introduce a new illustrative *Framework Tree and Landscape Management Plan* [FTLMP], without prejudice to any interested persons. Among other things, this gives details of the likely extent of tree removal on the site as a result of ground preparation works for the proposed development. It supersedes the corresponding details shown on the version of the Tree Constraints Plan No 412.0968.00022.TS.002 Revision B that was received by the Council on 24 February 2012, and I shall take the FTLMP into account in determining the appeal.
7. However, I found that Mr Green was right that no plan fixing the details of the access had been designated, even though access was not a reserved matter. The parties then agreed that the relevant plan fixing those details was the Savell Bird and Axon drawing No 14512-03 Revision B, which had been submitted and consulted on as part of the revised proposals of 2 September 2011. I shall therefore take it into account in this decision.
8. Mr Bartle of West Sussex County Council, who had prepared a proof of evidence on highways and transport matters, was unavailable for the inquiry and Mr Gledhill gave evidence on behalf of the local highway authority in his place. In giving his evidence, Mr Gledhill made it clear where he agreed with Mr Bartle's proof and where he took a different view.

The development plan and other relevant planning policy

9. So far as relevant to the appeal, the development plan comprises the South East Plan [SE Plan], published in 2009, and the Council's adopted *Core Strategy, Site Specific Allocations of Land* [SSAL] and *General Development Control Policies* [GDGP] *Development Plan Documents* [DPDs], all adopted in 2007. In addition, relevant guidance in the *National Planning Policy Framework* [NPPF] is an important material consideration. In 2009, the Council adopted their *Facilitating Appropriate Development Supplementary Planning Document* [FAD SPD], which is also directly relevant as a material consideration in this case.

Environmental Information

10. The proposed development falls under Schedule 2(10) of the *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999* [the EIA Regulations]. The Council issued a screening opinion that EIA was required on the basis that the development has the potential to give rise to likely significant effects on the environment during the construction and/or operational phases. In compliance with the EIA regulations, the appellants

² A transcript of my ruling is appended to this decision.

requested and received a formal scoping opinion from the Council and proceeded to produce an Environmental Statement [ES]. The Council made the ES available together with the other supporting documents during consultation on the planning application.

11. To reflect the alterations made to the development scheme on 2 September 2012, the appellants produced an *Environmental Statement Addendum*. Consultation was also carried out on the *Addendum*. In their decision on the planning application the Council took into account all the representations from statutory consultation bodies and others on both the ES and *Addendum*.
12. No substantial representations were made during the appeal process as to the scope of the ES or *Addendum*. They comply with the EIA Regulations and I consider the environmental information provided in them sufficient to enable the environmental impact of the proposed development to be assessed. In making my decision on the appeal, I have taken their contents, the comments on them by statutory consultation bodies and others, and all other environmental information submitted in connection with the appeal, including that given orally at the inquiry, into account. Environmental mitigation measures are described in a separate section below.

The appeal site

13. The main body of the appeal site consists of an area of land to the north of the A283 Storrington Road, some 2km or more east of the centre of Storrington village and a similar distance from the centre of Washington. It abuts the defined Storrington & Sullington built-up area boundary on its northern and part of its western side. It used to be a sand quarry, as is evident from the steep drops from some of the site boundaries into the interior of the site. The site has since been partly re-filled but it also contains two sizeable ponds roughly in its middle.
14. The new housing would be located to the south of the ponds. At present this half of the site currently contains two big engineering workshops and a smaller office building, currently housing a plant hire company. Otherwise the main body of the site is quite thickly wooded, especially along some of the boundaries where there are many mature trees and shrubs. There are also groups of trees and shrubs in the interior of the site, including a tall belt of conifers on a ridge immediately to the south of the ponds.
15. To the north of the ponds the land rises in a series of irregular terraces to meet the boundary with Sandy Lane to the north. This half of the site, including the ponds, is designated in the SSAL DPD as part of the proposed Sandgate Country Park and has been partially restored after quarrying ended. There are areas of tree-planting, mostly semi-mature, and rough heathland grass.
16. The appeal site also takes in part of the A283 and its verges. At present, the section of the A283 within the appeal site is an unlit single-carriageway road with one traffic lane in each direction, subject to a 50mph speed limit.

Main Issues

17. The main issues in the appeal are:
 - (a) the extent to which the proposed development would meet the identified need for housing;

- (b) the effect of the proposed development on highway safety;
- (c) the effect of the proposed development on the character and appearance of the surrounding area, including the adjacent South Downs National Park [SDNP];
- (d) whether or not residents of the development would have adequate access to services, including by walking, cycling and public transport;
- (e) the extent of any benefits arising from provision of the first phase of the Sandgate Country Park; and
- (f) whether or not provision would be made for any additional facilities or infrastructure made necessary by the development.

Reasons

(a) Need for housing

General housing requirements

18. NPPF paragraph 47 advises that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing, together with an additional buffer of 5% moved forward from later in the plan period. Where there has been a record of persistent under-delivery of housing, the buffer should be increased to 20%. In this case, the Council accept that they cannot demonstrate a five-year supply of housing land sufficient to meet the SE Plan requirement. However, there is a disagreement over the size of the shortfall.
19. Dealing first with need, the parties agree that the SE Plan sets the housing supply requirement now applicable to Horsham District. It requires 13,000 dwellings to be provided in the District between 2006 and 2026: an average annual rate of 650. These requirement figures supersede those contained in the *West Sussex Structure Plan* and reflected in the *Core Strategy*. Although legislation enabling the abolition of regional strategies has been enacted, their proposed abolition is subject to strategic environmental assessment. At present the SE Plan remains part of the development plan and there is no more up-to-date and objective assessment of housing need available³.
20. The "raw" requirement for April 2011 to March 2017⁴, based on the SE Plan annual average figure of 650 dwellings, is 3,900. That figure then needs to be adjusted to take account of the under-provision of 1,935 dwellings in the District during the first five years of the SE Plan period, 2006 to 2011. Mr Woolf contended that policy H2 of the SE Plan requires that this shortfall in housing provision should be remedied within the next five-year supply period, rather than over the 15 years to 2026.

³ The emerging *Horsham District Planning Framework 2011-2031* is still at an early stage of preparation, with consultation on a preferred strategy due to begin in January 2013 and adoption currently envisaged for the later part of 2014. Hence the housing requirements which it contains carry very limited weight in this appeal.

⁴ This requirement actually covers a period of six years, but it is the period used by the Council for the purposes of calculating the five-year supply required by the NPPF. The appellants were content to base their calculations on the same six-year period. Calculations based on the five years 2011-16 or 2012-17 would in any event not produce materially different results.

21. Such a requirement is not explicitly stated in policy H2, although the policy does say that any backlog of unmet housing needs (which I take to mean unmet needs at the commencement of the plan period, in 2006) should be met within the first 10 years of the Plan, that is, 2006 to 2016. Like my colleague who reported to the Secretary of State [SoS] on an appeal in Andover last year⁵, I consider that this indicates that, as a general rule, under-supply should be dealt with in the short to medium term rather than the long term. This approach was endorsed by the SoS in his decision on the Andover appeal. It is also consistent with the NPPF objective of boosting significantly the supply of housing⁶.
22. Meeting the under-provision since 2006 over the period from 2011 to 2017 would raise the total "five-year" requirement to 5,835 (3,900 plus 1,935). Adding the 5% buffer required by the NPPF takes the figure to 6,126.
23. On the figures in the Council's own Annual Monitoring Report 2010-2011 [AMR], projected net completions for 2011-2017 amount to 3,336 dwellings. That represents about 54% of the requirement calculated in this manner. If planning permissions granted since the AMR was published are also taken into account, the supply increases to 3,856, or 63% of the requirement⁷.
24. Spreading the under-provision over the remaining 15 years of the SE Plan period, as the Council prefer, would raise the annual average requirement to 779 dwellings, giving a total "five-year" requirement for 2011-17 of 4,674, with an additional 5% buffer taking the figure to 4,907. The supply of 3,856 dwellings for the same period represents about 79% of the requirement, on this alternative calculation.
25. Mr Woolf suggested that the Council should be regarded as having a record of persistent under-delivery of housing, given the scale of the shortfall since 2006: 1,935 dwellings out of a SE Plan requirement of 3,250. But for the first three years of what is now the SE Plan period, the Council was basing its housing supply requirements on the previous Structure Plan requirement of 439 or 440 dwellings per annum, rather than 650. The Structure Plan requirement was almost met in 2006-07, and although completions fell substantially below the annual requirement in 2007-08 and 2008-09, cumulative completions remained ahead of what was then the cumulative target.
26. Of course completions since 2009 have been much further behind the SE Plan annual requirement which was published in that year, and the fact that that requirement was "back-dated" to 2006 means that the shortfall in the three previous years has also increased. But on the basis of their overall performance since 2006, taking account of the requirements prevailing throughout that period, my view is the Council could not be said to have a

⁵ Ref APP/X3025/A/10/2140962.

