
Appeal Decision

Inquiry opened on 21 October 2014

Site visits made on 20 and 29 October 2014

by David Prentis BA BPI MRTPI

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

Decision date: 12 January 2015

Appeal Ref: APP/D3830/A/14/2218078

Land at Penland Farm, south of Hanlye Lane and west of Balcombe Road, Haywards Heath

- 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 the Trustees of the Borde Hill Estate and Catesby Estates Limited against the decision of Mid Sussex District Council.
 - The application Ref 13/03472/OUT, dated 10 October 2013, was refused by notice dated 9 April 2014.
 - The proposal is an outline planning application (with all matters reserved except for means of access from Balcombe Road) for up to 210 dwellings, provision of new internal access roads and footpaths, landscaping, open space, drainage measures and associated infrastructure. The development includes demolition of existing structures.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 210 dwellings, provision of new internal access roads and footpaths, landscaping, open space, drainage measures and associated infrastructure. The development includes demolition of existing structures. The permission relates to land at Penland Farm, south of Hanlye Lane and west of Balcombe Road, Haywards Heath and is granted in accordance with the terms of the application, Ref 13/03472/OUT, dated 10 October 2013, subject to the conditions set out in the attached Schedule 1.

Preliminary matters

2. The application was submitted in outline with all matters reserved except for access. The extent of the development is shown on the parameter plans.
3. A Pre-Inquiry Meeting was held on 23 July 2014. The Inquiry sat for 5 days from 21 to 24 and on 28 October 2014. There were accompanied site visits on 20 and 29 October 2014 and, in addition, I carried out various unaccompanied visits to the locality of the appeal site prior to and during the course of the Inquiry.
4. An Agreement under s106 of the Town and Country Planning Act 1990 ('the Agreement') dated 28 October 2014 was submitted at the Inquiry. The Council confirmed that the Agreement resolved its second reason for refusal.

5. The proposed development falls within the category of 'urban development projects' where the area of works exceeds 0.5ha¹. The appellants elected to prepare an Environmental Statement (ES) in support of the application on the basis that the scheme has the potential for significant effects with regard to landscape and views, transport, ecology and cultural heritage. In reaching my decision I have taken account of the relevant environmental information, including the ES and the representations received in relation to the environmental effects of the development.
6. At the Pre-Inquiry Meeting the appellants indicated that they might seek to amend the application by changing the siting of the roundabout which would provide the main means of access to the development². Amended plans were prepared which were subject to consultations which took place in August 2014³. The amended plans were accompanied by updates to the Design and Access Statement and the Arboricultural Assessment. The appellants carried out a review of the ES and concluded that the changes to the scheme would not be substantive and that it would not be necessary to change the ES submitted with the application.
7. A large number of written representations were received in response to the consultations on the amended plans. Several of these suggested that the relocation of the roundabout would result in greater visual impacts together with adverse effects on traffic conditions in the locality. Some representations objected specifically to the appeal proceeding on the basis of the amended plans, arguing that the degree of change would be too great. However, there was no objection to the amended plans being accepted from the Council, the Penland Farm Action Group (PFAG) or from any other party at the Inquiry.
8. I took account of all the written representations, together with the oral representations made at the Inquiry, and I visited the site before deciding on this matter. My conclusion was that the amended plans would result in a scheme which would be substantially the same as that for which planning permission was sought. The consultations were comprehensive and were carried out in good time ahead of the Inquiry. In my view they were sufficient to ensure that no-one would be prejudiced by the change. Accordingly, I agreed that the appeal should proceed on the basis of the amended plans. These are listed in the Statement of Common Ground (SoCG) dated 23 September 2014.
9. Due to an administrative error letters advising of the time and place of the Inquiry were not sent out in accordance with procedural requirements⁴. However, the appeal itself had been widely publicised, many representations had been received, the date of the Inquiry had been confirmed at the Pre-Inquiry Meeting and site notices had been duly posted. I concluded that it was very unlikely that anyone had been prejudiced by this error and that it would be disproportionate to delay the start of the Inquiry.

¹ Schedule 2, paragraph 10(b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011

² The appellants subsequently advised that the position of the proposed roundabout would move by 10 - 15m. There would be no change to the application site boundary.

³ The consultations included letters to local residents and consultees, site notices and a public notice in the local newspaper.

⁴ The letters were sent on 13 October 2014, about a week before the Inquiry.

Main issues

10. I consider that the main issues in this case are:

- the effect of the proposal on the character and appearance of the locality, including the landscape and character of the High Weald Area of Outstanding Natural Beauty (AONB)
- the effect of the proposal on the settings of heritage assets
- the effect of the proposal on agricultural land
- the effect of the proposal on the gap between Haywards Heath and Cuckfield
- whether the proposal would be sustainable development for the purposes of the National Planning Policy Framework

Reasons

11. It is common ground between the Council and the appellants that the Council cannot currently demonstrate a 5 year supply of housing land. Before turning to the main issues identified above, I consider the policy context for the appeal in the light of that agreed position.

Housing land supply and the policy context

12. The relevant development plan policies are set out in the Mid Sussex Local Plan 2004 (LP). The housing policies of the LP are out of date as they do not make provision for housing beyond 2006 and have not been reviewed or amended to ensure compliance with the National Planning Policy Framework (the Framework).
13. The emerging Mid Sussex District Plan was submitted to the Secretary of State for examination but was subsequently withdrawn pending further work with neighbouring councils. The Council's programme for preparing the District Plan is that it will be adopted in 2016. The Council and the appellants agree that no weight should be attached to the emerging District Plan at this stage and it is not referred to in the reasons for refusal.
14. The Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites⁵. The Council identifies that at April 2013 there was 2.43 years supply of housing land. This figure has not been updated because it was based on the South East Plan which has now been revoked. Accordingly, the Council did not seek to place any reliance on the figure of 2.43 years at the Inquiry. Rather, the Council's position is that it cannot demonstrate a 5 year supply because it does not have in place an up-to-date local plan.
15. The appellants carried out their own assessment of objectively assessed need for housing (OAN) taking account of household projections, demographic considerations, economic factors and market signals. Comparing the resulting figure for OAN with the available supply, the appellants arrived at a figure of 1.97 years supply. The Council did not accept this figure. However, it was not in a position either to challenge the appellants' methodology or to offer an alternative figure for OAN⁶.

⁵ Paragraph 49

⁶ The Council submitted a note (LPA10) setting out the stage its work on deriving a figure for OAN had reached.

