



Appeal Decision

Hearing held on 29 and 30 January 2013

Site visits made on 29 (unaccompanied) and 30 January 2013

by L Rodgers BEng (Hons) CEng MICE MBA

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

Decision date: 26 March 2013

Appeal Ref: APP/D3830/A/12/2184075

Forest Ridge and land rear of, Old Brighton Road, Pease Pottage, West Sussex.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Redrow Homes against the decision of Mid-Sussex District Council.
 - The application Ref 12/02128/FUL, dated 15 June 2012, was refused by notice dated 17 September 2012
 - The development proposed is the demolition of the existing dwelling of Forest Ridge and associated outbuildings; construction of 51 dwellings (including 15 affordable homes); provision of open space; creation of new vehicular access via Old Brighton Road; and provision of access roads, footpaths, landscaping and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing dwelling of Forest Ridge and associated outbuildings; construction of 51 dwellings (including 15 affordable homes); provision of open space; creation of new vehicular access via Old Brighton Road; and provision of access roads, footpaths, landscaping and associated infrastructure at Forest Ridge and land rear of, Old Brighton Road, Pease Pottage, West Sussex in accordance with the terms of the application, Ref 12/02128/FUL, dated 15 June 2012, subject to the conditions in Annex A.

Application for costs

2. An application for costs has been made by Redrow Homes against Mid-Sussex District Council. This application will be the subject of a separate Decision.

Procedural matters

3. At the hearing a planning obligation was presented in the form of an agreement dated 28 January 2013 made pursuant to s106 of the Town and Country Planning Act 1990. This is a material consideration in my determination.
4. Since the closure of the hearing the Government has announced its decision to revoke the Regional Strategy for the South East of England and an Order to that effect was laid on 28 February 2013. In consequence the Appellant, Council and Parish Council were given the opportunity to submit further written representations on the implications of the Government's actions. I have taken those submissions into account in my determination.

Main Issues

5. Having regard to both the written submissions and those made orally at the hearing I consider the main issues to be the effect of the proposed development on the character and appearance of the area; its effect on highway safety and traffic congestion, and; its effect on the supply of housing.

Reasons

Background

6. The appeal site is approximately 2.8Ha in size and includes the existing property of Forest Ridge together with a paddock immediately to the rear. Forest Ridge is a large, detached, formally landscaped property fronting onto Old Brighton Road. The paddock is an area of rough grassland bordered variously by built development, an area of Ancient Woodland, a golf course and, to the north, just beyond an intervening narrow strip of largely undeveloped land, an unclassified lane. The site is outside the built-up boundary of Pease Pottage (although part of the site adjoins it) and within a Countryside Area of Development Restraint. The site also forms part of the defined Strategic Gap between Crawley and Pease Pottage and in part abuts the High Weald Area of Outstanding Natural Beauty (AONB).

Policy Framework

The development plan

7. At the time of the hearing the development plan included the Mid Sussex Local Plan 2004 (LP), the South East Plan 2009 (SEP)(the Regional Strategy for the South East of England) and the Small Scale Housing Allocations Development Plan Document 2008 (DPD). The site is not allocated in the DPD and the Council is of the view that the DPD is not relevant to the appeal. I was given no reason to take a different stance. I therefore view the policies below as being of most importance to the appeal.
8. LP Policy B1 requires new buildings to have a high standard of design, construction and layout by, amongst other matters, demonstrating a sensitive approach to urban design in respecting the character of their locality and by using materials of a quality, type and colour appropriate to the site and its surroundings.
9. LP Policy C1 – which deals with proposals for development in the countryside - notes particularly that those proposals which would extend the built-up area boundaries will be firmly resisted and will be restricted to certain specific categories. The appeal proposal does not fall within any of the categories listed and is in prima facie conflict with the policy.
10. The plan goes on to note that in certain locations, including strategic gaps, additional policies of protection are required and in this respect LP Policy C2 states that development will not be permitted within the strategic gap areas unless certain criteria are met. The proposal again does not fall within any of the defined criteria and is thus also in direct conflict with LP Policy C2.
11. LP Policy T4 notes that with respect to sustainability requirements and traffic generation, all new developments should be, amongst other matters, within the boundaries of built-up areas unless no such suitable site exists and should not cause an unacceptable impact on the local environment in terms of road safety

and increased traffic. The appeal site is outside the settlement boundary of Pease Pottage and on its face is in conflict with Policy T4.