⁶ NPPF, para 47.

⁷ This supply figure, derived from Mr Williams's evidence, includes only planning permissions actually granted. It excludes "resolutions to permit subject to s106 agreement", as there can be no guarantee how long the s106 negotiations will take or indeed whether they will succeed. Moreover, even if they are concluded in time for the permissions to contribute to the "five-year" supply, Mr Woolf provided evidence that a comparable number of dwellings which are included in the AMR supply figure are very unlikely to come forward by 2017, owing to delays on the major sites at Crawley and Horsham. The Council were unable to rebut this evidence convincingly.

record of persistent under-delivery. Hence it is appropriate to apply a 5% buffer rather than 20%.

27. Drawing all these points together, I conclude that there is a substantial shortfall in the Council's five-year housing land supply for 2011-2017. The current supply is only about 63% of the requirement on the basis of meeting the existing under-supply since 2006 in the next five-year period, in compliance with national and regional policy. This represents a shortfall of more than 2,000 dwellings. Even on the Council's preferred approach of spreading the accumulated under-supply over 15 years, current supply is only 79% of the requirement, giving a shortfall of over 1,000 dwellings.

Policy consequences of the housing land supply position

28. NPPF paragraph 49 advises that relevant policies for the supply of housing should not be considered up-to-date if a five-year supply of housing land cannot be demonstrated, as is the case here. This has consequences for the reliance that can be placed on those policies in reaching a decision on the appeal⁸. It is therefore necessary to identify which are the relevant policies for the supply of housing that are rendered out of date by the shortfall in housing land supply.
29. I agree with the appellants that *Core Strategy* policy CP4 "Housing Provision" is evidently out of date, as it is based on the superseded Structure Plan housing requirement figures. But I am not persuaded that policies CP1 and CP5 and GDCP DPD policies DC1, DC2 and DC40 should also be regarded as wholly out of date. None of them deals exclusively with housing supply, but instead each sets out principles and requirements that apply to development in general.
30. Moreover, those principles and requirements reflect some of the core planning principles at NPPF paragraph 17, such as the need to take account of the character of different areas and recognise the intrinsic character and beauty of the countryside (policies CP1, DC1 and DC2), to manage patterns of growth to make the fullest possible use of public transport, cycling and walking (policy DC40), and to focus significant development in locations which are or can be made sustainable and to encourage the effective use of land (policy CP5).
31. Rather than regarding these policies as out of date in their entirety, in my view the appropriate approach is to identify those elements of the policies to which less weight needs to be given if the housing shortfall is to be effectively addressed, as the NPPF requires. Such an approach would ensure that other important objectives of the policies, which are consistent with national guidance, are not overlooked. Thus, for example, it might be appropriate to apply policies CP5 and DC1 more flexibly in the case of housing proposals on the edge of or close to built-up area boundaries, while continuing to exercise a general policy of restraint in more remote rural areas.
32. Indeed, almost exactly that approach is taken by the Council's FAD SPD, which, as the introduction explains, seeks to promote the more responsive and proactive approach to housing proposals which is required if the Council is to be in a position to deliver a five-year rolling supply of housing land. It has its origins in the findings of the inspectors who examined the SSAL DPD and concluded that it lacked sufficient flexibility to deal with changing circumstances.

⁸ See NPPF, paragraph 14.

33. The FAD SPD enables housing to be permitted on sites that would not meet the strict requirements of policies CP5 and DC1. In particular, it permits housing on sites like the appeal site which are outside, but abut, a defined built-up area boundary, provided that its other criteria are met⁹. Clearly, where its criteria refer to, or evidently reflect, superseded national policy guidance, reference now needs to be had to NPPF policy instead. But given that its overall approach is to apply adopted policies more flexibly in order to address the shortfall in housing supply, I consider it is consistent with the general thrust of current national policy.
34. Drawing these points together, my view is that while policy CP4 is entirely out of date, the same does not apply to policies CP1, CP5, DC1, DC2 and DC40, because they are not exclusively "policies for the supply of housing". Instead, the appropriate approach is to apply their requirements flexibly, and in a manner consistent with current national policy, so as to enable more housing land to come forward while not sacrificing other important policy goals. This is essentially the approach taken by the FAD SPD.

The requirement for affordable housing

35. The *West Sussex Strategic Housing Market Assessment [SHMA] District Summary* for Horsham (May 2009) identifies a need for between 260 and 327 affordable dwellings per annum in Horsham District. The Council produced no evidence to cast doubt on Mr Woolf's figures, based on information in the AMR and the SHMA, that fewer than 200 affordable homes have been built since 2006. Thus there has been a very big shortfall, of over 1,000 affordable dwellings, in the last five years.

Conclusions on housing need

36. For the reasons set out above, I consider that the five-year housing land supply in Horsham District stands at 63%, giving a shortfall of over 2,000 dwellings. Even if the Council's approach to the accumulated under-supply is followed, which in my view does not accord with the objectives of national and regional policy, the five-year supply only amounts to 79%, or a shortfall of more than 900 dwellings. On either measurement this is a very substantial shortfall. There is also a very large under-supply of affordable housing.
37. The proposed development would provide up to 78 new dwellings, of which up to 18 would be affordable, and thus it would make a significant contribution to meeting the pressing need for housing in general, and affordable housing in particular. Furthermore, in accordance with the FAD SPD the appellants are prepared to accept conditions significantly shortening the normal timescales for submission of reserved matters and commencement of the development, thereby ensuring that building would proceed promptly. These are considerations of great weight in favour of allowing the appeal.

(b) Highway safety

38. Mr Bartle's proof identifies four elements of the proposed highway and access works which, in his view, would detract from highway safety. These are: visibility at the proposed new site access and at the access to the kennels; the proposed pedestrian refuge island, and its impact on the safety of cyclists; the

⁹ In this case the Council accept that all the criteria are met apart from Nos 6, 7, 11 & 17.

- proposed deceleration length for vehicles turning right into the kennels; and visibility at the access to Chanctonbury, on the southern side of the A283.
39. At the inquiry, however, Mr Gledhill made it clear that he disagreed with Mr Bartle over the issue of visibility at the site and kennels accesses. In his view, an "x" distance of 2.4m at the new site access would be appropriate in this case. Similarly, he considers that an "x" distance of 3m at the kennels access would be acceptable in highway safety terms. I concur with both these points: an "x" distance of 2.4m would in my view be sufficient at both accesses, given that they are entrances to residential and commercial premises and not through roads.
40. Based on an "x" distance of either 2.4m or 3m, "y" distances consistent with advice in the *Design Manual for Roads and Bridges* [DMRB] for 50mph trunk roads can be achieved at both accesses. This would represent a substantial improvement in visibility at the kennels access, and also at the new site access when compared with the existing one. The proposals would also improve visibility at the Hamper's Lane access compared with the current situation.
41. Mr Bird, for the appellants, explained that the pedestrian refuge island was not strictly required by standards, but had been introduced into the design in order to help people, including the mobility impaired, to cross the road. As I make clear below in dealing with the issues of access to services, I see it as an essential feature of the proposals. The Council's objection to the island is based on DMRB TA91/05, which states at paragraph 6.18 that *any island on a road with a speed limit greater than 40mph, that is not part of a single lane dualling design, requires "Departure from Standards" approval*. The Council are also concerned that the refuge would endanger cyclists by providing insufficient road width to either side, contrary to DMRB advice.
42. While DMRB is applicable specifically to trunk roads, the non-trunk A283 is undoubtedly a very busy road, with average weekday flows of about 20,000 vehicles over this stretch. A recent speed survey commissioned by the appellants found 85th percentile dry-weather speeds of 47mph westbound and 45mph eastbound past the site access. However, the presence of the turning lanes and the coloured-surfaced ghost islands and bollards with "Keep Left" signs, together with the road lighting at night, would all make it clear to drivers that this is a part of the road on which turning movements are likely. This awareness should be reinforced, as Mr Bird suggested, with advance junction warning signs, which could be secured by condition.
43. The likely effect of these changes would be some reduction in vehicle speeds, and a raised level of alertness among most drivers passing the appeal site. In these circumstances, I consider that the pedestrian island – and the other proposed traffic bollard – would not constitute a safety hazard, in the sense of being likely to be struck by vehicles. The refuge island would also be wide enough to shelter pedestrians, including wheelchair users and those with pushchairs, from passing traffic. It would meet the preferred width of 2.0m advised in TA91/05.
44. Turning to cyclists, DMRB Local Transport Notes 2/95 and 2/08 recommend a minimum carriageway width of 4m between physical features, and consideration of a greater width on bends, so as to avoid cyclists being "squeezed" by other traffic. This stretch of the A283 is not perfectly straight, but in my view the likely speed-reducing effects of the proposed changes to the

road layout mean that a 4m carriageway width either side of the pedestrian refuge island would be adequate in this case.

