



---

## Appeal Decision

Inquiry held on 22-25 July 2014

Site visit made on 29 July 2014

**by Christina Downes BSc DipTP MRTPI**

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

**Decision date: 8 September 2014**

---

**Appeal Ref: APP/L2250/A/13/2210752**

**Land at the former Lympne Airfield, Aldington Road, Lympne, Kent CT21 4PA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr P Jones (Phides Estates (Overseas) Limited) against the decision of Shepway District Council.
  - The application Ref Y13/0360/SH, dated 16 April 2013, was refused by notice dated 25 November 2013.
  - The development proposed is erection of 250 dwellings, village green, a local centre comprising two retail (Class A1/A3) units and a GP surgery (Class D1), public open space and playing fields together with vehicular access, car parking and landscaping.
- 

### Decision

1. For the reasons given below, the appeal is dismissed.

### Preliminary Matters

2. The Council objected to the appeal proposal on the basis that it would prejudice the Neighbourhood Development Plan process. However since the Council made its decision this plan has been suspended and the second reason for refusal was consequently withdrawn. It is not known when the process will be resumed and no specific evidence was given on behalf of those involved in the Neighbourhood Development Plan.
3. The Council's third reason for refusal concerned infrastructure provision and, in particular, that relating to foul sewerage and primary education. These matters have now been addressed. Southern Water is satisfied that the former could be dealt with by means of a planning condition. Kent County Council as Education Authority has agreed that a financial contribution would address the lack of capacity at Lympne Primary School. In the circumstances the Council did not offer any evidence in defence of this reason for refusal.
4. The application was made in outline with only access to be considered at this stage. Nevertheless it was accompanied by supporting information, including a landscape and visual assessment, a transport assessment and an ecological appraisal. The design and access statement contained an illustrative Masterplan which showed how the layout is envisaged, including the internal street pattern, housing areas and open spaces. It is proposed to offer existing residents in Harman Avenue, who adjoin the eastern boundary of the site, additional land to increase the size of their rear gardens.

## Reasons

### **Background and Policy Context**

5. The appeal site lies immediately adjacent to the western boundary of Lympne village. It comprises a part of the former airfield, which has now largely reverted to green open space. In places there are remnants of structures and hardstandings associated with its former use but there was no dispute that the site does not fall to be considered as previously developed land. To the north is a large bund with young planting which will enclose a new employment area to be known as Link Park. To the west is another bund with mature planting which was constructed some years ago to screen the buildings on the Lympne Industrial Estate to the south of Link Park. Between this bund and the edge of the appeal site is a swathe of land which is not proposed to be developed.
6. Saved Policy CO1 in the Shepway District Local Plan Review (the LP) prevents development outside settlement boundaries save for countryside purposes. The Shepway Core Strategy (the CS) was adopted in September 2013. In finding it sound, the Inspector was satisfied that its policies and provisions were compliant with the National Planning Policy Framework (the Framework). Policy DSD sets out the presumption in favour of sustainable development and how it will be applied in Shepway District. Policy SS1 sets out the spatial strategy with priority given to the use of previously developed land in the Urban Areas of Folkestone and Hythe. There are strategic allocations at Folkestone Seafront, Shorncliffe Garrison and Nickolls Quarry and also broad strategic locations at Sellindge and New Romney. Additional development is to be focussed on the most sustainable towns and villages and development in the countryside is only to be allowed exceptionally.
7. In terms of the North Downs area where the appeal site is located, Policy SS1 seeks to steer development outside the Area of Outstanding Natural Beauty (the AONB) to places that would not materially impact on its setting. It also seeks to consolidate the growth of the service centre of Hawkinge and to sensitively meet the needs of communities in the AONB at better served settlements. Policy SS3 sets out a sustainable settlement strategy with the scale and impact of development to be proportionate and consistent with the status and strategic role of the settlement in question. Table 4.3 shows Lympne as a Primary Village which will be expected to contribute to strategic aims and local needs. The Primary Villages are said to have potential to grow. Elsewhere in the CS reference is made to "*one other developable potential site*" within Lympne Parish. This appears to be a reference to the former airfield land insofar as it was identified in the 2011 Strategic Housing Land Availability Assessment (the SHLAA).

### **Issue One: Whether the proposal is needed to meet the need for market and affordable housing**

8. The Council's CS was very recently adopted and in finding it sound the CS Inspector concluded that the requirement reflected objectively assessed housing needs; that the housing trajectory showed a supply over the CS period in excess of the long term target; and that the 5 year housing land supply would exceed the requirement on the basis of applying a 5% buffer and taking account of recent under-delivery. However the CS Inspector's conclusions about the short term housing land supply position provide a snapshot in time and has been based on the evidence that he was given. It is necessary for me

to undertake my own assessment taking account of the written and oral evidence to the Inquiry. The Appellant contends that far from having a supply of deliverable sites to meet housing needs over the next 5 years the Council actually has a substantial deficit.