16. The appellants have followed a process consistent with the approach set out in Planning Practice Guidance. Moreover, theirs was the only up-to-date evidence before me on OAN. However, it must be borne in mind that there is no direct read-across from the appellants' figure to the housing requirement that may emerge through the District Plan process. This is not only because the approach to OAN will be subject to greater debate and scrutiny through that process but also because other factors such as environmental constraints, policy matters and, potentially, needs arising in adjoining areas will be taken into account. That is not an exercise that can be carried out in the context of a s78 appeal. That said, for the purposes of this appeal I am able to conclude on the evidence before me that there is not currently a 5 year supply in Mid Sussex and, moreover, that the shortfall is substantial.
17. It follows that relevant policies for the supply of housing should not be considered up-to-date. The Framework sets out a presumption in favour of sustainable development. Paragraph 14 says that where relevant policies are out of date permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate that development should be restricted.
18. The appeal site is outside the built-up area boundary of Haywards Heath as defined in the LP. Policy C1 seeks to restrict development outside the defined built-up area boundaries, subject to various exceptions which do not apply here. The Council accepts that this is a policy which should not be considered up-to-date and it is not referred to in the reasons for refusal. LP Policy C2 seeks to protect strategic gaps, including the gap between Haywards Heath and Cuckfield. The Council and the appellants disagreed as to whether Policy C2 is a relevant policy for the supply of housing. This is a matter I shall return to under the fourth main issue.
19. The other LP policies referred to in the reasons for refusal are C4 (AONB), C7 (agricultural land), B7 (trees), B17 (registered parks and gardens), H4 (affordable housing) and G3 (infrastructure). Policy C7 is not a saved policy and is not relied on by the Council. Policies H4 and G3 relate to matters now covered by the Agreement. I shall comment further on the other policies under the first and second main issues⁷.
20. The Haywards Heath Town Council has published a draft Neighbourhood Plan (NP)⁸ which promotes the development of sites within the town and seeks to protect its rural setting. Policy E5 of the NP proposes a 'Green Corridor' between Haywards Heath and the neighbouring town/parishes. Policy E17 restricts development outside the built-up area. The appeal site is within the proposed Green Corridor and outside the built-up area as defined in the NP. The SoCG states that there has been a six week consultation period and that the results of consultation are being considered. The NP had not been submitted to the Council at the time of the Inquiry. The Council and the appellants agree that the NP is at an early stage and should be given only limited weight.

⁷ The appellants argued that some of these policies should be afforded reduced weight because they are not consistent with the Framework. However, as I have not identified any conflict with these policies it is not necessary for me to comment further on this argument.

⁸ Our Bright Future – Draft Neighbourhood Plan Consultation January 2014

Effect on character and appearance, including on the AONB

21. The site is located on the urban edge of Haywards Heath. It extends to some 21.75ha of agricultural land and woodland. Penland Farmhouse is located in the centre of the site but is excluded from the application. The agricultural land is mostly arable, comprising four fields separated by trees and hedgerows. The topography is undulating, generally falling towards the south.
22. To the north of Hanlye Lane is the parkland of Borde Hill Park which is within the High Weald AONB. To the east there is residential development within the built-up area of Haywards Heath and to the south is Harlands Primary School, a sports ground and further woodland. There are areas of ancient woodland both within the site itself and to the west. Further west is an extensive area of woodlands, known as the Millennium Woodlands, which is the subject of a woodland grant scheme. Much of the woodland along the northern and eastern site boundaries is subject to a Tree Preservation Order (TPO). The site is crossed from east to west by a public footpath which runs from Penland Road to Cuckfield. This forms part of a long distance footpath known as the Sussex Diamond Way⁹ (SDW).

Landscape impacts

23. The site falls within Landscape Character Area 10: High Weald Fringes as identified in the Mid Sussex Landscape Character Assessment 2005. The key characteristics of the area are said to include a wooded, often confined, rural landscape, broad ridges sweeping down to the Low Weald, significant woodland cover with a dense network of shaws, hedgerows and trees, a pattern of small irregular fields and larger fields and a network of lanes, tracks and footpaths together with some busy lanes and roads. To my mind the appeal site and its surroundings share many of these characteristics. Although the site is not subject to any landscape designations it is an attractive tract of countryside. Due to its well treed boundaries it is largely free of urban influences despite the proximity of Haywards Heath. For the same reasons the site is relatively self-contained in visual terms and there are only limited views in from the public realm outside the site.
24. The area proposed to be developed for housing would amount to around 7.2ha with a further 1.76ha required for the roundabout and associated strategic infrastructure. Most of the balance of the site would be woodland and open space. Although there would be a loss of rural landscape the proposed design and layout would incorporate important mitigation measures. Views into the site from Hanlye Lane are quite well screened by the existing woodland belt within the site. However, it would still be possible to obtain filtered views of housing within the site, particularly in winter.
25. The appellants propose an offset of 50m from Hanlye Lane (which forms the boundary of the AONB) to the edge of any built development. Within this zone there would be new woodland planting to supplement and strengthen the screening effect of the existing tree belt. The appellants' landscape witness advised that the new planting would create an effective screen within about 10 years¹⁰. This advice, which was based on experience of planting schemes

⁹ The Sussex Diamond Way runs from Midhurst to Heathfield

¹⁰ Professor Tregay, giving evidence in chief, commented that a 100% screen could not be guaranteed but that the screening effect would be very close to 100%.

- elsewhere, was not disputed by the Council. In the longer term there would be progressive management of the existing woodland to improve its structure.
26. The parameter plans show how the areas proposed for housing would be fitted into the existing landscape structure. Building heights would be limited in the most elevated parts of the site. Little woodland would be removed from within the site and no ancient woodland would be lost. Moreover there would be no development immediately adjoining ancient woodland. These aspects of the design strategy would be secured through the submission of reserved matters and through planning conditions.
27. The Council, PFAG and other consultees are particularly concerned about the landscape impact of the proposed roundabout and associated highway works. At present the short stretch of Balcombe Road between its junctions with Penland Road and Hanlye Lane has an enclosed character formed by the canopies of the trees on either side which meet above the road. This enclosed character is characteristic of the High Weald Fringes and creates a sense of immediate transition from the edge of the urban area to the countryside. The proposed roundabout and associated earthworks would remove most of the overhanging trees, including a number of mature oak and beech within the TPO. Embankments would be formed to the south of the roundabout where it would be cut into the slope of the land.
28. Extensive landscaping is proposed both within the roundabout and on the embankments which, in time, would soften the effect. Even so, the roundabout and its associated works would be a substantial element of highways infrastructure. It is also likely that new houses would be seen, at an elevated level, in the vicinity of the roundabout. Moreover, due to the need to maintain visibility, the current degree of enclosure could not be recreated. In my view there would be a complete change in the character of this part of Balcombe Road. The enclosed rural character would be lost and highways infrastructure would predominate. In effect, the perceived edge of the urban area would move from the junction of Penland Road to the northern and western edges of the new roundabout.
29. The western approach to the roundabout would cut through the woodland belt on the south side of Hanlye Lane. This would result in the loss of some mature trees, including pines and an oak, within the TPO. These are tall trees, some of which appear on the skyline in views from Borde Hill Park to the north. They are trees of significant public amenity value, as are the oak and beech at Balcombe Road referred to above. As such LP Policy B7 states that their loss should be resisted. However, Policy B7 allows for the loss of protected trees where there is no appropriate alternative, on the basis that a replacement group of trees will normally be required.
30. In considering the weight to be attached to these impacts it is important to bear in mind that they would largely be confined to the area immediately around the roundabout. Important tree groups to the north west, north east and south east of the roundabout would be retained, providing a good degree of screening in longer views. As noted above, there would be new planting within and around the roundabout and to the south of the tree belt along Hanlye Lane which would, in time, supplement the retained tree groups. The

appellants estimate that there would be a net gain in the overall area of woodland¹¹.