45. The carriageway widths shown on the proposal drawing are 3.65m either side of the island. While that is too tight, Mr Bird made it clear in his evidence that there is room within the highway boundary to provide 3m carriageways with 1.5m-wide cycle lanes in each direction past the island. But I am inclined to share Mr Gledhill's view that a short length of dedicated cycle lane is of little benefit to cyclists and could put them at some risk when they try to re-emerge onto the main carriageway. That solution would also have the disbenefit of narrowing the footway and increasing the overall carriageway widths to 4.5m at the point where pedestrians are crossing. An alternative might possibly be a more limited local widening to 4m of the carriageways themselves past the island.
46. However, rather than attempt to prescribe a definitive solution, I think this matter would be best addressed through further discussions between the Council, the highway authority and the appellants during the final design process. This could be achieved by means of a condition. At this stage it is sufficient that a solution avoiding unacceptable risks to cyclists passing the pedestrian island has been shown to be achievable.
47. At the access to Old Clayton Kennels, the Council are concerned that the proposed deceleration length in the right-turning lane would be some 7m too short – 48m instead of 55m – when considered against the DMRB standard for 50mph roads. But in view of the measured existing 85th-percentile speeds and the likely speed-reducing effects of the proposals, I find that this departure from the standard would not significantly increase the risk of collisions.
48. A much greater benefit would arise from the provision of a right-turning lane into the kennels where none currently exists. In the past five years there has been one recorded collision involving a vehicle waiting to turn right into the kennels, and the proprietor, Mrs Copp, said in her evidence that there had been other unrecorded collisions there. DMRB TD42/95 advises at paragraph 4.3 that ghost islands at rural T-junctions can lead to a 70% reduction in accidents involving a right-turn from the major road.
49. Existing visibility to the east at the Chanctonbury access is 60m, from a 2.4m "x" distance. The realignment of the A283 resulting from the appeal proposals would reduce this to 50m. But Mr Gledhill and Mr Bird agreed at the inquiry that if the owners of Chanctonbury were to cut back their own hedge to the east of the access, a "y" distance of 60m could be restored. Taking this point into consideration together with the low level of traffic likely to use the Chanctonbury access, and the high degree of familiarity that its residents must have with traffic conditions on the A283, I find that no unacceptable increase in the risk of collisions would occur here.

Conclusion on highway safety

50. For the foregoing reasons, I conclude that no material harm to highway safety would arise from the appeal proposals, and so there would be no conflict in this respect with *Core Strategy* policy DC40 or criterion 17 of the FAD SPD. Instead, there would be substantial highway safety benefits from the improvement of visibility at the accesses to Old Clayton Kennels and Hamper's Lane, and the provision of a right-turning lane into the kennels.

Character and appearance of the surrounding area

Impact of the proposed highway works

51. Traffic flows along the A283 are high and I found that the noise and movement of vehicles tended to dominate my perceptions when I walked along the roadside footpath. Nonetheless it was also possible to appreciate that I was in an attractive rural area and on the stretch of footway within the appeal site this impression was reinforced by the presence of the verges and hedges, glimpses of the South Downs through gaps in the southern hedge, and in particular by the two tall trees which stand close to the southern side of the road, one opposite the entrance to Old Clayton Kennels and the other to the west of Chanctonbury, just outside the appeal site boundary.
52. In my view the proposed highway works, especially the new and wider footways and the new lighting columns¹⁰, would inevitably have a somewhat urbanising effect on this stretch of the A283. This effect would be reinforced by the net loss of part of the northern hedge, the radical narrowing of the southern grass verge and the loss of the tall ash tree opposite the kennels. Right-turning lanes, bollards and ghost islands, on the other hand, are a more common feature on main roads running through rural areas.
53. In assessing the impact of these changes it is also necessary to take account of who is likely to be affected by them. Motorists' attention is usually focussed on the road ahead, and so they would glimpse the verges, roadside trees, footways and lighting columns for only a few seconds as they passed along this stretch of road. Pedestrians and cyclists move more slowly and so would be more likely to notice and be affected by the changes brought about by the highway works, but I saw very few of them using this part of the A283.
54. Whether or not the southern highway verge is inside the SDNP boundary¹¹ makes no substantial difference to my views in this respect, as the verge is physically and visually divorced from the rest of the SDNP land to the south by the tall field hedge. Thus the impact which the highway works would have on the verge would only be perceived within the road corridor itself, and must be assessed in this limited context. The changes to the verge would have no wider effect on the SDNP.
55. But of course the highway works could have other impacts beyond the roadside boundaries. To assess these, I viewed the appeal site from a number of places along the South Downs scarp ridge, and also from the two nearest bridleways running off the southern side of the A283.
56. From the bridleways I found that the tall hedge on the southern side of the road effectively obscured all views of the road itself, including the wide southern verge. Only the tops of passing lorries could be seen. As a result, the only elements of the highway works that might affect views from the bridleways would be the new lighting columns and the loss of the ash tree. Provided that the lighting columns were painted green, as is proposed, they would only have a significant effect on views when illuminated at night, when

¹⁰ The appellants said they were prepared to omit the lighting columns, but for the reasons I give below when dealing with access to services, I consider they are necessary.

¹¹ The parties, and Mr Bright in particular, went to considerable lengths to seek out relevant maps and the official written description of the SDNP boundary, but none was precise enough to show whether or not it includes the southern roadside verge.

very few people, if any, would be on the bridleways. The loss of the ash tree would not significantly affect views from the bridleways, given the backdrop of retained and new trees on the rest of the appeal site.

57. Because of the distance, none of the highway works, apart from the lit street lamps at night, would be perceptible from the scarp ridge. As with the bridleways, very few people are likely to be on the ridge at night, and in any event the night-time landscape visible from there must already include large areas of darkness interspersed with smaller lit-up areas. Hence the highway works would not fundamentally alter the character of those views.
58. Drawing all this together, I conclude that, due to their urbanising effect, the proposed highway works would detract from the rural character and appearance of the stretch of the A283 within the appeal site, when seen from the road itself and its footway. However, the resulting harm would be limited because of the relatively small number of people who would be in a position to appreciate the changes fully. From more distant viewpoints any changes would be less noticeable and would affect even fewer observers.

Impact of the proposed development on the main body of the site

59. None of the main body of the site is in the SDNP. From most public viewpoints, the boundary vegetation conceals the existing buildings and the only clue that they are there is given by the access from the A283. However, views of the roof of the eastern workshop can be gained through gaps in the hedge along a bridleway some 350m east of the site. From the South Downs scarp ridge and the bridleways to the south of the A283, the site appears as part of the rural area to the east of Storrington. It is almost indistinguishable from the other wooded areas that lie round about it, apart from the presence of a significant number of non-native conifers which are particularly noticeable in nearer views.
60. In assessing the likely impact of the proposed development, I have relied on the submitted parameter plans for an indication of the general location, height and density of the proposed dwellings, and on the FTLMP for an indication of the treatment of the rest of the main body of the site. Taking into account the likely set-back distance of the proposed houses, and the fleeting views likely to be gained by most users of the A283, I find that the development would have only a limited impact on views of the site from the A283. A condition could enable the Council to ensure that any necessary acoustic fencing on the roadside boundary would be set back behind planting to minimise its visual impact.
61. The FTLMP indicates that most of the trees and shrubs along the western boundary of the site, as well as the four mature oaks along the boundary with Old Clayton Kennels, are capable of retention. Having considered the Council's Building Control officer's response to the FTLMP, I see no reason to think that this is infeasible. With most of the dense boundary vegetation retained, there would be at most only very limited glimpses of the new houses from Hamper's Lane, and thus no significant change to the rural character of the lane.
62. From Sandy Lane to the north, the groups of trees to the north of the ponds would, if retained, provide substantial screening of the new houses, even with the likely removal of the tree belt south of the ponds. The treatment of the trees in the northern half of the site is a matter for consideration as part of the landscaping details, and so the Council would be able to secure their retention

if they considered this desirable. Together with the existing hedge along Sandy Lane itself, this would mean there would be little change in views of the site from Sandy Lane.