12. Although the LP was adopted in 2004 and the Council suggested that its 'saved' policies should be treated as falling under Paragraph 214 of the NPPF, the introduction to the local plan makes it clear that it had been under preparation for some considerable time in advance of 2004. In these circumstances the 'saved' policies of the local plan cannot be considered to be a development plan document adopted under the Planning and Compulsory Purchase Act 2004 and should therefore be considered in light of Paragraph 215 of the NPPF. This says that "...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."
13. As far as the Regional Strategy is concerned, SEP Policy H5 encourages positive measures to raise the quality of new housing and SEP Policy BE5 states amongst other matters that all new development should be subject to rigorous design and sustainability criteria so that the distinctive character of the village is not damaged.
14. SEP Policy CC6 actively promotes the creation of sustainable and distinctive communities and, outside nationally designated landscapes, SEP Policy C4 encourages positive and high quality management of the open countryside. Although I agree with the Appellant's argument that these policies are mostly intended to inform local plan making I see no reason to ignore their thrust when considering an individual development proposal.
15. At the time of the hearing, the Regional Strategy for the South East of England remained in place pending the Government's full consideration of the Strategic Environmental Assessment. The Government has since determined to revoke the Regional Strategy and has laid an Order to that effect. However, until the issue of a revocation order the Regional Strategy remains in place and is part of the development plan - although its intended revocation has now reached a stage where that revocation must itself attract appreciable weight. I return to this matter below.

National Planning Policy Framework (NPPF)

16. The NPPF does not change the statutory status of the development plan as the starting point for decision making and Paragraph 11 is clear that planning applications should continue to be determined in accordance with the development plan unless material considerations indicate otherwise. However, the NPPF itself is a weighty material consideration in determining applications.
17. Paragraph 14 states that at the heart of the NPPF is a presumption in favour of sustainable development. Amongst other matters this means that for decision taking (unless material considerations indicate otherwise), where the development plan is absent, silent or relevant policies are out of date, granting permission unless: any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the NPPF policies as a whole or specific NPPF policies indicate development should be restricted.
18. Paragraph 49 notes that housing applications should be considered in the context of the presumption in favour of sustainable development. It also notes that relevant policies for the supply of housing should not be considered up-to-

date if the local authority cannot demonstrate a five-year supply of deliverable housing sites. In this respect Paragraph 47 makes it clear that local planning authorities should provide sites sufficient for five years worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition. Where there has been a record of persistent under delivery of housing the additional buffer should be 20%.

19. With regard to Paragraph 14 the development plan in this case is neither absent nor silent. However, the Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites. In accordance with Paragraph 49, relevant policies for the supply of housing should therefore be considered out of date. The Council accepts that this includes LP Policy C1 and LP Policy C2 insofar as they are relevant to housing land supply – although the Council believes that the policies are not out of date in seeking to prevent the coalescence of settlements.
20. In respect of design, one of the core planning principles of the NPPF is that planning should always seek to secure high quality design. The NPPF notes at Paragraph 56 that the Government attaches great importance to the design of the built environment; Paragraph 57 makes it clear that design encompasses individual buildings as well as public and private spaces; and Paragraph 58 aims to ensure that developments respond to local character and history and reflect the identity of local surroundings and materials. In these respects LP Policy B1 has a strong alignment with the NPPF.
21. However, although NPPF Paragraph 60 recognises that it is proper to seek to promote or reinforce local distinctiveness it also makes it clear that planning decisions should not attempt to impose architectural styles or particular tastes.

Emerging plans - including the Slaugham Parish Neighbourhood Plan

22. As far as emerging plans are concerned, NPPF Paragraph 216 notes that unless material considerations indicate otherwise, decision takers may give weight to relevant policies in emerging plans according to the stage of preparation of the plan; the extent to which there are unresolved objections to relevant policies; and their degree of consistency with the policies in the NPPF.
23. The emerging District Plan is intended to replace the LP. However, it is at an early consultative stage and I understand that in terms of housing numbers it does not align with the SEP and is also subject to substantial objections. The Council accepted at the hearing that in these circumstances the emerging District Plan could be given little weight and I agree.
24. The Slaugham Parish Neighbourhood Plan (NP) is currently out for consultation and I was told that early responses have been positive. However, the consultation period is still ongoing, the Appellant intends to make a number of representations to the plan (Document 4) and the plan has not yet been subject to independent examination. In consequence the plan could undergo considerable changes - even before being put to a referendum.
25. I am also conscious that one of the basic conditions to be met by the NP is that it is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). Although the NP is said to have anticipated adoption of the draft District Plan, the draft District Plan does not align with the SEP in terms of housing numbers and itself may be subject to considerable change - I have already noted that at

this stage the draft District Plan can attract little weight. Notwithstanding that the NP has had regard to a 'housing needs' survey undertaken within the Parish there must be considerable uncertainty as to the robustness of its proposed housing numbers - particularly their alignment with the housing numbers for the wider authority area.