### *Housing requirement*

#### The baseline requirement

9. The first matter to consider is how many houses the Council actually requires to meet its objectively assessed needs. The starting point is Policy SS2 in the recently adopted CS. The first two paragraphs indicate that whilst a minimum of 350 dwellings a year would be required over the plan period to 2031, there should be an accelerated delivery of about 8,000 dwellings by 2026. This would equate to an initial target average of 400 dwellings a year. The supporting text explains that this would address demographic evidence such as the ageing population, decline in local labour supply and increasing formation of smaller households. Indeed the provision of housing to address long term economic development is one of the aims arising out of Strategic Need A, which Policy SS2 seeks to address.
10. Table 4.1, which is also part of the policy, sets out a target of approximately 8,000 dwellings to 2026, with a minimum of 7,000 dwellings during this period. The third column of the table refers to delivery "*over the plan period*", which presumably means to 2031. However it also refers to a rolling requirement of 1,750 dwellings to be continuously identified "*for the forthcoming five-year period*". It seems to me that the policy is not set out in the clearest terms and there was considerable debate at the Inquiry about whether the 5 year requirement should be 350 or 400 dwellings a year. I have carefully considered the matter, taking account of the evidence base and the CS Inspector's Report. My conclusion, on a straightforward reading of the policy as a whole, is that the requirement is for at least 1,750 dwellings over the next 5 years but that every effort should be made to achieve a higher target of around 400 dwellings a year in the first 20 years of the plan.

#### The buffer

11. The Framework requires an additional 5% buffer, to be moved forward from later in the plan period, in order to ensure choice and competition in the market for land. Where a local authority has a persistent record of under delivery of housing this should be increased to 20%. What is "*persistent*" is a matter of judgement but the Planning Practice Guidance indicates that a delivery record is likely to be more robust if a longer term view is taken so that peaks and troughs in the market cycle are included. The CS period dates back to 2006, which was well before the current economic downturn. Between 2006 and 2013 the South East Plan was in place and established an annual requirement for Shepway of 290 dwellings. However this was only met in two of the 7 years. The South East Plan was revoked in 2013 and the CS established a higher requirement as discussed in the preceding section.
12. Prior to 2006 the applicable requirement was established in the Kent Structure Plan and incorporated into the Shepway Local Plan Review. This was met in one of the 5 years. The record of completions, whether taken from 2001 or 2006, shows that the Council has not performed well in terms of delivery against its requirements. The 2013 Annual Monitoring Report (the AMR)

anticipates 150 completions in 2013/4 and forecasts 280 for the following year. Neither of these figures matches the annual requirement in the CS.

13. The Council contends that a cumulative approach should be adopted so that over-supply is taken into account. In my opinion this is not the correct approach when the target is an annual one and the objective is to significantly boost housing supply. However even on this approach, if the correct requirement is applied as set out above, the position does not improve. In fact since 2001, delivery in most years has been insufficient to eradicate the cumulative backlog.
14. The CS Inspector arrived at the conclusion that the evidence did not support a buffer of 20%. However this appears to have been reached on a relatively short term assessment of the Council's delivery performance between 2006/7 and 2011/12. In two of those years there was an over-delivery as explained above. However the CS Inspector did not have the benefit of the Planning Practice Guidance, which advises on a longer term view. Furthermore there are 3 more years to consider all of which show that things have not improved. In my opinion it is difficult to reach any other conclusion on the current evidence that the record of under-delivery has been persistent and that a buffer of 20% should be added.

#### The shortfall

15. The Council considered that any shortfall should only be addressed from 2011 when the CS was adopted. However such an approach means that past failures to meet housing requirements continue to go unmet and this translates into a failure to provide homes on the ground for the people that need them. It is reasonable to start at the beginning of the CS period in 2006 although it is not clear whether the requirement took account of the backlog that had accumulated before that date. Be that as it may, the accumulated shortfall between 2006 and 2013 is about 823 dwellings.
16. The CS Inspector appeared to have had limited information on shortfall and made no reference to it in his Report. However the background evidence<sup>1</sup> indicates that the housing requirement did include the under-delivery from 2006, which was to be made up over the remaining plan period. This is known as the Liverpool method and seems to have been accepted by the CS Inspector, albeit with no specific comment. It is the case that the method that squares better with the Framework's objective regarding boosting housing supply is the Sedgfield approach. This is favoured by the Planning Practice Guidance and also the Secretary of State in most appeal decisions because it deals with the issue of past delivery failures promptly over the short term. The Council considers that adopting the Sedgfield approach would undermine the housing strategy and thus the plan process. This is because its supply relies on large strategic allocations which will continue to come forward later in the plan period.
17. The CS Inspector did not have the benefit of the advice in the Planning Practice Guidance but he would have been aware of the different methodologies and that Sedgfield is the one that accords best with Framework policy. The fact that the CS has been found sound so recently, and that the Liverpool approach

---

<sup>1</sup> This is set out in the tables on Page 37 and 38 of Document 3, which is recorded as part of the evidence base on Page 144 of the CS.

was integral to the requirement on which it was based, is a matter of considerable weight. Whilst I come to a different view from the CS Inspector on the buffer, that is because there has been a material change in circumstance. In relation to the methodology to be applied to dealing with a shortfall, there is no prescription as to approach. It would not be in the interests of good planning or consistency to cast doubt on the CS Inspector's judgement. I note that a similar conclusion was reached by the Inspector who recently determined the planning application for housing development at Blaby in Leicestershire<sup>2</sup>.