63. However, there would be more significant effects on views of the site from the south and east. From the bridleway to the east, the relative paucity of existing vegetation along the eastern boundary of the site, especially in the area where landslips have occurred, means that the roofs of many of the houses would be visible. While the roof of one of the workshops is already visible from there, the roofscape of the new development would be more extensive. Nonetheless, its prominence would be reduced to some extent by the backdrop of the retained trees along the western edge of the site, which would help to draw the eye up towards the higher wooded land of Sullington Warren beyond.
64. In distant views from the scarp slope, and also in nearer views from the bridleway to the south near Barns Farm, the removal of many of the trees and vegetation in the interior of the site would make the upper parts of the new houses quite prominent. Their greater density, compared with the more spread-out existing development of Heath Common, would be apparent. The development would thus appear as an uncharacteristically concentrated residential enclave in this predominantly rural environment. At the same time, however, it would be only one feature in the broad sweep of the landscape when seen from these viewpoints. It would not dominate the view.
65. Over time, the proposed new tree-planting on the boundaries and within the site would help to assimilate the development into the wooded landscape, in a similar fashion to the existing houses of Heath Common to the north and west. Indeed, in the long run, the wooded character of the site would be enhanced by the replacement of the existing non-native conifers with more appropriate species. But it is likely to be about 15 years before the new landscaping would be fully mature, and in the meantime the development would appear quite exposed.
66. Thus I conclude that in the short and medium term the proposed development would have a moderately harmful effect on the rural character and appearance of the area in which it lies. In the longer term, however, its visual impact is likely to be neutral or even positive.

Conclusion on character and appearance

67. The moderate harm which would result from the proposed development arises principally from its impact on the rural character and appearance of the area, in the short and medium term, when seen in public views from the south, and to some extent also from the east. Because of this, there would be conflict with the objectives of *Core Strategy* policy CP1 and GDCP DPD policy DC2, and with criterion 6 of the FAD SPD, insofar as those policies and that criterion seek to protect landscape character.
68. In reaching this conclusion, I have taken account of the fact that, in cross-examination, the Council's landscape witness was unable to say there would be harm to any of the key landscape characteristics identified in either the Council's or WSCC's published landscape character assessments. I also acknowledge that policy DC2 refers directly to those key landscape characteristics, albeit not exclusively. The harm I have found is to the

character and appearance of the area generally, rather than to any particular landscape characteristic.

69. Having said that, the weight I give to this harm and the policy conflict that would result is tempered by the fact that, in the longer term, the visual impact of the development is likely to be neutral or better.

(d) Access to services for future residents

70. The nearest shops, schools, doctors' surgeries and other facilities to the appeal site are in Storrington, which despite its designation as a village has a sizeable centre with over 50 shops. The village centre would be easily accessible by car, while the A283 and connecting routes would provide ready access by car to bigger towns for employment, larger-scale shopping and leisure, and other needs that could not be met locally.
71. Local bus services 1 and 100 both run hourly in each direction between the bus stops outside the appeal site and the village centre during the daytime on Mondays to Saturdays, and the No 1 also runs every two hours on Sundays and public holidays. While the proposed bus stops would be rather a distance from the site access, there would be surfaced footways leading to them and a pedestrian refuge island to help people cross over to the westbound bus stop. The island and the proposed road lighting would be essential, in my view, to give bus users and other pedestrians an adequate sense of security when using the footways and bus stops.
72. As well as Storrington and nearby Washington, the Nos 1 and 100 bus routes serve larger destinations including Worthing, Midhurst, Pulborough, Horsham and Burgess Hill. Residents of the new development could therefore commute by bus to jobs in those places and make daytime shopping and leisure journeys there. After early evening, however, residents would not be able to travel by public transport.
73. Pulborough and Worthing are also railheads for services to London, with bus journey times from the site of about 20 and 35 minutes respectively. To enhance the existing opportunities to link to these rail services by bus, the Unilateral Undertaking commits the appellants to subsidise two additional Monday to Saturday bus services to Storrington. In addition they are prepared to accept a condition committing them to fund the re-timing of a third service.
74. In combination with the early-morning bus services to Pulborough and Worthing, these enhancements would make it possible to commute to London, and intermediate locations such as Gatwick and Croydon, by public transport from the appeal site. However, the funding commitment is for only five years, and while it is possible that demand would be sufficient to keep the services running when the appellants' subsidy ceases, that cannot be guaranteed.
75. The Unilateral Undertaking also commits the appellants, as part of a proposed Travel Plan for the development, to provide residents with information on public transport services, local taxi firms and car-share organisations, and to purchase and issue a three-month Stagecoach travel pass to each household. These measures would undoubtedly improve awareness of public transport, and they have the potential to promote an increased level of use than would occur otherwise.

76. The proposed pedestrian and cycle access from the appeal site onto Hamper's Lane would enable cyclists to use the fairly quiet lanes through Heath Common to reach Storrington via Thakenham Road. This route would, in my view, be suitable for most riders including older children. The village centre is a comfortable 3.2km cycle ride away by this route, and Rydon Community secondary school is only 1.9km away. On the other hand, the volume of traffic on the A283 makes it unlikely that many residents would choose to cycle along it.
77. Turning to pedestrians, the appellants propose two routes into Storrington apart from the A283. The first follows the cycle route through Heath Common described above. While this would be a reasonably quiet and safe route, I find that it is only likely to be used regularly for journeys to and from the secondary school. The 3.2km distance into Storrington, while comfortable for cyclists, is well outside the 2km generally recognised as the preferred maximum for walking journeys¹².
78. The second route also follows some of the Heath Common lanes to reach Thakenham Road, but a significant part of its length would be along a footpath which would be created as a Unilateral Undertaking obligation across part of the proposed country park land behind Sandgate Quarry. It would also include two stiles. In my view the relative isolation of sections of this route would make it unattractive to many potential users, and the stiles would rule it out for the mobility-impaired and anyone with a pushchair. The village centre would also be significantly more than 2km away by this route. That distance could in theory be reduced by cutting across Sullington Warren via existing footpaths, but in my view only a very small minority of pedestrians would be prepared to do this, in view of its topography and, again, its relative isolation. Due to lack of lighting, both alternatives would be practically unusable at night.
79. The eastern edge of the village centre is 2km away along the A283 itself, but the actual centre of the village is a little further away, and some of its facilities, including the primary school, are to the west of the centre, and thus further away still. In addition, the 2km distance is measured from the A283 access into the appeal site, and takes no account of walking distances from residents' front doors to that point. It would not be accurate, therefore, to say that all, or even most of, the facilities in Storrington village would be within a 2km walk from each of the homes in the new development.
80. Account also needs to be taken of walking conditions along the A283. I walked along it from the village centre to the site access using the existing footways. Once I left the built-up area of Storrington and the 30mph limit behind, I was very aware of the high volume of traffic, including many lorries, passing me at close quarters at between 40mph and 50mph. Had I not been wearing a high-visibility jacket and facing the oncoming traffic, I would have felt distinctly nervous on those stretches of the road where the footway runs directly alongside the carriageway. It was also noteworthy that I saw no other pedestrians on the A283 (outside the built-up area of Storrington) during my 40-minute walk to the site, and saw only one on my way back into Storrington on the bus.

¹² See, for example, *Providing for Journeys on Foot*, published by the Institution of Highways and Transportation [2000].