26. I am very conscious that considerable effort has been expended on the neighbourhood planning process and that the Parish Council believes that if this appeal were to be allowed, local people would become disengaged. I am also conscious that Mid Sussex District Council has sought to reassure Parish Councils that Neighbourhood Plans can continue to be progressed and do not need to wait for the adoption of the District Plan (Document 7). However, that letter also states that Neighbourhood Plans must be in general conformity with the strategic policies contained in the development plan for the area.
27. Whilst I am sympathetic to the Parish Council's position and its views, the fact remains that the Neighbourhood Plan is still at a relatively early stage of its development. Given the uncertainty identified above I consider it can be accorded little weight.
28. The Parish Council also pointed out that whilst the proposed development is small in relation to the district, at the level of the NP it is so substantial that it would prejudice the emerging NP by predetermining decisions about the scale and location of new development. As such, the Parish Council believes the development could have a 'catastrophic impact' at a local level. However, *The Planning System: General Principles* makes it clear that whilst account can be taken of emerging policies the weight to be attached to such policies depends upon the stage of preparation or review. I have already established that at this stage little weight can be accorded to the NP and as such refusal on prematurity grounds would not be justified.

Character and Appearance

Design

29. A large number of objections have been raised to the design qualities of the proposed development. Turning first to the developer's use of standard house types, I accept that this is an approach that could easily undermine local distinctiveness and make a development appear incongruous in its setting. However, I am conscious that in this case the Appellant's character analysis concluded that there is no particularly obvious local or vernacular style in the area. This conclusion was not substantively challenged and I reached a similar view following my site visits. I also saw that Pease Pottage already has a number of recent developments utilising what appear to be fairly standard designs. In these circumstances I do not consider that the use of standard house types would, itself, cause material harm to the character and appearance of the area.
30. Turning next to the designs of the proposed dwellings themselves, the Council in particular has objected to the proposed elevations considering them uninspiring, lacking in authenticity and over reliant on pastiche forms. In this respect the Council has criticised, in some detail, a number of the front elevations referring to such matters as the positioning of rainwater downpipes, the variety of window treatments and, in the case of 'The Harrogate' house

type, the relationship of what the Council sees as the somewhat over elaborate front entrance to the rest of the frontage.

31. However, whilst there is a clear theme running throughout the policy framework that seeks to secure high quality design, the NPPF makes it clear that planning decisions should not attempt to impose architectural styles or particular tastes. Whether or not the individual criticisms referred to above are adjudged to have merit I do not consider that any of the proposed designs would result in the individual properties appearing incongruous and the appeal site is not, for instance, within a conservation area - where such attention to detail might be justified. To my mind the Council's very specific criticisms of the front elevations fall squarely into the ambit of 'architectural styles and particular tastes'.
32. There are nevertheless more general elements to the criticisms than the particular designs of the properties and these are worthy of further consideration. Whilst I see no objection to matters such as scale and height (finished levels, materials and landscaping could all be controlled by condition) I accept the Council's point that the proposed designs have fairly plain rear elevations in comparison to their front elevations - which are far more articulated and modelled. Notwithstanding the Appellant's view that this approach is typical of many buildings, including some well regarded historic buildings, the utilitarian nature of the rear elevations would detract from the overall design quality of the development - particularly where those rear elevations have an appreciable presence in the street scene.
33. The proposed layout would also mean that the flank elevations of several properties would run alongside the access roads - at close quarters. Despite employing a number of architectural devices such as blind windows these flank elevations would be generally lacking in articulation and interest. Where it is proposed that such flank elevations would face each other across the access roads, such as on Plots 12 and 17, the street scene is likely to appear fairly harsh and urban. The fact that in this case the flank elevations would be accompanied by a run of boundary walling means that the street scene would be dominated by hard surfaces and I agree with the Council's description that the street scene would appear 'lifeless'.
34. This rather lifeless character is, to some extent, likely to be reflected in the relationship of Plots 3, 5 and 38, all of which have side elevations and boundary walling facing onto the main access shortly after its junction with Old Brighton Road. Because of its location, this latter relationship would be experienced by a high proportion of any future residents entering the development, a matter that would amplify its impact on the perceived overall design quality.
35. However, whilst the development's design and layout would appear somewhat lacklustre in respect of the elements above these are fairly small components of the overall proposal. Plots 3, 5 and 38 would only take up a small proportion of the main access road - which is otherwise addressed by front elevations or public open space. The number of flank elevations addressing the access roads is also small in comparison to the total number of properties.
36. Moreover there are other aspects to the design, such as the use of the retained open spaces, the way in which they are addressed by the proposed housing and the interest created by the variety of designs and materials, that would

contribute positively to the quality of the overall design. Seen in the round it is my view that whilst the shortcomings in the design are a negative factor in the overall planning balance, they are not sufficient of themselves to cause material harm or make the development unacceptable. In this respect I find no material conflict with the development plan.