18. On the basis of applying a 20% buffer and spreading the shortfall over the remaining CS period, the total 5 year requirement would be about 2,390 dwellings.

#### *Housing supply*

19. The 2013 Annual Monitoring Review (the AMR) shows a five year supply of 2,400 dwellings. If this is correct then the Council would be able to meet its short term housing requirement. However the Appellant has questioned the supply figures and contended that they are overly optimistic, mainly in respect of timing.
20. Shorncliffe Garrison is a strategic allocation on the edge of Folkestone. Although planning permission has not yet been granted, a planning application is currently under consideration. There are off-site highway works that the developer wants to complete before construction commences, although this does not seem to be a specific requirement of the transport assessment. Whilst the Appellant considers these works will be technically challenging the developer, Taylor Wimpey, is confident that the 40 dwellings anticipated in 2015/16 will be built. Although there can be no certainty either way I am not convinced that the evidence is sufficient to cast doubt on the five-year contribution of 280 units from this site.
21. Folkestone Harbour and Seafront is the other strategic allocation and the AMR shows that delivery will start in 2015/16 with 137 completions within the 5 year period. The Council has indicated that the permitted application is for up to 92 additional units in the first two phases. However as this is not reflected in the 2013 AMR I have not included it as part of the 5 year delivery<sup>3</sup>. The evidence suggests that a Marine License has been applied for and there seems no reason why it should not be granted. Whilst there is an outstanding legal agreement to be completed the delivery programme does not seem unrealistic.
22. A broad location for about 300 dwellings is identified on the southern side of Sellindge. The AMR anticipates that 190 dwellings will be built in the next 5 years, with 40 of them being delivered in 2015/16. There have been pre-application discussions and a planning application is expected very shortly. There appear to be no land ownership problems and the house builder on board is Taylor Wimpey. Although improvement works to the A20 do not seem to be a pre-requisite of development, an upgrade to the sewerage system will be needed. Nevertheless there is no specific evidence that this could not be

---

<sup>2</sup> Application for 220 dwellings on land to the north of Hospital Lane, to the south of Mill Lane and to the east of Bouskell Park, Blaby, Leicestershire refused on 22 July 2014 under reference S62A/2014/0001 (Document 18).

<sup>3</sup> See Paragraph 25 below.

- addressed expediently and the anticipated 5 year delivery programme is not unreasonable.
23. There are several sites which have been identified in the SHLAA. Some have been subject to pre-application discussions but none are allocations and as far as I am aware planning applications have not been made. The former Shepway Youth Centre in Folkestone is a greenfield site which is currently designated as open space under saved Policy LR9 in the LP. The Rotunda, Lower Sandgate Road, Folkestone is an operational car park. The East Station Goods Yard, Folkestone is an old employment site that has permission for community use. Hawkinge Youth Activity Centre is understood to have been purchased by a house builder who has completed housing on a nearby site. However there is insufficient evidence that these sites are available now to deliver the 149 dwellings anticipated by the Council in the next 5 years.
24. Land adjoining Ingles Manor, Castle Hill Avenue in Folkestone is anticipated to deliver 59 dwellings in the AMR. Planning permission was granted in 2013, subject to a legal agreement relating to infrastructure contributions. The site is an operational garden centre and is subject to a 10 year lease. Although the Council has stated that this is subject to a break clause there was no evidence about its terms or that the garden centre operator wishes to leave the site. The availability of the site therefore seems doubtful.
25. It is noted that the Council considers its supply position conservative and also considers that windfalls should be included for each year rather than just 2018/19 as shown in the AMR. However this was specifically addressed by the CS Inspector who agreed, somewhat reluctantly, to accept a figure of 75 windfall dwellings but only for 2018/19. The reason for this conclusion remains pertinent and there seems no justification for the different stance now being suggested. The Council also points out that more planning permissions have been granted since the 2013 AMR was published. However it is not appropriate to add to the supply in this way as it is moving into the next monitoring period before the full picture for that period is known. To be clear, my assessment has been based on the information provided in the 2013 AMR and accords with Paragraph 47 of the Framework and in particular Footnote 11 relating to deliverability.
26. The Council will be aware that it needs to be pro-active in encouraging expeditious delivery of its strategic sites. From the evidence I consider that there is a good prospect that the programme anticipated in the AMR is generally realistic although I am less optimistic about the future of some of the SHLAA sites in the short term. In my opinion the Council has sufficient deliverable sites for about 2,192 dwellings, including one year's windfall allowance. This would equate to a supply of about 4.6 years.