81. While the Unilateral Undertaking commits the appellants to improve the existing footway into Storrington, from what I saw during my walk there are a number of places where it would be difficult to widen it significantly. At the inquiry Mr Bird accepted that there are pinch-points, while estimating that a width of about 1.5m would be achievable for most of its length. However, even after the improvements had been done, it seems to me that only fairly determined pedestrians would be prepared to use the A283 to get to and from the village. The speed and volume of the traffic and its proximity to significant stretches of the footway would be likely to intimidate most people, particularly if they had young children with them, or were for any reason less than fully mobile. The lack of lighting along much of the route would make it even more off-putting to pedestrians at night.

Conclusions on access to services

82. Access to and from the appeal site by car would be good, and residents would have fairly good access to services and employment by public transport during the daytime, notwithstanding the fact that the enhancements proposed by the appellants might not be sustained after the first five years. However, public transport services cease after early evening on Mondays to Saturdays and are infrequent on Sundays.
83. There would be good access into Storrington by cycle, but the pedestrian links between the site and Storrington would be unlikely to be used by the majority of residents due to a combination of distance, inaccessibility and unattractiveness. All this means that, apart from those able to make cycle journeys into Storrington, residents without the use of a car would be largely unable to travel outside the appeal site in the evenings, and would have only limited travel opportunities on Sundays.
84. The proposed development would thereby conflict with criterion (d) of GDCP DPD policy DC40 "Transport and Access", which requires that adequate provision is made for the needs of all users. Paragraphs 3.169 and 3.171 of the reasoned justification refer to the requirement for access to a range of modes of transport, and the Council's wish to encourage travel by means other than the private car. Those objectives would not be met by the proposed development in respect of pedestrian movement and travel by public transport outside daytime hours. For the same reasons, there would be conflict with criteria 11 and 17 of the FAD SPD. This is a consideration of substantial weight against the proposed development.
85. In reaching this conclusion, I have taken account of the advice in NPPF paragraph 29 that *different policies and measures are required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas*. But my understanding of this advice is not that one should set aside sustainable transport policies, or give significantly less weight to them, when making decisions on development proposals in rural areas. The advice has to be read in the context of the preceding sentence which says that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. Paragraph 35 advises that developments should be located and designed where practical to (among other things) give priority to pedestrian and cycle movements and have access to high-quality public transport facilities.

86. Clearly there are many rural locations where it is impractical to provide good accessibility except by car. The corollary of that, however, is that they are unlikely to be good locations for new residential development of any significant scale, when considered against the requirements of sustainable transport policies. (This is reflected in GDCP DPD policy DC40's reference to the need for development to be appropriate in scale to the available transport infrastructure.) It is then for the decision-maker to determine whether or not other factors outweigh the conflict with those policies and indicate that the development should proceed in that location, notwithstanding the impracticability of providing good access for non-car users.

(e) Sandgate Country Park

87. The Sandgate Country Park has been a proposal of the Council since the 1990s. A feasibility study, published in 2000, envisaged that it would include the northern half of the appeal site and the much larger quarry site at Sandgate Park to the west. Given that quarrying at Sandgate Park is permitted until 2042, full implementation of the country park proposals is a long-term prospect. Nonetheless, the feasibility study anticipated housing development on the southern half of the appeal site which would enable various elements of the country park proposals to be implemented in the short term, as "planning gain". Each of those elements is included in the present appeal proposals or in the Unilateral Undertaking.

88. Corresponding allocations of the appeal site for housing (southern half) and as part of the country park (northern half) were made in the submission version of the SSAL DPD. The inspectors who examined the DPD in 2007 found the housing allocation to be unsound¹³, while finding the country park policy (AL19) sound, subject to modifications to clarify implementation mechanisms.

89. In 2010, the Council commissioned a Refresher Study of the country park proposals. It found that the greater part of the original vision remained valid and reiterated the approach of bringing forward parts of the country park early in association with development, accepting that the core area of Sandgate Park would be delivered in the longer term.

90. In line with that approach, the present appeal proposal would bring forward 4.5ha of the proposed country park on the appeal site itself, and a further 7.5ha on land to the north of Sandgate Quarry. Both areas would be crossed by footpaths giving access to Hamper's Lane, Badger's Holt and Water Lane, and the appeal proposals would meet each of the relevant actions recommended in the Refresher Study. As both would contribute towards the creation of the country park as a whole, I see no reason to regard the area outside the appeal site as having less value in this respect than the area inside it.

91. While there are now increased pressures on the Council's budget compared with 2007, when the SSAL DPD was adopted, the Unilateral Undertaking obliges the landowners to maintain the country park land in perpetuity. However, I am inclined to agree with the Council that those budget pressures, together with the designation of the SDNP (which has occurred since the country park proposals first emerged) may lessen their enthusiasm to bring forward the remainder of the country park. Having said that, it is impossible to

¹³ See the Overall conclusions section below.

forecast what circumstances may be in 2042, when quarrying at Sandgate Park is due to end.

92. Given the long timescales and uncertainty involved with the creation of the country park as a whole, it is more realistic to consider the benefits that would arise from the 12ha of the park which would be provided in connection with this development. As is recognised in the inspectors' report on the SSAL DPD, there is no need for additional natural green space in the District, and so the new country parkland is not required to meet a quantitative deficit. On the other hand, it would provide a convenient and attractive recreational facility, especially for future residents of the proposed development and residents of Heath Common, and would also help to promote biodiversity¹⁴.
93. For these reasons I conclude that the provision of 12ha of the proposed Sandgate Country Park, in line with policy AL19 of the SSAL DPD, would be a consideration of moderate weight in favour of the proposed development.

(f) Provision for necessary facilities and infrastructure

94. If permission is granted for the proposed development, access and highway infrastructure, lighting, drainage and on-site refuse and recycling facilities would be provided in accordance with the application proposals, and secured by conditions. The provision of other facilities and infrastructure would be secured by the executed Unilateral Undertaking.
95. Regulation 122 of the *Community Infrastructure Levy Regulations 2010*¹⁵ ["the 2010 Regulations"] provides that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation meets three tests. These are that the obligation is necessary to make the proposed development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related to it in scale and kind.
96. In this case, I am satisfied from the evidence provided that the obligations in the Unilateral Undertaking in respect of community, health and local refuse / recycling facilities, libraries, fire hydrants, air quality, transport, and the provision and maintenance of on-site open and recreational space are all necessary to meet needs arising directly from the proposed development. The level of contributions and the scale of provision are consistent with the requirements of the Council's *Planning Obligations Supplementary Planning Document* [PO SPD], adopted in 2007.
97. Provision of affordable housing is necessary to help meet a demonstrated shortfall across the District and to comply with *Core Strategy* policy CP12. The affordable housing provision here has been negotiated on an individual site basis, taking account of market conditions, in accordance with the requirements of the policy, the PO SPD and the NPPF.
98. Each of these obligations is therefore fairly and reasonably related to the proposed development and so they meet all the tests of the 2010 Regulations. Together with relevant conditions, this means that any additional facilities or infrastructure made necessary by the development would be provided, and so there would be no conflict with *Core Strategy* policy CP13.

¹⁴ See the section on Environmental mitigation measures below.

¹⁵ SI 2010/948, as amended.

99. While the provision and maintenance of the first phase of the Sandgate Country Park is not necessary to meet a demonstrated need, it would be consistent with SSAL DPD policy AL19 and – as will be clear from my Overall conclusions below – it is one of the factors which lead me to conclude that planning permission should be granted in this case. This obligation is also directly, fairly and reasonably related to the proposed development and so it too meets the relevant tests.
100. However, the evidence before me does not demonstrate that there is a need for education or fire and rescue contributions to be made as a result of the proposed development. This is because in those cases the relevant section of the PO SPD requires an existing shortfall in provision to be demonstrated in order to justify such contributions. In the case of education, contributions are to be sought *where forecast future demand is equal to or exceeds 95% of the total Net Capacity for the locality* (PO SPD paragraph 13.62). For fire and rescue, a contribution is required where there is a need *for supporting infrastructure in relation to a proposed development* (paragraph 13.87) and *such a need has been specifically identified by the West Sussex Fire and Rescue Service* (box under paragraph 13.88).
101. No evidence was put to me in the terms required by the PO SPD to demonstrate that such shortfalls in provision exist. Hence, even though the level of education and fire and rescue contributions in the Unilateral Undertaking would comply with the PO SPD formulae, I am unable to conclude that they are necessary to make the proposed development acceptable in planning terms. Therefore, they may not constitute a reason for granting planning permission in this case.