Landscape

37. The appeal site is outside the built-up boundary of Pease Pottage and within a Countryside Area of Development Restraint and a Strategic Gap such that the development would be in clear conflict with LP Policies C1 and C2 – and therefore contrary to the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 makes it clear that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
38. As far as other material considerations are concerned I have already noted that the Council accepts that it cannot demonstrate a five year housing land supply. In these circumstances the NPPF takes the approach that LP Policy C1 and LP Policy C2 should be considered out of date insofar as they are relevant to housing land supply and that housing applications should be considered in the context of the presumption in favour of sustainable development. Although the Council believes that Policies C1 and C2 should not be considered out of date in respect of preventing the coalescence of settlements it seems to me that this is still a matter relevant to housing land supply – albeit acknowledging that any harm arising from coalescence should also be taken into account as a material consideration.
39. For decision taking, NPPF Paragraph 14 notes that the presumption in favour of sustainable development means that (unless material considerations indicate otherwise) where the development plan is absent, silent or relevant policies are out of date then permission should be granted unless: any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the NPPF policies as a whole - or specific NPPF policies indicate development should be restricted.
40. In this case, although the site abuts the AONB there are no specific NPPF policies (as identified in footnote 9 to NPPF Paragraph 14) indicating that development should be restricted. Nevertheless, one of the core planning principles stated in NPPF Paragraph 17 is that planning should, amongst other matters, take account of the different roles and character of different areas, recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it.
41. The supporting text to LP Policy C2 also notes that the setting of towns and villages are as important as the buildings and spaces within them and that development in the breaks between settlements could lead to their coalescence and the loss of their individual identity and amenity. SEP Policies CC6 and C4 also actively promote the creation of sustainable and distinctive communities and positive and high quality management of the open countryside.
42. Against this policy background it is clear that harm should attach to development which leads to the coalescence of settlements and which intrudes

into the countryside. I shall therefore examine these aspects of the proposed development.

43. As far as the paddock is concerned the proposed development would introduce built form into what is currently an undeveloped area. This would not only compromise the intrinsic character and beauty of the countryside but would also compromise the strategic gap at a point where it is narrow and potentially at its most vulnerable. However, the site is not part of the AONB, where great weight should be given to conserving landscape and scenic beauty, and I agree with the view of the Inspector examining the Council's Small Scale Housing Allocations Submission Development Plan document that the site is well contained in the landscape by the existing woodland. I also note that there would still be a tract of largely undeveloped land sitting between the edge of the development and the A264 on the southern edge of the developed area of Crawley - land that is not only designated as part of the Strategic Gap but is also designated as AONB. There would also be limited visibility of the paddock area from Old Brighton Road.
44. The front part of the site, currently occupied by the property of Forest Ridge, would be part of the street scene of Old Brighton Road and would be highly visible. The Council takes the view that the strategic gap between Pease Pottage and Crawley is clearly legible along Old Brighton Road by virtue of the change in character from the more urban Black Swan Close to the large detached houses to the north - as well as by virtue of the semi rural nature of Old Brighton Road with its absence of pavements and street lighting. I have some sympathy with this view.
45. However, whilst the existing development along Old Brighton Road is well spaced and of a low density it is more or less continuous across the Strategic Gap to the northern end of Old Brighton Road - which finishes just short of the A264. Whilst there is no doubt that the proposed development would extend higher density development northwards from Black Swan Close, the built form would be set back into the site behind trees and open space. The lower density development to the north of the site would remain and to some extent the development would provide an appropriate transition between the more urban form of Black Swan Close and the lower density housing.
46. In any event, it seems to me that the distinction provided by the A264 and the stopping up of Old Brighton Road are themselves very significant contributors in retaining the distinct identity of Pease Pottage - and these elements would be unaltered by the development.
47. The Appellant has also drawn my attention to the fact that the Secretary of State chose to delete the putative policy on Strategic Gaps from the draft SEP. In so doing the Secretary of State took the view that, amongst other matters, it is open to regional planning bodies to consider a strategic review of Green Belt boundaries in order to prevent neighbouring towns from merging into one another. At a local level, the Secretary of State considered that if sufficient provision has been made for development that is needed in an area, national policy is sufficient to address development issues in the open countryside without the need for further local designations - and local landscape designations should only be maintained where it can be shown that criteria-based planning policies cannot provide the necessary protection. The stance of the Secretary of State must carry at least some limited weight against the reliance on Strategic Gap policies.