#### *Affordable housing*

27. The Strategic Housing Market Assessment for East Kent (2009) demonstrates that the Council, along with other local authorities in the sub-region, has a considerable need for affordable housing. This is likely to get worse each year due to the historic under provision and the newly arising annual need. There is no evidence that since 2009 matters have materially improved. Most affordable housing will be funded through private development and Policy CSD1 sets out a requirement for 30% provision on larger schemes, subject to viability. In this case a Planning Obligation has been submitted which

covenants to provide the policy level of affordable housing with 60% as affordable rent and 40% shared ownership. This is in accordance with the *Affordable Housing Supplementary Planning Document (2008)*, which is referred to in Paragraph 5.6 of the CS and which addresses local needs in terms of tenure mix.

### *Conclusion*

28. Where a local planning authority is unable to demonstrate a five-year supply of deliverable sites, Paragraph 49 of the Framework indicates that relevant policies for the supply of housing should not be considered up-to-date. Housing applications should be considered in the context of the presumption in favour of sustainable development, bearing in mind the imperative in Paragraph 47 to boost significantly the supply of housing. The provision of 250 homes, of which 30% would be affordable dwellings, would therefore be a substantial benefit that weighs in favour of the appeal development.
29. It is appreciated that my conclusions on housing land supply matters will be a disappointing outcome for the Council, especially as it has only recently adopted its CS. However it is important to emphasise that the concern here is with short term delivery rather than with the longer term housing trajectory where the large strategic sites will increasingly play a part. The main area of contention concerns the buffer. My conclusions are based on more evidence than my colleague had before him, plus new Planning Practice Guidance.

### ***Issue Two: Effect on the character of the rural settlement and its role in the settlement hierarchy***

#### *Effect on the role of Lympne in the settlement hierarchy*

30. Policy DSD in the CS seeks to take a positive approach to development proposals in accordance with the presumption in favour of sustainable development. The settlement hierarchy comprises 6 levels and Policy SS3 directs development towards sustainable settlements in accordance with their role therein in order to promote sustainable, vibrant and distinct communities. Lympne is a Primary Village, which is the second lowest category and will be expected *"to contribute to strategic aims and local needs"*. Primary Villages are seen as *"settlements with the potential to grow and serve residents, visitors and neighbourhoods in the locality with rural business and community facilities"*. Within the spatial strategy the Primary Villages are not seen as being suitable for strategic level development. Indeed Policy SS1 indicates that whilst further growth will take place it will come forward to meet locally assessed needs through the vehicle of Neighbourhood Development Plans. This seems to be endorsed in Paragraphs 5.151-5.153 of the CS, which specifically relates to Lympne.
31. The district is divided into three character areas, each with their own strategic priorities. Lympne is in the North of the Downs area where Policy SS1 indicates that the future spatial priority is *"on accommodating new development outside of the AONB and without material impact on its setting; consolidating Hawkinge's growth; and sensitively meeting the needs of communities within the AONB at better-served settlements"*. As already noted above, Sellindge has been identified as a broad location for strategic growth within the North Downs area. The amount of housing envisaged at Sellindge in Policy CSD9 is similar to that being advanced by the appeal proposal. However it is relevant

to note that the CS Inspector specifically rejected Lymgne as either a strategic allocation or a broad location for growth, considering that it performed less well against sustainability objectives than other strategic locations, as evidenced in the 2012 Sustainability Appraisal Report by URS. Although the CS Inspector was considering a representation by the Appellant involving 400 dwellings, it seems to me that the 250 houses now being proposed could also be viewed as strategic within the context of Shepway District.

32. The spatial strategy in Policy SS1 does not specify the proportion of housing expected to be received by the three character areas. Whilst the text indicates that land exists in the North Downs part of the district for about 15% of the new dwellings by 2031, that does not amount to a policy requirement as the Appellant seems to surmise. It is acknowledged that the North Downs area is constrained because of the location of much of it within the AONB. Lymgne and Sellindge are the two largest settlements, in terms of population, outside the designated area. However Policy SS1 does not rule out development in AONB settlements, albeit that this needs to be sensitively undertaken. Furthermore the CS runs to 2031 and so there is no immediate hurry to identify land for development in this part of the district. Whilst there is little doubt that some growth will happen in Lymgne, there is no policy support for the quantum or scale of development that is currently being proposed.

*Effect on the character of the rural settlement*

33. The historic core of the village is on the southern side of Aldington Road and includes the church and the castle, which are in a dramatic position at the top of the scarp slope overlooking Romney Marsh. However more recent development has taken place on the northern side of the main road either side of Stone Street. Initially there was a linear pattern but between the 1960s and 1980s there was significant outward growth, with suburban estate development extending in a westerly direction to the existing settlement edge adjoining the former airfield. There has been further residential development, most recently extending the village northwards and eastwards. The part of the village on the eastern side of Stone Street is within the AONB as is the historic settlement to the south of Aldington Road. The western part of the village and the appeal site is outside the designated area.
34. There is no dispute that the appeal site adjoins the village but is outside of its boundaries and within the countryside. However settlement boundaries inevitably constrain the supply of housing and in view of my conclusion in Paragraph 28 above, saved Policy CO1 in the LP can be considered out-of-date. The fact that the appeal development would be within the countryside would not therefore be unacceptable as a matter of principle. Indeed the CS envisages the growth of settlements such as Lymgne and it seems unlikely that this would be able to take place within its tightly drawn settlement boundary. However that is not the end of the matter and it is important to consider the role of the site and its importance to the character and setting of this particular settlement.
35. The village of Lymgne is a modest sized and compact village comprising about 1,600 residents and around 600 dwellings. It has some facilities but, in my opinion, it is a relatively small rural community which has rightly been placed towards the bottom of the settlement hierarchy. It is though in the unusual position of being close to a strategic employment site, which has permission to