Other matters

102. Old Clayton Kennels and Cattery, directly adjacent to the appeal site, has room for 150 dogs and employs around 30 people. Notwithstanding its size, it operates successfully with no evidence of any noise complaints having been upheld. However, Mrs Copp, the manager, made clear at the inquiry her concern that the dogs could be disturbed, particularly at night, by the lights and additional noise associated with the proposed development. Her fear is that this would lead to complaints from residents, and stress for the animals themselves, which could ultimately lead to the kennels having to move or close down.
103. During my site visit, I listened carefully for the sound of barking dogs from the kennels, and I found it was only really noticeable in the adjacent part of the appeal site. The proposals include acoustic fencing along the boundary between the site and the kennels which should cut down the sound still further, and also reduce the level of noise reaching the kennels from the new houses. As I made clear at the inquiry, I also think it would be very beneficial for the Council and the appellants to involve Mrs Copp in discussions over the detailed design of the proposed highway and on-site lighting.
104. These measures should help to reduce, if not entirely eliminate, the risks that Mrs Copp referred to. Moreover, she has a further safeguard in that the kennels are an established part of the character of the area, and as such would almost certainly be included in the baseline against which any assessment of

nuisance would be made, in the event of any proceedings on the matter¹⁶. Taking all these points into account, I consider that there would be no unacceptable noise impact from the kennels on future residents of the proposed development, and that the development is very unlikely to jeopardise the future of the kennels and its employees.

Conditions

105. The conditions in the attached schedule are based on those agreed between the parties and contained in the *Final Draft List of Conditions* dated 12 October 2012. Where necessary for clarity, precision and consistency, I have modified the wording of some of the agreed conditions without altering their general import.
106. Conditions (1) to (5) are necessary for the avoidance of doubt and in the interests of proper planning, as this is an outline planning permission. The deadlines set out in conditions (4) and (5) are reduced from the normal statutory timescales by agreement between the parties, because the proposed development needs to come forward quickly in order to help address the identified shortfall in housing provision in the District. Conditions (6), (7), (9), (10), (14) and (29) are needed to safeguard the character and appearance of the approved development and the surrounding area and to ensure that appropriate arrangements are made for the management and maintenance of landscaped areas.
107. Conditions (8), (18), (19), (20), (21), (22), and (23) are necessary to address any potential contamination of the site, to reduce flood risk and the risk of contamination of groundwater and watercourses, and in the interests of biodiversity. Conditions (11), (12), (13), (15) and (26) are needed in the interests of highway safety and in order to ensure that the development is accessible to pedestrians, cyclists and public transport users. Conditions (16) and (17) are necessary for the living conditions of future residents, while conditions (24), (25) and (27) are needed to regulate construction activities in order to protect highway safety and the living conditions of neighbouring residents. Finally, condition (28) is necessary in order to promote sustainable development and to ensure that the development complies with GDCP DPD policy DC8.

Environmental mitigation measures

108. This section describes the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development, as required by Regulation 21(2) of the EIA Regulations, taking account of the recommendations of the ES and its *Addendum*. Implementation of all the measures would be secured by conditions or by the Unilateral Undertaking.
109. Landscape and visual effects of the development These would be mitigated by retention of the existing trees and planting where possible, together additional planting. See Reasons issue (c) above for further details of this.
110. Ecology and nature conservation effects Mitigation measures in this respect would comprise: new planting as described above; eradication and control of

¹⁶ This position is supported by the judgment in *Lawrence and another v Fen Tigers and others* [2012] EWCA Civ 26, paras 72-76.

Japanese Knotweed; protection of wildlife during the construction phase and subsequent provision of enhanced habitats, including for bats and reptiles.

111. Water resources and flood risk The necessary measures would be taken to assess and deal with any risk of contamination of groundwater and watercourses, to provide adequate surface and foul water drainage, and to prevent additional surface water run-off.
112. Ground conditions A comprehensive scheme to assess and deal with any contamination of the site would be implemented.
113. Traffic and transportation Full details of the proposed mitigation measures are given in Reasons issues (b) and (d).
114. Noise and vibration During construction it is proposed that contractors would be contractually bound to observe best practice according to relevant British Standards. Acoustic screening, including along the boundaries with Old Clayton Kennels, and appropriate glazing would be installed as part of the development.
115. Air Quality It is proposed to purchase a low-emission minibus for the Storrington Area Minibus Association, to offset any adverse effect of the development on air quality in the village.

Overall conclusions

116. The proposed development would make a significant contribution, within a relatively short time, to meeting the pressing need in Horsham District for housing in general, and affordable housing in particular. This is a consideration of great weight in favour of allowing the appeal. In addition, there would be substantial highway safety benefits and a benefit of moderate weight from the provision of the first phase of the Sandgate Country Park.
117. As the development's effect on the character and appearance of the surrounding area in the long term would be neutral or even positive, the moderate harm that it would cause in the short and medium term is insufficient to outweigh those benefits. I give more weight to the substantial harm arising from the poor pedestrian links to the site combined with the lack of public transport services in the evenings and limited services on Sundays. This would inevitably limit travel opportunities for any future residents without the use of a car, as well as conflicting with planning policy objectives to promote the use of sustainable transport modes.
118. However, national planning policy is clear that a high priority must be given to meeting the full assessed need for housing, and by adopting the FAD SPD the Council themselves have recognised the need for a more responsive and pro-active approach to housing proposals. Taking all the evidence into account, I conclude that the benefits of the proposed development outweigh the harm and the resulting policy conflicts it would cause. In reaching that conclusion, I have taken into account that daytime public transport connections are reasonably good, and that those considering whether to move to the development would no doubt take its accessibility into account when making their decision.
119. The appeal therefore succeeds, and planning permission is granted subject to the conditions in the schedule below. In reaching this decision I have also

taken into account that the inspectors who examined the SSAL DPD recommended that the appeal site should not be allocated for housing. However, their recommendation was made in 2007, when housing requirements in Horsham District were significantly lower, and before the publication of the SE Plan and NPPF and the adoption of the FAD SPD. The circumstances were therefore quite different from those which apply now.

Roger Clews

Inspector

Richborough Estates

SCHEDULE OF CONDITIONS

- 1) Details of the layout of the development, the scale and appearance of each building, access within the site and the landscaping of the development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority ["LPA"] before any development begins and the development shall be carried out in accordance with the approved details.
- 2) The details of the reserved matters submitted in accordance with condition (1) shall accord with the particulars shown on the following Parameter Plans:
 - i) Land Use, Density and Building Height Drawing No L06 001 Rev F;
 - ii) Landscape and Open Space Drawing No L06 002 Rev F; and
 - iii) Phasing Plan Drawing No L06 06.
- 3) The details of the landscaping of the development submitted in accordance with condition (1) shall contain full details of hard and soft landscaping works to accord with the principles set out in the *Framework Tree and Landscape Management Plan* (October 2012) and those details shall include:
 - i) planting and seeding numbers and schedules specifying species, planting sizes and densities;
 - ii) tree pit and staking / underground guying details;
 - iii) buffer zones around the ponds; and
 - iv) a planting timetable.

Any trees or other plants that are planted in accordance with these approved details which within a period of five years after planting die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the LPA give prior written approval to any variation.
- 4) Application for approval of the reserved matters shall be made to the LPA not later than 18 months from the date of this permission.
- 5) The development hereby permitted shall begin not later than 18 months from the date of this permission, or one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 6) No development shall take place until precise details of the finished floor and external levels of the development (including ground levels and structures) in relation to a specified datum point have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until a ground preparation and stabilisation scheme has been submitted to and approved in writing by the LPA. The scheme shall include full details of:
 - i) the areas of land to be stabilised and the areas of land subject to other ground preparation works; and
 - ii) the methods of slope stabilisation and other ground preparation works to be employed, including existing and proposed levels, contours and cross- and long-sections for all earthworks.

The objective of the scheme shall be to minimise the impact on existing trees and vegetation and to enable further planting of trees and vegetation. The scheme shall be implemented as approved.