48. Drawing all these matters together, the proposed development would undoubtedly cause harm to the intrinsic character and beauty of the countryside and erode the strategic gap. However, the harm to the countryside would be well contained and there would be only a modest impact on the effectiveness of the strategic gap in retaining the distinct identities of Pease Pottage and Crawley. In consequence I consider that the proposed development would result in no more than moderate harm to the character and appearance of the area.

Highway safety and congestion

49. Although the Council's third reason for refusal concerns the effect of the development on traffic congestion, the Council confirmed that it no longer wished to pursue that reason for refusal and it offered no evidence at the hearing.
50. The concerns of local residents however remain. These include the congestion on Horsham Road through the village largely as a result of 'blocking back' from Junction 11 of the M23, especially during peak hours, and the safety of the junction between Old Brighton Road and Horsham Road - particularly in light of the parking that takes place on Old Brighton Road close to the junction. These are matters that residents believe would be further exacerbated by other recently permitted developments including that at Woodhurst on Old Brighton Road South.
51. Turning first to the matter of traffic volumes and congestion, neither the Highways Agency (HA - responsible amongst other matters for the A23/M23 and the associated slip roads at Junction 11 of the M23) nor the West Sussex County Council (WSSC - responsible for the local roads around the site) raise any objections to the proposed development. Indeed, WSSC considered that an earlier proposal for a larger development of 68 units would not have had a material impact on highway capacity.
52. According to the Appellant's assessment, the cumulative impact of the appeal proposal and the developments at Woodhurst would be to increase traffic passing northbound along Brighton Road (towards the M23 junction) by some 23 vehicles during the morning peak hour - or around 2.2% of its capacity. This would result in Brighton Road operating on average at around 57% of its theoretical capacity and in a worst case scenario at around 65% of its theoretical capacity. These figures have not been substantively challenged and I have no reason to doubt their veracity.
53. However, notwithstanding the Appellant's calculations, I also have no reason to doubt that residents do at times experience heavy congestion through the village. Indeed, in the course of an unaccompanied visit to the area during the evening peak I experienced significant congestion in getting out of the village - largely as a result of blocking back from the roundabout serving the M23 junction. However, I experienced far less congestion during the following day's evening peak and I understand that these daily fluctuations in traffic conditions in part derive from the ability of the HA to alter signal timings at Junction 11 to suit the flow of traffic on the M23/A23. I also note the Appellant's view that roadworks on the nearby A264 may have affected local highway conditions during my visits.

54. As far as the safety of the junction between Old Brighton Road and Horsham Road is concerned I have been given no cogent reason to believe that the proposed development would materially increase parking along Old Brighton Road. Although local residents also raise concerns as to the safety of the junction itself, the accident data produced by Sussex Safer Roads Partnership on behalf of Sussex Police does not show any concentration of accidents around the junction. Whilst local residents suggest that such data may not be wholly accurate I doubt it would be a gross misrepresentation.
55. Against this background it is unlikely that the development would result in any material worsening of highway safety. However, irrespective of the fact that the theoretical capacity of Brighton Road is unlikely to be exceeded, at certain times and under certain conditions I accept that the increase in traffic caused by the development is likely to exacerbate the existing congestion problems on the surrounding roads.
56. However, the NPPF at Paragraph 32 notes that development should only be refused on transport grounds where the residual cumulative impacts of development are 'severe' and LP Policy T4 seeks to prevent an 'unacceptable' impact in terms of road safety and increased traffic. Any increase in congestion, even cumulatively with the other developments, is likely to be focused on the peaks and dependent on other road and weather conditions. In consequence it would be intermittent and is unlikely to be so bad as to be regarded as 'severe' or 'unacceptable'. Nevertheless, the increase in congestion is likely to have some harmful effect on the lives of local residents and this must weigh against the proposal.

Housing land supply

57. The Council's view is that the current housing land supply measured against the targets in the SEP equates to around 2.73 years. With respect to NPPF Paragraph 47 the Council considers that in light of the accepted shortfall it is immaterial as to whether a buffer of 5% or 20% is required. In terms of whether or not relevant policies for the supply of housing should be considered up to date, I agree. However, it seems to me that the size of the shortfall and any record of persistent under delivery are also material considerations in my determination.
58. In this respect the SOCG refers to an earlier appeal decision in the District issued on 16 March 2012 (APP/D3830/A/11/2161887) in which the Inspector noted that the "...agreed housing land supply in the District is 2.68 years based upon the South East Plan (SEP) requirement". The Inspector went on to describe the shortfall as substantial, serious and urgent before noting that the position appeared to be getting worse rather than improving. There seems to have been little change since the previous Inspector's decision. My view that the amount of shortfall is a material consideration is also entirely consistent with that of the previous Inspector.
59. The Appellant believes that 2.73 years is an overestimate of housing land supply. Indeed, the Appellant further believes that given the Council's persistent record of under delivery and the need to apply sensible judgements as to the period over which the accumulated shortfall should be addressed, the housing land supply should, in reality, be seen as being closer to, or even less than, 2 years.