grow substantially in a northerly direction at Link Park. The commercial uses appear originally to have become established mainly through happenstance, due to the position of buildings associated with the airfield. The planted bunds enclosing the existing and new employment sites are substantial topographical features. When Link Park is completed, the northern part of the employment area will be much closer to the northern part of the village. Nevertheless the intervening open land, including the remnant airfield, does have a role to play in retaining the separation of the two built up areas and preserving the identity of Lympne within its rural setting.

36. The appeal site does not occupy the whole width of the land between the existing employment area and the village, although its western site boundary does not follow any natural feature. Its southern section is angled towards Aldington Road to allow a greater width of undeveloped frontage before running straight back towards the new bund on the southern edge of Link Park. There would be generous areas of open space within the new development and a band of open space and tree planting on its western side to provide a soft edge. Playing fields would occupy a large area at the front of the site next to Aldington Road and more public open space would adjoin the new bund and the northern boundary of the appeal site. However there is no doubt that this development would be substantial in size and would be clearly apparent as a major built expansion of the village.
37. There are at present views towards the North Downs from Aldington Road for the driver or pedestrian passing the site frontage. I observed that these views are filtered by the roadside vegetation, although I would expect them to be more prevalent in the winter months when foliage dies down and leaves drop from the trees. I noted at the site visit that there is a local ridge that crosses the site east-west and that many of the houses would be to the north of this on downward sloping land. The northerly view from Aldington Road would be interrupted with the proposed development in place although the resulting impact would be relatively small, bearing in mind the topography and the height and position of the background bund. Further south, the change to views towards the site from within the AONB would be insignificant due to the falling gradients and the thick layers of intervening vegetation.
38. I also observed the views from within the AONB in the other direction and visited two vantage points on, or close to, the North Downs Way. From here the land is seen at a distance and within the context of an extensive panorama. The view is essentially a rural one, across Romney Marsh and towards the sea. The limited size of Lympne is clearly apparent but the scale and light colour of the Dockspeed depot on the industrial park is a dominant feature that particularly draws the eye. The development would be seen expanding the village in a westerly direction but the effect on the views out of the AONB would be slight due to the benefit of distance and the width of the view. It is noted that the AONB Unit, who are responsible for managing the designated area, has raised no objections to the proposal.
39. Whilst there are some remnant structures and hardstandings, the former airfield is essentially an open area of green countryside. It has an important role to play in maintaining the containment and identity of this small village within its rural setting. I consider that the open land that would remain between the western edge of the development and the employment area would be insufficient to prevent unacceptable visual coalescence.

40. Taking account of all of the above factors, it is concluded that there would be a harmful impact on the character and distinctiveness of the rural settlement and its role in the settlement hierarchy. This would be contrary to development plan policy, including Policies SS1, SS3 and CSD1 in the CS.

***Issue Three: Whether the proposal would be in a sustainable location***

41. Lymgne has a shop, post office and hairdresser to enable people to meet some of their day-to-day needs locally. The primary school provides educational facilities for younger children and the pub, village hall and sports pitches offer opportunities for recreational, social and community activities. The employment area to the west may also offer some local jobs. There would be a footpath link between the site and the adjoining residential area to the east and a footway extension at the eastern end of Harman Avenue would aid pedestrian movement to Stone Street. There would also be the potential for a pedestrian path into the new Link Park development to the north. Some journeys could therefore be undertaken on foot or cycle rather than using the car. The appeal scheme proposes two new shops and a doctor's surgery or else a contribution to boost existing health services. It seems to me that as well as providing facilities for new occupiers these would also benefit the existing village community.
42. There is an existing bus service between Ashford and Folkestone and this runs through the village every hour. The appeal proposal includes a subsidy for a half hourly and evening service through Lymgne for a period of 3 and 5 years respectively. Whilst I note that some respondents question whether this would be sufficient to sustain the enhanced service in the longer term, there is no reason why it should not become viable provided there is sufficient patronage to support it. It seems to me that the bus would offer an attractive option for school and work trips as well as some other planned journeys and could be used by new and existing residents as well as others from further afield. The enhancement of bus services in rural corridors is mentioned in the CS as being potentially necessary to the delivery of the strategy.
43. Westenhanger Station offers rail services between Folkestone and London. These are half hourly and there is the opportunity to change at Ashford for faster routes. The station would be too far for most to walk but could be reached by cycle. It would also be a relatively short car journey, although I appreciate that parking around the station is problematical.
44. Undoubtedly like in most rural areas a large proportion of trips would be undertaken by car. Nevertheless there are opportunities for the choice of other modes for some local journeys. Whilst Lymgne is not at the top of the accessibility spectrum it is concluded that the appeal site is in a reasonably sustainable location.