Visual impacts

31. The main visual receptors would be people travelling along Hanlye Lane and Balcombe Road, people accessing the site on foot and nearby residents. The first group would in the main be travelling in vehicles and their experience of the landscape change would be a brief one as they passed through the relatively confined area in the immediate vicinity of the roundabout.
32. It is clear from the written representations that the site is a valued landscape resource for those who access it on foot. In addition to the SDW I saw that there are various informal paths which are used by local people. A significant proportion of the SDW within the site passes through woodland, west of Penland Road, that would be retained. The experience of using this section would not be greatly altered. The path then emerges into fields which would be developed for housing. This would still be an attractive route, running alongside retained woodland, but would no longer provide the experience of being within the countryside. To the west of the site the SDW passes through woodland and the experience of using this part of the path would not be materially altered.
33. The appellants propose a new section of public footpath crossing the south western part of the site. The path would then continue through the Millennium Woodlands (outside the site) to re-join the SDW. Although new housing within the site could be seen from part of the new path this would be at a distance. To my mind this would be an attractive alternative to part of the SDW, passing mainly through open space with good views of woodlands.
34. There are views into parts of the site from some nearby residential properties. These views would be changed substantially by the introduction of residential development into what is currently a rural outlook.

Effect on the AONB

35. The Council's reason for refusal refers to the setting of the AONB. The written representations from the High Weald AONB Unit also refer to impacts on the setting of the AONB, including impacts on landscape quality, wildness and tranquillity. However, it is clear from the Framework¹² that it is the landscape and scenic beauty of the AONB itself which is the focus of national policy. Great weight is to be attached to conserving the landscape and scenic beauty of an AONB. In this case, the appeal site is outside but close to the AONB boundary which runs along the north side of Hanlye Lane. I consider that the two main ways the scheme could impact on the AONB would be through direct visual impacts and through the indirect effects of additional traffic on remoteness and tranquillity.
36. The direct visual impacts would be limited. In the short term, until new planting became established, there would be some filtered winter views of new housing from a relatively small area within Borde Hill Park. Longer views from the north, such as from Borde Hill House and the ridge it stands on, would be screened by planting within the park. The loss of a small number of skyline

¹¹ The revised Design and Access Statement (Core Document K6) states that 0.56ha of woodland would be lost whilst 1.38ha of new woodland is proposed.

¹² Paragraph 115

trees would be perceptible in these longer views but, at this distance, would not change the general impression of a well-treed skyline. The roundabout would not be readily visible from the park but parts of it could be seen from a point in the highway close to South Lodge. This viewpoint is on the very edge of the AONB. In terms of the effect on the wider landscape of the AONB these effects would be very minor and localised. I would characterise the overall effect as negligible.

37. Although visually very attractive this part of the AONB cannot be described as either remote or tranquil. It is close to the urban area of Haywards Heath and both Balcombe Road and Hanlye Lane are busy roads. Whilst the development would increase traffic on these roads the Transport Assessment shows that the increase in relation to existing traffic flows would not be significant.
38. The High Weald AONB Unit considers that the site represents a 'buffer' between the AONB and the urban area of Haywards Heath. I have noted above that the perceived edge of the urban area would move from the junction of Penland Road to the northern and western edges of the new roundabout. However, for the reasons given above, I do not consider that there would be harm to the AONB itself.
39. I conclude that there would be no material harm to the landscape and scenic beauty of the AONB. LP Policy C4 requires particular attention to be given to the siting, scale, design, external materials and screening of new buildings within developments adjacent to the AONB. I consider that the appeal scheme would accord with this requirement insofar as it can at this outline stage.

Off-site mitigation/compensation for landscape impacts

40. As noted above, there would be significant mitigation embedded in the design and layout of the scheme. In addition, the Agreement would provide for off-site measures:
 - planting to enhance the parkland character of an area within Borde Hill Park close to the site
 - new public footpath routes through the Millennium Woodlands linking to the SDW and Blunts Wood Road
 - transfer of an area of mature woodland adjacent to the Paiges and Blunts Wood nature reserve to the Council or a management company, together with a financial contribution for its future maintenance
 - binding the area of the Millennium Woodlands such that there shall be no development for 50 years
41. The off-site planting would provide further mitigation in relation to the loss of mature trees resulting from the western approach to the roundabout. It should be noted that the footpath routes already exist, albeit not dedicated as such, and that the Millennium Woodlands are subject to a woodland grant scheme. In the absence of the proposed development, there is no reason to think that this area would be under imminent threat of development. Even so, it seems to me that formally designating the footpaths and precluding development of the Millennium Woodlands for an extended period are benefits which are reasonably related to the appeal scheme to which some weight can be attached. The transfer of an area of woodland, through which one of the footpath routes passes, as an extension to the nature reserve and the provision of funding for its future maintenance would provide some compensation for the

loss of a landscape resource that would result from the proposed development. Consequently, I take these obligations into account.

Conclusions on character and appearance

42. There would be no material harm to the landscape of the AONB and no conflict with LP Policy C4. The proposed development would result in the loss of an attractive, albeit undesignated, area of countryside. The most significant harm, in landscape terms, would arise from the loss of the enclosed rural nature of part of Balcombe Road and its replacement with highway infrastructure affording some views of new development. However, the most significant landscape impacts would be confined to the area immediately around the proposed roundabout.
43. A number of mature trees covered by the TPO would be removed. However, the loss of TPO trees has been kept to the minimum required to meet highways requirements. As there does not appear to be any appropriate alternative to the loss of some TPO trees, and given the extensive new planting proposed, I consider that the scheme accords with LP Policy B7.
44. The appellants have put forward mitigation and compensation proposals. These include mitigation embedded in the design of the scheme, including extensive new tree planting, and off-site mitigation/compensation secured through the Agreement. Taken together, I consider that this is a comprehensive set of proposals which would offer a significant degree of mitigation and compensation. Even so there would be residual landscape harm which weighs against the proposals.