60. Based on the evidence before me I consider that it is reasonable to apply a buffer of 20% and for planning purposes it is appropriate to view the supply as being appreciably less than the 2.73 years advanced by the Council. In these circumstances I consider that the size of the shortfall and the likely timescales for recovery are matters that mean the proposed housing provision should attract very significant weight in favour of the proposal.

Other matters

Sustainability and access

61. Although the appeal site is outside the settlement boundary and in prima facie conflict with LP Policy T4, it is adjacent to the built-up boundary of Pease Pottage and in that sense is in the next most sustainable location. However, the reality is that the facilities in Pease Pottage itself are limited and whilst I have been made aware of some local facilities such as the service station shop and the pub, as well as others further away such as the leisure centre it is likely that most people would travel away from the village on a fairly regular basis. Whilst WSCC have accepted that the "...opportunity does exist for sustainable modes of transport to be considered a viable alternative for some journeys", bus services are limited and for some residents cycling would not represent a realistic option. In consequence it seems likely that a high proportion of these longer journeys would be by private car.
62. However, I am conscious that the Appellant has put forward a Travel Plan with the aim of reducing the level of vehicular traffic associated with the development by 10% in line with WSCC's draft Travel Plan Policy for rural areas. The Appellant has also made provision through the proposed s106 Agreement for a financial contribution towards improving accessibility by all modes, in particular public transport, walking and cycling and the suggested conditions include for such matters as securing the implementation of an approved Travel Plan, the provision of cycle storage and works to improve pedestrian and cycle access.
63. Despite the concerns expressed by some local residents as to the sustainability of the site and its suitability for development, the Council has raised no 'in principle' objections to the development from a sustainability and access perspective. In light of the matters above I see no reason to take a different stance.

Scouts and guides

64. The scouts and guides make extensive use of the land to the north west of the appeal site where they operate two camp sites for the benefit of many young people from organisations such as schools. I understand that the site may be in use for up to 250 days a year. In objecting to the proposed development, the scouts and guides have raised a number of issues including the effect of the development on the character of the area and in particular the potential for increased vandalism and other anti-social acts. Concerns have also been raised as to its effect on the privacy enjoyed by current users as well as the environmental impact of the development.
65. As far as anti-social behaviour is concerned, I understand that the experience of the scouts and guides shows that placing new housing in close proximity to their facilities increases the level of trespass by vehicles and pedestrians, often with unfortunate consequences such as fly tipping, vandalism and arson.

However, whilst I have no reason to question these previous experiences, in this case no objections have been raised by the police. Whilst it is suggested that this is because of confusion as to which force is responsible for the area, I note that the local Police Community Support Officer (PCSO) considers that there may actually be some benefit to the development in providing better surveillance of the lane leading to the campsite. In any event I am conscious that no direct access is proposed to the lane. Whilst that will not stop use of the lane increasing, having regard to the comments of the PCSO in respect of previous developments in the village it seems unlikely that significant increases in anti-social incidents would result.

66. With respect to privacy, given the separation distances and intervening tree cover between the development and the nearest campsite I consider it unlikely that any material harm would arise. Subject to appropriate conditions I also see no reason to believe that the development would have any significantly harmful environmental effects either within or outside the appeal site.
67. Whilst I have no doubt that the concerns expressed on behalf of the scouts and guides are genuinely held, and there is no doubt that the development would compromise the current remoteness of the campsites, in light of the above I do not consider that any significant harm would result.

Economic benefits

68. The Appellant has suggested that there are a number of economic benefits to the scheme that should weigh in its favour. Whilst I have been given no cogent reasoning to show that the suggested benefit of the 'New Homes Bonus' would have any positive effect on the national economy as a whole, and I give it little weight here, there would be a number of employment and commercial benefits arising from the development. In light of the Government's push for economic growth (expressed in the 'Planning for Growth' Ministerial Statement) these must carry significant weight in its favour.