- 8) Save for the matters approved pursuant to condition (7), no piling, ground improvement techniques or any other foundation designs using penetrative methods shall be carried out without the express prior written consent of the LPA.
- 9) No development shall take place until full details of those trees to be retained and of those to be removed, together with a method statement for the protection of those trees to be retained, have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details and method statement.
- 10) No development shall take place until a 25-year landscape management and maintenance plan for all landscape areas has been submitted to and approved in writing by the LPA. The plan shall demonstrate full integration of landscape, biodiversity and arboricultural considerations and shall include:
 - i) aims and objectives;
 - ii) a description of landscape components;
 - iii) management prescriptions;
 - iv) details of maintenance operations and their timing;
 - v) details of the parties / organisations who will maintain and manage the site, including a plan delineating the area(s) that each is to be responsible for; and
 - vi) a timetable for its implementation.The plan shall be implemented as approved.
- 11) No development shall take place until the highway layout shown on drawing No 14512-03 Revision B has been modified (by the provision of dedicated cycle lanes or by some other means) to provide a clearance width of not less than 4m on either side of the proposed pedestrian refuge island, between the island and the proposed footways on the northern and southern sides of the A283, and the modified layout has been submitted to and approved in writing by the LPA.
- 12) No dwelling hereby permitted shall be occupied until:
 - i) the new access to the site has been constructed and the existing vehicular access to the site has been closed up, all in accordance with drawing No 14512-03 Revision B;
 - ii) the highway improvements and alterations shown on drawing No 14512-03 Revision B, as modified in accordance with condition (11) above and subject to any further detailed modifications as may be approved in writing by the LPA, have been implemented in full; and
 - iii) advance junction warning signs have been provided on the A283 at the approaches to the appeal site junction from the east and west.
- 13) No development shall take place until a scheme of lighting along the A283 within the appeal site has been submitted to and approved in writing by the LPA. The lighting shall be installed in accordance with the approved details

before any dwelling hereby permitted is first occupied and shall thereafter be maintained as part of the adopted highway.

- 14) No development shall take place until details of any internal street lighting have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.
- 15) No development shall take place until a scheme for the re-timing of the No 1 bus service from Midhurst to provide a connection at Pulborough station with the 1914 arrival from London Victoria has been submitted to and approved in writing by the LPA. The scheme shall be implemented as approved and shall last for a minimum of five years from the date of implementation. No variation to the approved scheme or its duration shall be made without the prior written approval of the LPA.
- 16) No development shall take place until a scheme of acoustic mitigation including along the northern and western boundaries of the Old Clayton Kennels and Cattery has been submitted to and approved in writing by the LPA. All acoustic mitigation required by the scheme shall be installed in accordance with the approved details before any dwelling hereby permitted is first occupied and shall thereafter be retained.
- 17) No development shall take place until a scheme for the provision of refuse and recycling bins as part of the development has been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.
- 18) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the LPA. The scheme shall also include:
 - i) details of how the scheme will be maintained and managed after completion;
 - ii) details of infiltration testing to be carried out; and
 - iii) details of how the scheme will mitigate and manage potential mobilisation of sources of contamination.The scheme shall be implemented as approved.
- 19) No development shall take place until details of the proposed means of foul water disposal and the measures which will be undertaken to protect the public sewers have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.
- 20) No development shall take place until a detailed method statement for the removal or long-term management / eradication of Japanese Knotweed on the site has been submitted to and approved in writing by the LPA. The method statement shall include proposed measures to prevent the spread of Japanese Knotweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / root / stem of any invasive plant covered under the *Wildlife and Countryside Act 1981*. Development shall proceed in accordance with the approved method statement.
- 21) No development shall take place until a scheme of ecological mitigation, including mitigation measures in respect of bats and reptiles, has been

submitted to and approved in writing by the LPA. The scheme shall be implemented as approved.

- 22) Before development commences (unless prior approval to any other date or stage of development has been given in writing with the LPA), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the LPA:
- 1) A preliminary risk assessment to identify:
 - i) all previous uses;
 - ii) potential contaminants associated with those uses;
 - iii) a conceptual model of the site indicating sources, pathways and receptors;
 - iv) potentially unacceptable risks arising from contamination at the site;
 - 2) A site investigation scheme, based on component (1), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
 - 3) Based on the site investigation results and the detailed risk assessment provided as component (2), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
 - 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy provided as part of component (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action; and
 - 5) A verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation.
- No change to any component of the scheme shall be made without the prior written consent of the LPA. The scheme shall be implemented as approved.
- 23) If, during development, contamination not previously identified is found to be present at the site then, unless prior written approval has been given by the LPA, no further development shall take place until an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the LPA. The amended strategy shall then be implemented as required by condition 22.
- 24) No external lighting or floodlighting for use during construction of the development shall be installed without the prior written approval of the LPA and shall not thereafter be altered without further written approval from the LPA.
- 25) No development shall take place until details of a compound for construction activity including storage of materials and equipment and loading, unloading and parking of vehicles has been submitted to and approved in writing by the LPA. The compound shall be provided on the site in accordance with the approved details before any other work takes place apart from the construction of the site access, and shall be retained and kept available for use throughout the period of work required to implement the development.

- 26) No work shall be carried out on the site until a vehicle wheel-cleaning facility has been installed in accordance with details which shall previously have been submitted to and approved in writing by the LPA. The facility shall be retained in working order and operated throughout the period of work required to implement the development.
- 27) No work for the implementation of the development hereby permitted shall be undertaken on the site except between the hours of 0800 and 1800 on Mondays to Fridays inclusive and between the hours of 0800 hours and 1300 hours on Saturdays, and no work shall be undertaken on Sundays, Bank and Public Holidays unless prior written approval has been given by the LPA.
- 28) The dwellings hereby permitted shall achieve Code Level 3 in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure(s) of sustainability for house design that replace(s) that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 29) No dwelling hereby permitted shall be occupied until all existing buildings and structures present on the application site at the date of this permission, other than those on that part of the site within the public highway, have been demolished and the resulting debris has been removed from the site unless it is capable of re-use as part of the development.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Green	of Counsel
He called	
Mr I Gledhill BSc MIHE	Highways Development Control, West Sussex County Council
Mr M Bright BSc BLD CMLI	Landscape Architect, Horsham District Council
Mr J Williams BA MA MRTPI	Senior Planning Officer, Horsham District Council
Mrs H Corke BSc DipTP	Team Leader (South), Horsham District Council

FOR THE APPELLANTS:

Mr R Taylor	of Counsel
He called	
Mr D Bird BSc CEng MICE	Founding Director, Vectos Transport Consultants
Mr C Self DipLA CMLI MA(Urban Des)	Managing Director, CSA Environmental Planning
Mr J Woolf MA DipTP MRTPI	Director, Woolf Bond Planning

INTERESTED PERSONS:

Mrs Y Copp	Old Clayton House and Kennels, Storrington Rd, Washington
Mr M Khan	West Sussex County Council (attended for discussion of the Unilateral Undertaking)

DOCUMENTS HANDED IN AT THE INQUIRY

- 1 Copies of the Council's notification letters for the appeal and the inquiry
- 2 Copy of the Council's LDF *Annual Monitoring Report 2010-2011*
- 3 Letter dated 1 October 2012 from a Director of RMC Engineering & Transport Ltd setting out the relationship between that company and Cemex
- 4 Copy of the *West Sussex Landscape Management Guidelines* for Storrington Woods and Heaths (Sheet WG7)
- 5 Copy of the *West Sussex Landscape Management Guidelines* for the Central Scarp Footslopes (Sheet WG8)
- 6 Copy of extract from the SDNP (Designation) Confirmation Order map, together with a document entitled *GIS Digital Boundary Datasets: Digital Boundary data for Designated Wildlife Sites and related information*, both from the Natural England website
- 7 *Framework Tree and Landscape Management Plan*, October 2012, prepared for the appellants by Terence O'Rourke Ltd
- 8 Copies of Land Registry registers of title for the appeal site and nearby land at Sandgate Park
- 9 Opening submissions on behalf of the appellants
- 10 Table of plans listed on the Documents List submitted with the appeal
- 11 Copy of letter from LHC dated 22 February 2012 enclosing copies of various application drawings