***Other Matters***

***Planning Obligations***

45. There are two Planning Obligations by Agreement. In the Agreement with the Council there are covenants relating to affordable housing, a GP surgery or an alternative health contribution and public open space. In the Agreement with Kent County Council, the covenants relate to bus and travel contributions, the junction improvement, an education contribution and a contribution to libraries,

community learning and adult social services. Policy support for infrastructure contributions is provided in Policy SS5 in the CS. Paragraph 204 of the Framework indicates that obligations should only be sought if they are necessary, directly related to the development in question and fairly and reasonably related in scale and kind.

46. The obligations relating to affordable housing secure the number and mix of units and the timing of delivery relative to the market housing. They are required to meet the policy requirements in Policy CSD1 in the CS and the housing need referred to earlier in the decision. The GP surgery is included in the application and the obligations are necessary to ensure its provision. Alternatively if it is not required a contribution would be secured for health services in its place. The public open spaces are an integral part of the development and it is necessary to ensure they are provided and thereafter managed and maintained appropriately.
47. The contribution towards the enhanced bus service relates to the cost of provision over a fixed term and would improve the accessibility of the site. The highway works are referred to earlier in the decision and are needed to alleviate congestion at the junction in question. The education contribution relates to the cost of additional temporary classrooms to accommodate children at the local primary school. This has been considered and costed by Kent County Council as Local Education Authority. The County Council has also provided information about the need for library, community learning and adult care facilities and how the contributions have been worked out.
48. I am satisfied from the information provided that the planning obligations meet the policy tests in Paragraph 204 of the Framework.

*Effect on highway safety*

49. It is appreciated that there is local concern that the highway network would not be able to cope with the traffic generated by the development and other planned developments nearby. The modelling in the transport assessment shows that at 2026 all local junctions would have sufficient capacity apart from the A20/ A261/ Stone Street junction. This would be operating well above capacity anyway and the appeal development would make matters worse. It is therefore proposed to provide mitigation by way of introducing signal controls. If that were to be done the modelling shows that sufficient capacity would be provided to accommodate the peak period traffic flows, including those arising from the development.
50. The traffic distribution shows that most vehicular activity associated with the appeal site in the peak period would travel in a northerly direction up and down Stone Street. Through the village this road has been subject to traffic calming. Kerb build-outs have narrowed the carriageway with priority in one direction only. Local representations make clear that this causes hold-ups and I can appreciate that at busy times drivers can become frustrated as they have to wait their turn. Along with other developments such as Nickolls Quarry to the south it seems likely that Stone Street will become busier in the future. I was not able to visit the vicinity during school term time. However the highway evidence indicates that the contribution from the appeal site is likely to be about 2 vehicles per minute in peak periods. The Highway Authority, who is responsible for road safety and the free flow of traffic, has not raised objections in this respect. In the circumstances I am not satisfied that there is evidence

to support objectors' views that this section of Stone Street would become more dangerous or that congestion would be such that the traffic generated by the appeal development could not be accommodated.

51. I also saw other parts of the local highway network, including Lympne Hill. This is a narrow, winding route with a relatively steep gradient. The transport assessment does not indicate that many trips would follow this route and again the Highway Authority has not raised it as a particular problem. The Framework indicates that development should only be prevented on transport grounds where the residual cumulative impacts would be severe. The evidence does not indicate that this would be the case here. Taking all of the above matters into account, I do not consider that the appeal scheme would unacceptably harm highway safety or the free flow of traffic.

*Effect on water resources*

52. The Friends of Lympne Airfield Association raised concerns about the effect of the development on the local aquifer and particularly its likely adverse effect on water supply to Port Lympne Wildlife Park. However the Flood Risk Assessment indicates that surface water drainage would be dealt with by means of a Sustainable Drainage System which would be designed to mimic the existing greenfield runoff rates, with an allowance for climate change. It is relevant to note that the Environment Agency, the government's advisor on such matters, has raised no objections subject to appropriate conditions being applied. Whilst I appreciate that this is a genuine concern it is not a matter that justifies dismissal of the appeal.

*Impact on the historic interest of the site*

53. Lympne airfield was established during the First World War and was subsequently used as a base for air races and flying competitions by the Cinque Ports Flying Club. It also played its part in the Second World War and the Battle of Britain. Thereafter the airfield was used for commercial flights to the continent. A concrete runway and new terminal building were constructed in the late 1960's when it became known as Ashford Airport. However after about 20 years, due to falling passenger numbers and the transfer of airline activities elsewhere, the airfield closed and flight operations ceased.
54. The Masterplan seeks to recognise the site's aviation history through the alignment of the main street along the axis of the old runway. Furthermore a central garden and interpretation boards would be placed along this road as a focal point and commemoration. In addition an area is proposed in the north eastern corner which would be a Battle of Britain memorial and a place for quiet contemplation. It is acknowledged that the Friends of Lympne Airfield Association do not consider that these features would provide adequate compensation for the development of the airfield. Nevertheless they would provide a link to the area's past and, whilst I appreciate the value that the local community places on this land, it does not have any recognised protective status in terms of its historic significance. Furthermore it is private land with no public rights of access. In the circumstances the historic interest of the site, whilst it should not be under-estimated, is not a determinative factor in this appeal.