Effects on the settings of heritage assets

45. The three designated heritage assets of concern to the Council are the Grade II* Registered Park and Garden of Borde Hill (Borde Hill Park), the Grade II listed Borde Hill House and the Grade II listed South Lodge.
46. Borde Hill Park was created in the late 19th and early 20th century by the Stephenson Clarke family, patrons of some of the great plant collectors of the time. The gardens still contain an important collection of exotic species. Gardens were developed to the east and west of the house which stands on a ridge with panoramic views to the south over parkland. The significance of Borde Hill Park derives from its illustrative value, as an example of the late Victorian interest in plant collecting, and in its aesthetic value as a designed landscape. English Heritage describes the park as a beautifully designed landscape which adopts many of the concepts of the great 18th century picturesque landscapes including tree belts at perimeters and clumps of trees within parkland. I agree with that description. I comment further below on the setting of the park.
47. Borde Hill House has historic and architectural interest due to its origins as a late 16th century manor house. It was greatly extended from the mid 19th century to create a Victorian country house. These additions add further layers to its interest. Its setting within the parkland makes an important contribution to its significance as a heritage asset. The house is not readily visible from outside the park.
48. South Lodge was built as a lodge house to Borde Hill Park in the early 20th century. It has architectural interest as an early 20th century lodge house which

forms part of the early 20th century designed landscape of Borde Hill Park. Its setting on the boundary of the park with Hanlye Lane is important to its significance as a heritage asset.

49. The Council's evidence described the development of the 18th century landscape tradition in which views to and from country houses often encompassed the wider countryside beyond the boundaries of the parkland. However, whilst Borde Hill Park reflects some features of that tradition there is no evidence that such views were ever designed or intended in relation to the appeal site. The OS map of 1909 shows extensive perimeter tree belts to the east and south of the house. The situation today is that views south from the ridge are contained by trees within the parkland, albeit that trees within the appeal site appear on the skyline as a backdrop.
50. At the Inquiry the Council accepted that there would be limited, if any, inter-visibility between the heritage assets and the proposed development¹³. The Council's case is that the contribution of setting to the significance of a heritage asset is not confined to visual matters. Further, that the countryside setting of Borde Hill Place is important to its significance regardless of the presence or absence of direct views. That case is supported by the views of English Heritage (EH) and the Sussex Gardens Trust. EH refers to the 'suburbanising' effect of the proposed roundabout.
51. In general terms I agree that the countryside setting of the park contributes to its significance as a heritage asset. There are, for example, panoramic views to the north which extend beyond the park. That said, my analysis of landscape impacts is that any direct views from the park to the proposed development would be limited to filtered winter views from a small area of the park close to Hanlye Lane. These would be largely screened once new planting became established. In my view these minor and temporary impacts would not materially affect the significance of the park.
52. The Framework describes setting as the surroundings in which a heritage asset is experienced. Those approaching Borde Hill Park from the direction of Haywards Heath would pass first through the suburbs of the town and then through the tree-lined section of Balcombe Road beyond Penland Road. As described above, the character of this part of Balcombe Road would be significantly changed and the perceived edge of the urban area would move closer to Hanlye Lane. Even so, at the point of arrival at the boundary of the park (the Hanlye Lane junction) the character would remain rural. Whilst the experience of travelling along a relatively short section of Balcombe Road would be changed, to my mind it does not follow that the experience and understanding of the heritage asset itself would be materially affected. Borde Hill Park has, since its creation, been located in the countryside close to Haywards Heath. That relationship would remain.
53. Moreover, the scheme would result in some enhancement to the setting of the south east corner of the park. At present this is a busy junction where there are frequent traffic queues on Hanlye Lane tailing back from the junction with Balcombe Road. Through traffic would be removed from the section of Hanlye Lane in front of South Lodge. This would enable the area to be re-designed in a manner that would enhance the setting of the park at this point. I consider that the effect on the park of any additional traffic generated by the development

¹³ See the closing submissions for the Council (document LPA15)

would be outweighed by the fact that the existing queuing traffic on Hanlye Lane would be moved away from South Lodge. Whilst I regard this as a benefit of the scheme, it would be relatively minor and localised and attracts little weight in the overall planning balance.

54. My overall assessment is that there would be no harm to the significance of Borde Hill Park as a designated heritage asset. I find no conflict with LP Policy B17 which seeks to protect the important features of registered parks and gardens.
55. Borde Hill House and South Lodge are individually designated heritage assets in their own right and must be considered as such, having regard to the Framework and the relevant statutory duty¹⁴. There would be no direct works to either listed building. In this case the analysis in relation to setting is similar to that set out above. There would be no direct views of the proposed development from either listed building. For the reasons given above, there would be no harm to the significance of Borde Hill House as a designated heritage asset. Its setting would be preserved. There would be no material harm to the significance of South Lodge, the setting of which would be enhanced.

Effect on agricultural land

56. The appeal scheme would result in the loss of about 13ha of agricultural land within Grade 2 and Subgrade 3a, defined in the Framework as 'best and most versatile' (BMV) agricultural land. Paragraph 112 of the Framework states that the economic and other benefits of BMV land should be taken into account and, where significant development of agricultural land is necessary, local planning authorities should seek to use areas of poorer quality land in preference to higher quality land.
57. The appellants consider that 13ha is not significant in the terms of paragraph 112. If 13ha were thought to be significant, the appellants provide evidence which demonstrates that development of any land around the edge of the built-up area of Haywards Heath is likely to include BMV land of similar grade. Consequently, having regard to the need for housing land, the appeal proposal does not conflict with the Framework. Moreover, the appellants state that the site is detached from other farmland, that it is subject to physical and locational constraints and that consequently there would be no significant adverse effect on any farm business. The appellants' evidence on these matters was not disputed by the Council and I see no reason to take a different view.
58. I conclude that the proposal would result in the loss of BMV land. This is a factor which weighs against the proposal. However, for the above reasons, it is a factor which attracts only limited weight.

Effect on the gap between Haywards Heath and Cuckfield

59. As noted above, LP Policy C2 seeks to protect the strategic gap between Haywards Heath and Cuckfield. Within the gap, as defined on the proposals map, development will not be permitted unless it complies with criteria which are not applicable to the appeal scheme. The appeal site is within the strategic gap and the scheme is therefore contrary to the policy. The Council and the

¹⁴ s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

appellants disagree as to whether Policy C2 is a relevant policy for the supply of housing for the purposes of paragraph 49 of the Framework.