- 12 Copy of the Council's *Horsham District Landscape Character Assessment*, Final Report, October 2003
- 13 Bundle of documents concerning the nature and extent of the outline application:
 - (a) Extract from the *Town and Country Planning (Development Management Procedure) (England) Order 2010*, as published in the *Encyclopaedia of Planning and Environmental Law*
 - (b) Copy of *Encyclopaedia* paragraphs P62.15-18
 - (c) Letter from Drivers Jonas Deloitte dated 16 July 2010 – application covering letter
 - (d) Letter from Council dated 22 July 2010 requesting further information
 - (e) Email from DJD dated 23 July 2010 responding to letter (d)
 - (f) Letter from LHC dated 26 July 2010 enclosing amended location plan
 - (g) Note from Cemex date-stamped "received 28 July 2010" enclosing tree constraints plan
 - (h) Email from DJD dated 5 October 2010 confirming posting of further information on ground preparation works and covering letter of same date enclosing Geotechnical Summary Report
 - (i) Letter from DJD dated 7 January 2011 enclosing Noise and Vibration Addendum Report and Air Quality Addendum Report
 - (j) Letter from DJD dated 2 September 2011 enclosing amendments to planning application including revised plans and supporting documents
 - (k) List of plans received by Council under cover of letter (j)
 - (l) Letter from DJD dated 22 November 2011 enclosing a Low Emissions Assessment
 - (m) Letter from LHC dated 22 February 2012 enclosing copies of various application drawings
 - (n) Email from Carter Jonas dated 26 April 2012 enclosing a letter and plan concerning the sustainability of the appeal site
 - (o) Email correspondence between Carter Jonas, Ms Corke and Mr Bright dated 3-4 October 2012 concerning the *Framework Tree and Landscape Management Plan*
 - (p) Table summarising the consultations carried out by the Council on the planning application with sample consultation letter and email
 - (q) *Horsham District Council Note on Details Fixed by Submitted Plans*, 10 October 2012
 - (r) Copy of Planning Inspectorate Good Practice Advice Note 09: *Accepting amendments to schemes at appeal*
 - (s) *Note to the Inquiry on behalf of the Appellants: The Nature and Extent of the Outline Application for Planning Permission*, 11 October 2012
- 14 Copy of TRICS output used to derive the estimate of "fall-back" traffic generation as cited in Mr Bird's proof
- 15 Copy of the West Sussex County Council Infrastructure Consultation, Supplementary response on the appeal proposal, dated 20 December 2011
- 16 Sheet giving the planning history of the appeal site together with copies of planning permissions Ref WS/20/88 and WS/43/68, and of a 1968 section 37 agreement between Readymix Services Ltd and Chanctonbury Rural District Council
- 17 Copy of the *Town and Country (Use Classes) Order 1987* as published in the *Encyclopaedia*
- 18 The Council's Building Control Response to Additional Information presented in the *Framework Tree and Landscape Management Plan*, dated 11 Oct 2012

- 19 Copy of extracts from the inspector's report, dated 20 May 2011, into appeal Ref APP/C1760/A/10/2140962
- 20 Sheet entitled *Strategic Sites Update: October 2012*, prepared by the Council
- 21 Extract from *Horsham District Locally-Generated Needs Study: Census 2011 and South Downs National Park Update, September 2012 Final Report*
- 22 Note by Mr Bright dated 20/10/12 concerning the SDNP Boundary
- 23 Copy of the *Final Description of the South Downs National Park Boundary*, February 2010, by the South Downs National Park Authority
- 24 Copy of a report to the Natural England Board dated 28 July 2010 entitled *Boundary Review Guidance*, with annexes
- 25 Final Draft List of Conditions 12 October 2012
- 26 Certified Copy of Unilateral Undertaking dated 10 October 2012
- 27 *Summary of the obligations contained within the Unilateral Undertaking*, provided by the appellants
- 28 *Statement setting out the Justification for the Planning Obligations contained in the [UU]*, provided by the Council
- 29 Closing submissions on behalf of the Council
- 30 Closing submissions on behalf of the appellants
- 31 Transcript of the Court of Appeal judgment in *Lawrence and another v Fen Tigers Ltd and others*, [2012] EWCA Civ 26

PLANS HANDED IN AT THE INQUIRY

- A Enlarged plan extract showing the SDNP boundary near the appeal site, from the Defra Magic website
- B Plan showing the suggested itinerary for my site visit
- C Plan showing the status of public rights of way near the appeal site
- D Updated Tree Constraints Plan No 412_0968.00022.TS.002 Rev C, showing additional vegetation retained as a result of the *Framework Tree and Landscape Management Plan*
- E Agreed Vectos Plan No 110163/A/01 showing visibility splays at the Chanctonbury access
- F Two LDF Proposals Map extracts showing the locations of the allocated housing sites West of Bewbush and West of Horsham
- G LDF Proposals Map extract and application plan showing the location of the Thakeham site subject of appeal Ref APP/Z3285/A/11/2164215
- H Map 6 from the *South Downs National Park (Designation) Confirmation Order 2009* map

PHOTOGRAPHS HANDED IN AT THE INQUIRY

- 1 Appendix A, Photosheet 4 previously omitted from Mr Bright's proof

APPENDIX

ORAL RULING GIVEN AT THE INQUIRY ON 11 OCTOBER 2012

1. The *Encyclopaedia of Planning Law and Practice* says at paragraph 6.18:

The Secretary of State has taken the view that, where details have been submitted on an application for outline permission relating to a matter which could otherwise have been treated as a "reserved matter", the authority may not reserve their approval but must grant or refuse permission on the basis of the submitted material (DoE Circular 11/95, para. 44). That approach was upheld by the High Court in R v Newbury District Council, Ex p. Chieveley Parish Council [1997] J.P.L. 1137 (Carnwath J.), and upheld in the Court of Appeal ([1999] P.L.C.R. 5). By virtue of the Town and Country Planning (General Development Procedure) Ord.1995, art.1 there is no power to reserve matters of which details have been given in the outline application, though it is open to the applicant to amend the outline application by withdrawing the details, and it is open to the local planning authority to require further details; and there is no objection to the practice of including details "for illustrative purposes only".

2. The parties in the present appeal agreed that this is an accurate summary of the relevant law.
3. Mr Green contends that plans submitted with the application fix certain aspects of the scale, layout and landscaping of the development. The implication of this contention would be that those matters may not be reserved for future approval but must be part of the basis on which I grant or refuse planning permission.
4. I disagree with Mr Green's contention, for the following three reasons:
 - i) With regard to scale and layout, in my view the plans to which Mr Green refers do no more than meet the requirements of the *Town and Country Planning (Development Management Procedure) Order 2010* [DMPO], article 4(3) & (4)¹⁷. To that extent they fix certain parameters of scale and layout, but they do not preclude scale and layout from being treated as reserved matters in the usual way.
 - ii) As regards landscaping, I turn first to the way the planning application was dealt with throughout its life. The Council confirmed at the outset that landscaping was a reserved matter and asked the appellants to remove reference to it from the description of the development. They continued to treat landscaping as a reserved matter up to and including in the officers' report to Committee on 15 May 2012. Indeed, they did not see the appellants' letter of 22 February 2012 and its enclosures [which included a revised version of the original Tree Constraints Plan showing details of tree removal] as necessitating any further external consultation, even though they had re-consulted on two earlier amendments to the development scheme.

¹⁷ Although the DMPO did not come into force until 1 October 2010, the relevant provisions now contained in article 4 and the definition of landscaping in article 2 were in force when the application was submitted, by virtue of the *Town and Country Planning (General Development Procedure (Amendment) (England) Order 2006*.

I see nothing wrong with any of that. The wording of the appellants' 22 February 2012 letter was perhaps a little inexact but nowhere did it say that it was submitting details of landscaping or layout. It was merely resubmitting plans which had previously been deemed to be necessary by the Council, in the context of an outline application with only access reserved.

- iii) My third reason is that I do not see the Tree Constraints Plan as falling into the definition of landscaping given in article 2 of the DMPO. Instead, it seems to me that its principal function is to identify those trees which would have to be removed as a consequence of the ground preparation works necessary to enable the development to proceed.
5. For these reasons I consider it is legally permissible for the appellants to withdraw the Tree Constraints Plan and replace it with the Framework Tree and Landscape Management Plan. Doing so would not give rise to any prejudice to any interested persons and so would not conflict with the *Wheatcroft* principles set out in the Planning Inspectorate's Good Practice Advice Note 9.

Roger Clews

Inspector

Richborough Estates