### *Effect on ecology and nature conservation*

55. The Friends of Lympne Airfield Association provided extensive information about the wildlife and ecological value of the former airfield. Much of the site is semi-improved mown grassland although there are remnant hardstandings and other structures. I observed that the runway itself, which has now been mainly grubbed up, comprises taller sward with a greater variety of plants, trees and scrub. There are peripheral stands of trees and vegetation, the largest of which is in the north-eastern corner. There are also some protected trees on the south-eastern side of the site. Much of the flora and fauna that was recorded was found within these fringe areas.
56. The Appellant's ecological appraisal indicated that the semi-improved grassland is of limited ecological value. The Masterplan shows that the areas of trees and scrub would generally be retained although not along the old route of the runway, which would be lost to development. Nevertheless, the scheme would result in the retention and enhancement of peripheral habitats and the creation of other open spaces and green areas. It seems to me that appropriate mitigation could be undertaken to ensure no negative effect on any protected species present, including the Brown Hare. There is also the opportunity for ecological enhancement and habitat creation through the new open spaces that are proposed within the site. Whilst the Friends of Lympne Airfield Association would like to establish the site as a wild flower meadow, this would have to be through negotiation with the owners as the site is not publicly accessible.

### **Overall Conclusions and Planning Balance**

57. The Appellant places some reliance on the inclusion of the former airfield land as a preferred option for 400 dwellings in the pre-submission version of the CS. However that is of historic interest as in the submission plan it was not being put forward as a strategic site. It was however included in the 2010 SHLAA for 450 dwellings and in the 2011 SHLAA for 240 dwellings. Although these documents consider land in terms of its deliverability they do not apply any policy filters, including whether that number of dwellings would be appropriate in a Primary Village such as Lympne.
58. The Council cannot demonstrate a 5 year supply of deliverable sites. In such circumstances its housing supply policies should be considered out-of-date. Saved Policy CO1 seems to me to constrain the supply of housing and is thus not current. Whilst the Appellant contends that many of the CS policies also fall within this category, I do not agree. The policies are written in such a way that it is only Policy SS1 which refers directly to settlement boundaries. However as the Appellant comments, Lympne and other Primary Villages are envisaged in the CS to accept some growth and this is unlikely to all occur within the confines of the settlement. The primary purpose of the other relevant policies is not specifically directed to housing supply. For example Policy SS3 concerns place shaping and sustainability; Policy CSD1 relates to balanced neighbourhoods and affordable housing; Policy CSD2 addresses housing mix and need; and Policy CSD3 includes criteria applicable to development outside the settlement hierarchy but its main objective in this respect is countryside protection. In the circumstances it seems to me a moot point as to whether any of the above policies can be considered as "*housing supply policies*" as referred to in Paragraph 49 of the Framework.

59. The Framework states that housing proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by economic, social and environmental dimensions and the interrelated roles that they perform. In this case the contribution of the site to the market and affordable housing requirements of the district is a matter of considerable importance. The scheme offers other advantages, including two new shop units and a doctor's surgery. There would be an enhanced bus service and the works to the A20/A261/Stone Street junction would bring forward a much needed improvement to this part of the highway network. These would all mitigate adverse impacts of the development but also convey benefits to the wider population. There is no reason why the development should not be well designed and energy efficient. There would also be large areas of open space, which again would be of benefit to the existing community and comply with the CS objective of expanding such facilities in the North Downs area.
60. However the proposal would not comply with the place shaping and sustainable settlements strategy in the newly adopted development plan. This directs development in accordance with a settlement hierarchy and Lympe has been placed near the bottom in recognition of its limited facilities, relatively modest size and compact character within the rural landscape. The CS envisages change within the North Downs area but there no specific apportionment in terms of housing numbers. Villages such as Lympe clearly have to play their part to accommodate growth. However the 250 dwellings proposed is of a scale that is more redolent of development envisaged for the broad strategic locations in Sellindge or New Romney, both places being higher in the settlement hierarchy than Lympe. There is no convincing evidence that the spatial strategy in itself constrains the supply of housing or that the additional development needed to make up the 5 year deficit has to all be sited in this particular location.
61. In this case the shortfall in terms of providing a 5 year supply of deliverable sites is relatively small. Whilst the Framework does not indicate that the size of the deficit should be treated differently in terms of how development management decisions are taken, it can nonetheless be a material consideration in the overall balance.
62. Paragraph 14 of the Framework is engaged, although I note that Policy DSD in the CS include the same sustainability test. Drawing together all of the above points, I consider that there is no overriding requirement for a development of this size within this location. The appeal proposal would have serious and harmful consequences, especially in terms of the environmental dimension of sustainability. Notwithstanding the substantial benefits, my overall conclusion is that they would be significantly and demonstrably outweighed by the adverse impacts, when assessed against the policies in the Framework as a whole. In the circumstances I conclude that the appeal scheme would not be a sustainable form of development.
63. I have had regard to all other matters raised, both in the oral and written representations, but have found nothing to change my conclusion that this appeal should not succeed.