60. Policy C1 restricts development in the countryside generally. The Council accepts that is a relevant policy for the supply of housing which, given the housing land supply position, should not be considered up-to-date. In arguing that Policy C2 ought not to be regarded as a relevant policy for the supply of housing the Council relies on *William Davis* and *South Northants*¹⁵. The judgement in *South Northants* rejected a narrow approach to the way in which paragraph 49 of the Framework ought to be applied in favour of a broader approach which '*...examines the degree to which a particular policy generally affects housing numbers, distribution and location in a significant manner*'.¹⁶
61. In this case I consider that it is relevant to consider the scope and effect of Policy C2. The policy applies to a substantial amount of undeveloped land adjacent to the built-up areas of Haywards Heath and Burgess Hill. These are two of the three main towns in Mid Sussex District and are thus locations where one might reasonably expect a significant proportion of any new residential development to be located. Consequently, the policy is highly likely to affect housing numbers, distribution and location in a significant manner.
62. Moreover, the boundaries of Policy C2 are the same as those of Policy C1. I note that the objectives of Policy C2 are different from those of Policy C1, in that Policy C2 seeks to prevent coalescence and the loss of the individual identity and amenity of settlements. I also note that the boundaries for Policy C2 were the subject of a separate technical review in the light of those objectives. However, the practical outcome is that the boundaries are aligned. In my view it would be inconsistent to accept that the Policy C1 boundary is not up-to-date and then to apply the same boundary under Policy C2.
63. I note that the judgement in *William Davis* considered a 'green wedge' policy in North West Leicestershire and that the judgement in *South Northants* referred to policies '*...designed to protect specific areas or features, such as gaps between settlements...which could sensibly exist regardless of the distribution and location of housing and other development*'.¹⁷ However, it does not follow that every 'gap' policy should be regarded as not being a relevant policy for the supply of housing. It is necessary to have regard to the particular circumstances of the case. In this case, my conclusion is that Policy C2 does affect housing numbers, distribution and location in a significant manner. Consequently it is a relevant policy for the supply of housing for the purposes of paragraph 49 which should not be regarded as being up-to-date. Nevertheless, I consider that the underlying objectives of the policy, which are to prevent coalescence and the loss of the individual identity and amenity of settlements, are still relevant material considerations.
64. The appeal scheme would result in some erosion of the strategic gap between Haywards Heath and Cuckfield and would not therefore accord with Policy C2. That said, the site is towards the northern end of the gap, where it is at its widest. If the appeal site were developed there would still be an undeveloped gap of about 1km at this point. Due to the intervening trees and woodland

¹⁵ *William Davis Limited v SSCLG* [2013] EWHC 3058 and *South Northamptonshire Council v SSCLG* [2014] EWHC 573

¹⁶ Paragraph 46

¹⁷ Paragraph 47

there would be no views of development on the appeal site from the eastern edge of Cuckfield.

65. The written representations indicate that many people experience the strategic gap by walking between the two settlements along the SDW. Those approaching Haywards Heath from Cuckfield would not be aware of the proposed development until they were very close to the appeal site because of the woodland immediately to the west. Only a relatively short section of the total journey from Cuckfield to Penland Road would become urbanised. As noted above, the Agreement would secure a footpath route through the Millennium Woodlands, linking the SDW to the south west corner of the site without passing through housing. This would provide an attractive alternative route largely free of urban influences.
66. I conclude that the proposal would not result in the coalescence of the settlements, nor would it result in material harm to their separate identities. Whilst there would be some erosion of the strategic gap which would conflict with LP Policy C2, that policy is not up-to-date for the purposes of the Framework. The appeal scheme would also conflict with the proposed Green Corridor defined in the emerging NP. However, only limited weight can be attached to this conflict with an emerging policy at this stage in the NP process.

Whether the proposal would be sustainable development

67. The Framework sets out the three dimensions to sustainable development: economic, social and environmental. Paragraph 6 of the Framework states that the policies in paragraphs 18 – 219, taken as a whole, constitute the Government's view as to what sustainable development means for the planning system. In this part of my appeal decision I describe the main factors that inform my judgement as to whether the proposal would be a sustainable form of development. In reaching that view I take account of all the matters referred to in this decision, including the 'other matters' set out in the next section.

The economic role

68. The appeal scheme would contribute to the economic role by generating employment and tax receipts during construction. In the longer term the local economy would benefit from additional expenditure on goods and services, from the New Homes Bonus and from additional Council Tax receipts. On the other hand there would be a loss of BMV agricultural land although, for the reasons given above, this factor attracts only limited weight.

The social role

69. The scheme would contribute to the social role through the provision of housing. Given the Framework's emphasis on boosting significantly the supply of housing, together with the substantial shortfall in supply within the District, this is an important consideration. The Agreement provides for 30% of the units to be delivered as affordable housing. This provision would accord with LP Policy H4. This is also an important consideration because the delivery of affordable housing is currently significantly below the identified need.
70. The Council and the appellants agree that the site is in an accessible location and I share that view. It is reasonably convenient for shops, services, schools and other community facilities and there would be opportunities for walking and cycling. The application is supported by a Transport Assessment which

considers the opportunities for promoting sustainable modes of travel. A travel plan is proposed, to be secured by the Agreement. The Agreement also provides for the extension of an existing bus route to provide a service to the site¹⁸. The parameter plans show that there would be a new pedestrian and cycle access point to improve permeability. This would be secured by a condition.

71. The proposal includes the provision of play spaces and other informal open spaces within the site. The Agreement provides for the existing footpath to be improved and for new off-site paths giving access to the Millennium Woodlands and the extended nature reserve. These measures would support community health and well-being.

The environmental role

72. There would be some adverse impacts on landscape character, particularly in relation to the loss of the enclosed rural character of Balcombe Road but also resulting from the loss of the attractive landscape resource which the undeveloped parts of the site currently provide. On the other hand, the most important landscape and ecological resource within the site is its ancient woodland. This would be retained and protected within the proposed layout with woodland edge planting and open space. There would also be extensive mitigation embedded in the scheme design and secured through the Agreement. Whilst some trees of high amenity value would be lost, overall there would be a net gain in the area of woodland.
73. The houses would be built to Code for Sustainable Homes Level 3. Sustainable urban drainage systems would be used to avoid any adverse impacts in terms of flood risk.

Conclusion on sustainable development

74. Taking all relevant factors into account I conclude that, on balance, the proposal would represent a sustainable form of development.

Other matters

Highways and traffic

75. The written representations raise concerns about traffic generation on the local road network, including concerns relating to the safety of children attending Harlands Primary School in Penland Road. The application was supported by a Transport Assessment (TA) which did not identify any significant impacts in relation to the capacity of roads and junctions in the locality. The conclusions of the TA were accepted by the Council and the Highway Authority. Some residents queried the traffic surveys on which the TA was based. However, having sought further information from the appellants on this point, I am satisfied that the surveys were reasonably representative of local conditions¹⁹.
76. The TA did not identify any instances where traffic generated by the scheme would result in unacceptable traffic conditions. Nevertheless, the Highway Authority has identified some existing concerns on the local highway network such as traffic speeds on Balcombe Road and pedestrian crossing facilities in Penland Road. The appellants agree that the traffic generated by the scheme

¹⁸ An hourly service would be provided for a period of 5 years

¹⁹ Document APP23

would add incrementally to these concerns. Accordingly, the Agreement provides for a proportionate financial contribution towards various measures designed to address these matters. In addition, the Agreement provides for improvements at the Balcombe Road/Mill Green Road/College Lane junction which is expected to reach capacity during the period covered by the TA. I agree that these obligations would be reasonable and proportionate mitigation for the traffic impacts of the appeal scheme.