Decision to revoke the Regional Strategy for the South East of England

69. The laying of the Order is a significant step in the revocation of the SEP and it is highly likely that the SEP will be revoked in the near future. That impending revocation must now attract considerable weight and I shall therefore look to its implications.
70. Firstly, there would no longer be a requirement for the emerging District Plan to be in general conformity with the SEP - and particularly its housing targets. However, the Council accepts that the housing targets in the LP are out of date (as they do not provide housing numbers beyond 2006) and the housing numbers in the emerging District Plan are subject to unresolved objections and have yet to be tested by examination. As the SEP contains the most up to date housing figures tested at examination, the Council also accepts that the SEP housing numbers, even post revocation, would remain a material consideration to the appeal - against which the Council cannot demonstrate a five year supply of housing.
71. The Parish Council points out that the proposed revocation of the SEP is intended to be "a significant step for localism" and as such considers that its intended revocation has a significant impact on the weight to be given to the NP. However, it still remains the case that the NP has not yet been subject to an independent examination or referendum and whilst the housing numbers in

the District Plan remain untested there must still be considerable uncertainty as to the robustness of its proposed housing numbers. Consequently, even if the SEP were to be revoked the NP could, at this stage, be accorded little weight.

72. I agree with the Council that the housing numbers in the SEP would remain a material consideration post revocation and given the lack of tested alternatives should, in respect of this appeal, be accorded significant weight. In light of this it is my view that the recent progress towards revocation of the SEP, or indeed its actual revocation, has, or would have, little effect on my considerations.

Conditions

73. A number of conditions, which the main parties consider would be appropriate were I minded to allow the appeal, were incorporated in the Statement of Common Ground (SOCG). I have considered those conditions, together with further conditions suggested at the hearing, in the light of Circular 11/95. For ease of reference I refer below to the numbering used in the SOCG.
74. In the interests of proper planning the standard timeliness condition (1) and a condition listing the approved plans (21) would be needed and in the interests of the area's character and appearance conditions would be required to deal with materials (8), landscaping (6, 20), the retention and protection of valuable trees (7) and the completion of walls, hedges and fences (5). An additional condition to those identified in the SOCG requiring details of the levels and finished floor levels would also be necessary.
75. In the interests of sustainability, conditions dealing with the provision of a Travel Plan (17), the achievement of energy efficiency measures (19) and the provision of cycle parking (15) would all meet the Circular tests. In addition to the conditions identified in the SOCG a condition securing off-site highway works to improve such matters as cycle ways would also meet the Circular tests.
76. The location of the proposed development and its relationship to the existing residential units together with the semi-rural nature of Old Brighton Road would necessitate conditions to protect neighbouring amenity and highway safety during the construction phase (2, 3, 10) and conditions would also be required to protect highway safety and the amenity of both existing and future residents following the construction phase (9, 13, 14, 16, 18). A condition would also be needed to ensure the protection of wildlife and its supporting habitat (4). However, based on the information before me I see no need for conditions dealing with contaminated land or archaeology on the site.
77. Other than those conditions identified above I see no other conditions as being necessary. However, for clarity and to ensure compliance with Circular 11/95 the wording of some of the suggested conditions would need to be amended and in some cases the conditions would benefit from being combined or reconstituted. In consequence the numbering adopted in the SOCG would no longer be applicable.

S106 Agreement

78. The Appellant has submitted a planning obligation in the form of an agreement made pursuant to s106 of the Town and Country Planning Act 1990 (dated 28 January 2013). The obligation would secure the provision of 15 affordable homes together with financial contributions towards such matters as the

provision of education, leisure, library and community facilities as well as a contribution towards sustainable transport modes. LP Policies G3 and H4 require the developer to provide sufficient additional infrastructure as may be needed to service the proposed development and mitigate its impact.

79. In this case the proposed affordable housing numbers accord with LP Policy H4. The financial contributions have either been calculated in accordance with the Council's Supplementary Planning Document 'Development and Infrastructure' or, in respect of matters falling within the ambit of WSCC, are based on the County Council's adopted Supplementary Planning Guidance document 'The provision of service infrastructure related to new development in West Sussex – Part 1'. The Council's appeal statement at section 5 together with the associated Annex 1 submitted by WSCC lay out the detailed bases for the contributions. The Council and Appellant agree that they meet the requirements laid out in the National Planning Policy Framework and the Community Infrastructure Levy (CIL) Regulations 2010 and I see no reason to take a different view.
80. Against this background I consider that the obligation is necessary to make the development acceptable and meets the other tests in the CIL Regulations. In consequence it should be accorded significant weight.