*Christina Downes*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Mr D Edwards	Of Queen's Counsel instructed by Mr J McClenaghan, Blue Sky Consultancy
<i>He called:</i>	
Mr J McClenaghan MSc FRICS MRTPI	Director of Blue Sky Planning Consultancy
Mr C Self DipLA CMLI MA(Urban Des)	Managing Director of CSA Environmental Planning

### FOR THE LOCAL PLANNING AUTHORITY:

Mr G Williams	Of Counsel instructed by the Head of Legal Services, Shepway District Council
<i>He called:</i>	
Mr M Aplin BA(Hons) MA MSc MRTPI	Planning Policy Team Leader with Shepway District Council
Mr J Bailey BA(Hons) DipTP MRTPI	Planning Team Leader with Shepway District Council

### FOR THE FRIENDS OF LYMPNE AIRFIELD ASSOCIATION:

Mr D Plumstead	Member of the Association and local resident
<i>He called:</i>	
Himself	Member of the Association and local resident
Dr G Meaden	Expert witness and local resident
Mr R Barlow	Expert witness and local resident
Mr J Meek	Member of the Association and local resident
Mr W Garrard	Local resident
Mrs D Jorgensen	Member of the Association and local resident
Ms F Jordan	Member of the Association and local resident
Mr C Surridge	Member of the Association and local resident
Mr J Simpson	Member of the Association and local resident
Mr P Gaston	Member of the Association and local resident
Mr R Beale	Member of the Association and local resident

**INTERESTED PERSONS:**

Mr R Auger	Local resident
Mr P Meddleton	Local resident
Mr T Surridge	Local resident

**DOCUMENTS**

- 1 Council's notification of the Inquiry and list of persons notified
- 2 Extract from Shepway Local Plan Review (2006)
- 3 Shepway Core Strategy Local Plan Modifications 2012 Technical Note: Windfalls, Housing Supply and Policy Update (September 2012)
- 4 Extract from the South East Plan (2009)
- 5/1 Cabinet Report relating to Key decisions on the Shepway Core Strategy
- 5/2 Minutes of the above Cabinet Meeting on 13 April 2011
- 6 Appendix 1 to Cabinet Report April 2011 relating to Core Strategy strategic requirements
- 7 Sensitivity testing of the 5 year housing land supply requirement by Mr McClenaghan (July 2014)
- 8/1 Planning Obligation by Agreement between the Landowner, Appellant and Shepway District Council (21 July 2014)
- 8/2 Planning Obligation by Agreement between the Landowner, Appellant and Kent County Council (17 June 2014)
- 9 Extract from the EA Scoping Report for Folkestone Seafront (29 April 2013)
- 10 Inquiry Note on housing delivery submitted by Mr McClenaghan
- 11 Minutes of the Shepway Joint Transportation Board (30 June 2014)
- 12 Extract from marketing details by Taylor Wimpey relating to highway matters on the Shorncliffe Garrison site
- 13 Inquiry Note on housing development in the North Downs Area by Mr McClenaghan
- 14 Inquiry Note on bus provision through Lympne by Mr McClenaghan
- 15 Extract from Plant Life (Summer 2014) submitted by Mr Plumstead
- 16 Booklet about the Lympne Aero Classic submitted by Mr Plumstead
- 17 Update on development sites at Shorncliffe Garrison, Folkestone Seafront,



- Leas Club and Sellindge provided by Mr B Geering, Major Projects Team Manager with the Council
- 18 Decision on the planning application for 220 new dwellings at Blaby, Leics under the provisions of 62A of the Act (22 July 2014)
- 19 Bus timetable and routes booklet provided by Mr Plumstead
- 20 Statements from Dr Meaden, Mr C SurrIDGE and Mrs Jorgensen delivered orally on behalf of the Friends of Lympne Airfield Association
- 21 Letter submitted to the Inquiry by Mr and Mrs Harris
- 22 Statement by Liz Reed delivered orally to the Inquiry by Mr C SurrIDGE
- 23 Statements by Mr T SurrIDGE and Mr P Meddleton delivered orally to the Inquiry
- 24 Statement of Common Ground between the Council and Appellant
- 25 Housing land supply position for various scenarios produced by the Council with closing submissions
- 26 Draft list of conditions
- 27 Site visit information
- 28 Development and Infrastructure Creating Quality Places published by Kent County Council and provided following the close of the Inquiry at the Inspector's request
- 29 CD Rom of ecological evidence presented to the Inquiry by the Friends of Lympne Airfield Association and submitted following the close of the Inquiry

## **PLANS**

- A1-A5 Application plans