Infrastructure

77. Local residents are concerned about the capacity of community infrastructure and services to accommodate the new residents of the proposed development. The Agreement provides for contributions to sports facilities, community buildings, health facilities, libraries, community infrastructure, primary and secondary education and recycling. These contributions have been, or would be, calculated in accordance with methodologies set out in guidance published by the District and County Councils. The health contribution has been calculated in accordance with a written response to the application from NHS Property Services. I consider that these obligations would provide appropriate mitigation for the impacts of the development on community infrastructure.

Ecology

78. The site is not subject to any nature conservation designations although I have referred above to Paiges and Blunts Woods, a Site of Nature Conservation Interest (SNCI), which is nearby. There is no evidence that the SNCI would be adversely affected. Several representations draw attention to various species of wildlife noted in the locality by local residents. The ES includes the results of ecological surveys. These show that the site supports protected and notable species including bats, dormouse, grass snake, breeding birds and badger.
79. Measures for avoiding and mitigating impacts on ecology are proposed by way of a Construction and Environment Management Plan and an Ecological Mitigation and Enhancement Scheme. Subject to these measures, the ES does not identify any significant impacts during construction. Once development is complete, the ES concludes that the proposed landscape buffers would have a positive effect on the habitats within the site.

Impacts during construction

80. The ES considers the effect of construction work on noise and air quality. Mitigation measures are identified which would be secured by a condition requiring the submission and approval of a Construction Management Plan (CMP). Even so, the ES identifies a potential moderate adverse effect from noise and vibration at nearby residential properties. The ES states that due consideration should be given to piling techniques because this could increase to a major adverse effect if driven piling were to be used. I note that the proposed CMP would include a noise management plan which would also include consideration of vibration. Impacts during construction would be temporary and the CMP would provide mitigation as far as practicable. I therefore attach only limited weight to the residual impact.

Flood risk

81. The application was supported by a Flood Risk Assessment (FRA). The site itself is not at risk of flooding. It drains to the south towards the Scrase Stream.

PFAG and local residents have drawn attention to recent flooding events affecting gardens close to the stream. Parts of the site are known to be poorly drained and residents are concerned that increased run-off as a result of development would increase flood risk to the south of the site. The FRA proposes the use of sustainable urban drainage systems that would attenuate the run-off from the site. These measures could be secured by way of a condition.

Inspector's report – Mid Sussex Local Plan

82. Attention has been drawn to the comments of the Inspector who considered parts of the appeal site in the context of his report on the Mid Sussex Local Plan in 2003. He found the site to be low-scoring in sustainability terms and that development would be a highly obtrusive and obvious urban expansion into the countryside. Whilst I note these comments, the definition of sustainability that I have to consider is set out in the Framework. This post-dates the LP Inspector's report and requires many considerations to be balanced, including the need for housing. With regard to landscape and visual impacts, I attach significant weight to the mitigation measures described above. These measures are specific to the scheme before me.

Conclusions

83. I have concluded that, on balance, the appeal scheme would represent a sustainable form of development, having regard to the policies of the Framework taken as a whole. As the Council cannot demonstrate a five year supply of housing land it follows that relevant policies for the supply of housing should not be considered up-to-date. In these circumstances paragraph 14 of the Framework states that permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate that development should be restricted.
84. I have not identified any conflicts with specific policies in the Framework such as to indicate that development should not be permitted. In particular, I have not identified any conflict with policies that seek to protect AONBs or heritage assets.
85. Turning to the balance of planning issues, I consider that impacts in relation to highways and traffic, infrastructure and community facilities, ecology, construction effects and flood risk have been fully addressed. Appropriate mitigation measures have been identified and these would be secured through planning conditions and/or the Agreement. The benefit to the setting of Borden Hill Park and South Lodge would be minor and localised. None of these matters attracts significant weight for or against the appeal.
86. The appeal scheme would deliver up to 210 units of housing, 30% of which would be affordable. This would be a significant benefit to which I attach substantial weight, given the objective of the Framework to boost the supply of housing land generally and the substantial shortfall in housing land supply within Mid Sussex. The particular need for affordable housing adds further weight. In addition, the housing would be delivered in an accessible location and measures to encourage sustainable modes of transport have been

identified. The proposal would also bring economic benefits, as described above. These matters weigh in favour of the appeal.

87. Turning to the factors weighing against the appeal, there would be harm to landscape and visual amenity. The most significant harm, in landscape terms, would arise from the loss of the enclosed rural nature of part of Balcombe Road and its replacement with highway infrastructure affording some views of new development. That said, the most significant landscape impacts would be confined to the area immediately around the proposed roundabout. The proposed development would also result in the loss of an attractive, albeit undesignated, area of open countryside. The appellants have put forward comprehensive proposals which in my view would offer a significant degree of mitigation and compensation for impacts on landscape and visual amenity.
88. The loss of BMV agricultural land also weighs against the appeal although, for the reasons given above, the weight to be attached to this matter is limited. There would be temporary adverse effects from noise and vibration during construction but these effects would be mitigated as far as practicable by conditions. Finally, whilst the proposal would conflict with LP Policy C2 in relation to the strategic gap, this policy is not to be regarded as up-to-date given the housing land supply position. There would also be conflict with the emerging NP. However, only limited weight can be attached to this conflict at this stage in the NP process.
89. My overall assessment is that the matters weighing in favour of the appeal are sufficient to outweigh the matters weighing against. The appeal should therefore be allowed.

s106 Agreement and conditions

The s106 Agreement

90. I have commented above on several of the obligations within the Agreement. In the section on landscape impacts I referred to the obligations relating to off-site planting, new footpath routes, the transfer of an area of woodland as an extension to a nature reserve and precluding development within the Millennium Woodlands. In the section on sustainable development I referred to obligations relating to the provision of affordable housing, the travel plan, new footpaths, the improvement of the existing footpath and a new bus service.
91. In the section on infrastructure I referred to the obligations relating to sports facilities, community buildings, health facilities, libraries, community infrastructure, primary and secondary education and recycling. In the section on highways I referred to the obligations which would provide for an off-site junction improvement and a contribution to further off-site highways measures.
92. Finally, there is an obligation relating to the provision of fire hydrants which in my view is necessary in the interests of public safety. I am satisfied that these obligations meet the requirements of the Community Infrastructure Regulations. Accordingly, I have taken them into account in my decision.

Conditions

93. The Council and the appellants submitted an agreed list of conditions which I have considered in the light of Planning Practice Guidance. The conditions described below are those discussed at the Inquiry and agreed to be necessary,

although in some cases I have combined conditions and/or adjusted detailed wording to reflect the guidance.

94. Condition 4 provides for details of phasing to be approved, so that various details covered by other conditions can be submitted in relation to successive phases of the development.
95. Conditions 5, 6, 7, 8, 12 and 13 are needed to ensure that the design intentions set out in the application documents, and the mitigation measures described in the ES, are carried through into the detailed proposals. These conditions relate particularly to the mitigation of landscape and visual impacts and impacts on ecology. The conditions would require the reserved matters to accord with the parameter plans and the Design Strategy, the submission of landscape management plans for areas of new planting, retained woodland and landscape associated with the roundabout, submission of proposals for ancient woodland buffer zones, and submission of a Construction and Environment Management Plan and an Ecological Mitigation and Enhancement Scheme.
96. Condition 9 provides for a Construction Management Plan in the interests of highway safety and the living conditions of nearby residents during the construction phase. Condition 10, which deals with site levels, and conditions 17, 18 and 19 dealing with walls and fences, tree protection and facing materials are needed in the interests of protecting the character and appearance of the area. Details of walls and fences are also needed in the interests of the living conditions of future occupiers.
97. Condition 11 requires the submission of a Written Scheme of Archaeological Investigation which is needed to protect the archaeological potential of the site. Conditions 14 and 15 require details of surface and foul water drainage in the interests of managing risks of flooding and pollution. Condition 16 deals with the provision and future management of play areas to ensure appropriate provision in accordance with the LP. Condition 20 requires details of noise insulation to be submitted in the interests of the living conditions of future occupiers. Condition 21 requires investigation and, if necessary, remediation works in respect of potential contamination of land in the interests of managing risks of pollution.
98. Conditions 22 – 27 are needed to secure proper provision for access and the travel and transport needs of the development, including opportunities for sustainable transport, at appropriate stages in the development process. These conditions cover implementation of the main site access, internal site roads and footways, pedestrian and cycle access and access for emergency vehicles. They also deal with the provision of parking for cars and cycles. Access arrangements would be in accordance with the parameter plans and subject to approval of further details as appropriate.
99. A list of suggested conditions and contributions submitted by PFAG was also discussed. Many of the matters raised are covered, to the extent that it is reasonable and necessary to do so, by the conditions referred to above and by the Agreement. There is no evidence to support the need for suggested requirements relating to off-site noise mitigation and additional air quality monitoring. A contribution to police resources is suggested but this contribution has not been requested by the Council or the Police Authority. No such obligation is before me. The monitoring of compliance with conditions would be

within the Council's normal responsibilities as local planning authority so no specific condition relating to monitoring is necessary.

David Prentis

Inspector

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Byass	of Counsel, instructed by the Solicitor to Mid Sussex District Council
He called	
Stuart Ryder	Director, Ryder Landscape Consultants
BA (Hons) CMLI	
Martin O'Rourke	Conservation and Regeneration Consultant
MARCA	
Andy Stevens	Managing Director, ASP Planning and
DipTP MRTPI MRICS	Development Consultancy

FOR THE APPELLANT:

Rupert Warren	Queen's Counsel, instructed by Barton Willmore LLP
He called	
Mark Sitch	Senior Planning Partner, Barton Willmore LLP
BSc(Hons) DipTP MRTPI	
Professor Robert Tregay	Senior Partner, LDA Design
BSc(Hons) DipLD FLI	
FRGS	
Stephen Carter	Senior Heritage Consultant, Headland
BSc(Joint Hons) PhD	Archaeology
Mifa FSA Scot	
Anthony Kernon	Director, Kernon Countryside Consultants
BSc(Hons) MRAC MRICS	
FBIAC	

INTERESTED PERSONS:

For the Penland Farm Action Group

Nick Harper	Harper Landscape Architecture LLP
BA DipLA CMLI	
Andrew Holloway	Local resident
Isobel Holloway	Local resident
John Clayton	Local resident

Other interested persons

Julian Shephard	Local resident
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DOCUMENTS SUBMITTED DURING THE INQUIRY

Submitted by the appellants:

APP14	Opening statement
APP15	Draft s106 Agreement
APP16	Letter from Borde Hill Garden dated 20 October 2014
APP17	Historic maps
APP18	Extract from Guidelines for Landscape and Visual Impact Assessment 3

APP19	Set of application plans
APP20	Additional plans from Professor Tregay
APP21	Appeal decision at Leonard Stanley APP/C1625/A/13/2207324
APP22	Report to Scrutiny Committee for Planning and Economic Development
APP23	Technical Note from PBA responding to Inspector's questions
APP24	Profile of Andrew Shaw
APP25	Technical Note from PBA regarding site access roundabout
APP26	PBA Plan relating to bus routes
APP27	Mid Sussex LDF Proposals Map extracts
APP28	Planning Practice Guidance extracts
APP29	Closing submissions

Submitted by the Council:

LPA9	Supplementary appendices from Mr Carter
LPA10	Note on housing land supply position
LPA11	<i>South Northamptonshire</i> [2014] EWHC 573
LPA12	<i>Dartford</i> [2014] EWHC 2636
LPA13	Email from Ian Gledhill regarding highways contributions
LPA14	Plan showing land at Penland Farm considered by Local Plan Inspector
LPA15	Closing submissions

Agreed between appellants and Council:

APP/LPA1	List of suggested conditions (track changes version)
APP/LPA2	List of suggested conditions
APP/LPA3	S106 Agreement dated 28 October 2014

Submitted by other parties:

PFAG3	Penland Farm Action Group response to PBA Technical Note (APP23)
JS1	Statement by Julian Shephard
JS2	Further statement by Julian Shephard

Schedule 1 – Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for each phase of the development shall be submitted to and approved in writing by the local planning authority before any development begins within that phase and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place until details of the phasing of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Details which are required by any condition of this planning permission (including Condition 1) to be submitted for approval in relation to phases of the development shall be submitted for approval in accordance with the approved phasing details.
- 5) The reserved matters shall be in general conformity with the parameter plans, 3902_001_1.0 (Land Use), 3902_002_1.0 (Access and Movement), 3902_003_1.0 (Green Infrastructure) and 3902_004_1.0 (Building Heights). Development shall be carried out in accordance with the approved details.
- 6) The reserved matters shall be in general conformity with the principles of the Penland Farm Design Strategy, Revised January 2014.
- 7) No development shall take place until a Landscape Management Plan has been submitted to and approved in writing by the local planning authority. The Landscape Management Plan shall comprise a plan, including the detail, extent and type of new planting, a programme for implementation and specifications for the maintenance and ongoing management of all landscaped areas including areas of retained woodland (but excluding privately owned domestic gardens) to be implemented or retained as part of the development hereby approved. The Landscape Management Plan shall include details of the planting identified on Green Infrastructure Parameter Plan Drawing No. 3902_003_1.0 including the area within the 50m offset from the Area of Outstanding Natural Beauty. Development shall be carried out and thereafter maintained in accordance with the approved Landscape Management Plan.
- 8) No development shall take place until a Landscape Management Plan for the roundabout access works has been submitted to and approved in writing by the local planning authority. The Landscape Management Plan for the roundabout access works shall comprise a plan, including the detail, extent and type of new planting, a programme for implementation and specifications for the maintenance and ongoing management of all landscaped areas including areas of retained woodland to be implemented or retained as part of the roundabout access works hereby approved. The Landscape Management Plan for the roundabout access

works shall include details of the planting identified on Green Infrastructure Parameter Plan Drawing No. 3902_003_1.0. Development shall be carried out and thereafter maintained in accordance with the approved Landscape Management Plan.

- 9) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. Thereafter the approved Construction Management Plan shall be implemented and adhered to throughout the construction period. The Construction Management Plan shall provide for:
- the anticipated number, frequency and types of vehicles used during construction
 - the method of access and routing of vehicles during construction
 - the parking of vehicles by site operatives and visitors
 - the loading and unloading of plant, materials and waste
 - the storage of plant and materials used in construction of the development
 - the erection and maintenance of security hoardings
 - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway, including the provision of temporary Traffic Regulation Orders
 - a scheme to protect existing neighbouring properties from dust emissions
 - a noise management plan, to include consideration of vibration from construction work including the compacting of ground
 - measures to deal with surface water run-off from the site during construction
 - a scheme for community liaison and public engagement during construction, including the provision of information to occupiers moving onto the site before the development is complete
- 10) No development shall take place within any phase until details of existing and proposed site levels for that phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 11) No development shall take place until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. Thereafter the approved scheme shall be implemented and adhered to. The scheme shall include:
- an assessment of significance and research questions
 - the programme and methodology of site investigation and recording
 - the programme for post investigation assessment
 - analysis of site investigation and recording
 - dissemination and archive deposition of the results of the analysis of site investigation and recording
 - nomination of a competent person to undertake the scheme
- 12) No development shall take place until details of the ancient woodland buffer zones have been submitted to and approved in writing by the local planning authority. The details shall comprise a plan of the buffer zones, including the detail, extent and type of new planting and specifications for maintenance and ongoing management. Development shall be carried

out and shall thereafter be permanently retained in accordance with the approved details.

- 13) No development shall take place until a Construction and Environment Management Plan and a site-wide Ecological Mitigation and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. The Construction and Environment Management Plan and Ecological Mitigation and Enhancement Scheme shall be in general conformity with section 4 of the Ecological Appraisal (appendix 8.1 of the Environmental Statement) and shall be implemented as approved.
- 14) No development shall take place within any phase until a surface water drainage scheme for that phase has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development and shall ensure that the surface water run-off from the site generated by a 1 in 100 year critical storm will not exceed the run-off from the undeveloped site. The scheme shall include an implementation timetable and a management plan which shall include arrangements to secure the operation and maintenance of the scheme for the lifetime of the development. No dwelling within any phase shall be occupied until the surface water drainage works associated with that phase have been carried out in accordance with the approved scheme. The approved scheme shall thereafter be permanently retained.
- 15) No development shall take place within any phase until a foul drainage scheme for that phase has been submitted to and approved in writing by the local planning authority. The scheme shall include an implementation timetable and a management plan which shall include arrangements to secure the operation and maintenance of the scheme for the lifetime of the development which may include adoption by a public authority or statutory undertaker. No dwelling within any phase shall be occupied until the foul drainage works associated with that phase have been carried out in accordance with the approved scheme. The approved scheme shall thereafter be permanently retained.
- 16) No development shall take place within any phase until details of any play areas serving that phase have been submitted to and approved in writing by the local planning authority. The details shall include the layout, drainage, play equipment, landscaping and fencing of the play areas, a timetable for implementation and arrangements for future management. Development shall be carried out in accordance with the approved details and the approved play areas shall thereafter be permanently retained as such.
- 17) No development shall take place within any phase until details of screen walls and fences within that phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall thereafter be permanently retained as such.
- 18) No development shall take place within any phase until details of the means of protecting trees and other vegetation during construction within that phase have been submitted to and approved in writing by the local planning authority. The details shall be in general conformity with

the recommendations of the Updated Arboricultural Assessment July 2014 and shall be implemented as approved and retained throughout the construction of that phase. No trees which are shown to be retained in the approved details shall be removed without the prior written consent of the local planning authority. Any such trees which are removed, die or become seriously damaged or diseased during construction shall be replaced in the following planting season with trees of such size and species as may be agreed with the local planning authority.

- 19) No development shall take place within any phase until samples and details of the materials to be used in the construction of the external surfaces of the buildings within that phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 20) No development shall take place within any phase until a scheme to protect the occupiers of the dwellings within that phase from noise has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme and shall thereafter be permanently retained as such.
- 21) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 22) No part of the development hereby permitted shall be first occupied until the vehicular access has been constructed as shown indicatively on drawing 28644/010 Rev P1 and in accordance with construction details that have first been submitted to and approved in writing by the local planning authority.
- 23) No dwelling hereby approved shall be first occupied until the car parking spaces associated with that dwelling have been constructed in accordance with the approved reserved matters. Thereafter the car parking spaces shall be permanently kept available for the parking of vehicles.
- 24) No dwelling hereby approved shall be first occupied until covered and secure cycle parking spaces associated with that dwelling have been provided in accordance with details which have first been submitted to and approved in writing by the local planning authority. Thereafter the cycle parking spaces shall be permanently kept available for the parking of cycles.

- 25) No phase of the development hereby approved shall be first occupied until the roads, footways and casual parking areas serving that phase have been constructed, surfaced and drained in accordance with details which have first been submitted to and approved in writing by the local planning authority.
- 26) No part of the development hereby permitted shall be first occupied until the pedestrian and cycle access point onto Penland Road has been constructed in accordance with details which have first been submitted to and approved in writing by the local planning authority. The details shall be in general conformity with the approved Access and Movement Parameter Plan drawing no 3902_002_1.0.
- 27) No part of the development hereby permitted shall be first occupied until the emergency access onto Hanlye Lane has been constructed in accordance with details which have first been submitted to and approved in writing by the local planning authority. The details shall be in general conformity with the approved Access and Movement Parameter Plan drawing no 3902_002_1.0.

Richborough Estates