Conclusions

81. The proposed development would be in prima facie conflict with LP Policies C1, C2 and T4 – and therefore contrary to the development plan.
82. However, as the Council is unable to demonstrate a five year housing supply, the NPPF notes that policies relevant to the supply of housing should be considered out of date. In my view this includes Policies C1, C2 and T4 so far as they seek to exclude development from certain areas. In these circumstances the NPPF notes that proposals should be considered in the context of the presumption in favour of sustainable development meaning that permission should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits.
83. Given the Council's five year housing supply shortfall against the SEP targets and the likely timescales for recovery, the provision of 51 dwellings, including 15 affordable homes, must attract very significant weight in favour of the proposal. Significant weight must also be accorded to its economic benefits.
84. Weighed against those benefits there would clearly be some harm to the intrinsic character and beauty of the countryside and there would be some erosion of the strategic gap - although these matters would result in no more than moderate harm to the character and appearance of the area. In addition there would be some harm to the amenities of residents in terms of increased congestion on the surrounding roads. The shortcomings of the design must also carry some very limited weight against the proposal. However, even when taken together it is my view that the adverse impacts of the development would not outweigh the benefits of the proposal - let alone significantly and demonstrably outweigh them. In these circumstances the NPPF is clear that permission should be granted. In itself I consider this to be a material consideration of sufficient weight to overcome the development plan conflict.
85. Having had regard to all other matters before me including the possible negative impact on the preparation of the Neighbourhood Plan, the concerns of

local residents with respect to their living conditions and the implications for flooding/drainage in the area, the proximity of the ancient woodland and the demolition of the dwelling of Forest Ridge I find nothing to materially alter the planning balance above. I therefore conclude that subject to the identified conditions the appeal should succeed.

Lloyd Rodgers

Inspector

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Mr R Warren QC	Instructed by Mr Flintoft
Mr G Flintoft BA (Hons), Dip TP, Dip UD, MRTPI	Director Barton Willmore LLP
Mr J Blake BA (Hons), Dip LA (Hons)	Senior Partner, James Blake Associates
Mr C Blamey BSc, MSc (Eng), MCIHT	Director, Russell Giles Partnership Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mrs K King BSc (Hons) MA (TP), MRTPI	Senior Planning Officer, Mid-Sussex District Council
Mr W Dorman, BA (Arch) Dip UD, BA (TP), Dip TP	Urban Designer, Mid-Sussex District Council

INTERESTED PERSONS:

Mrs S Hance	Chair, Slaugham Parish Council
Mr S Vail	Local resident
Mrs L Vail	On behalf of Mrs P Brown, East Lodge
Mrs H Darvishi	On behalf of Residents' Association
Mr S Goyder	Local resident
Mr E Hills	On behalf of District Commissioner for Scouts and Crawley Scouts and Guiding

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Notification of the hearing. Submitted by Mrs King.
- 2 S106 Agreement. Submitted by Mrs King.
- 3 Draft of initial representations to Slaugham Neighbourhood Plan. Submitted by Mr Warren.
- 4 Examiner's report on Dawlish Parish Neighbourhood Plan. Submitted by Mr Warren.
- 5 Extract from introduction to Local Plan. Submitted by Mr Warren.
- 6 Extract from 'Building for Life'. Submitted by Mrs King.
- 7 Letter and attachment from Mid Sussex District Council in respect of Dawlish Neighbourhood Plan. Submitted by Mrs Hance.
- 8 Extract from Local Plan related to area designations. Submitted by Mrs King.
- 9 Cost Decision APP/Y3940/A/12/2173814. Submitted by Mr Warren.
- 10 Suggested additional conditions. Submitted by Mr Warren.
- 11 Closing statement of Council.
- 12 Closing statement of Appellant.
- 13 Extract from Localism Act 2011. Submitted by Mr Warren.

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place, including any works of site clearance or demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction period and shall provide for matters including the parking of vehicles of site operatives and visitors; means of access to the site; the loading, unloading and storage of plant, materials and waste; the erection and maintenance of security hoardings and site offices; measures, including wheel washing, to control the spread of deleterious material onto the public highway; measures to control the emission of dust and dirt during demolition and construction; lighting for construction and security, and; a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 3) No development shall take place until the visibility splays at the primary site vehicular access have been constructed in accordance with the approved site plan to a distance of 2.4m x 43m from the centre of the access. The visibility splays shall thereafter be kept free from obstruction above a height of 600mm.
- 4) No development shall take place until full details of both hard and soft landscaping works, including indications of all existing trees and hedgerows on the land together with details of those to be retained and measures for their protection in the course of development have been submitted to and approved in writing by the Local Planning Authority. Hard and soft landscape works shall thereafter be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
- 5) No development, including any works of demolition or site clearance, shall take place until all retained trees have been protected in accordance with BS5837:2005 and any additional measures submitted pursuant to Condition 4) and all site clearance works shall be carried out under the supervision of a suitably qualified Ecological Clerk of Works.
- 6) Development shall be carried out in accordance with the provisions of the Protected Species Mitigation Strategy 9CSA/1762/02e), the Schedule of Tree Works (JBA 12/164 AR02), the Arboricultural Implications Assessment and Arboricultural Method Statement (JBA 11/64 AR02) and the Root Survey Report (JBA 11/64 AR04).
- 7) No development shall take place until a bat sensitive lighting scheme (in line with current best practice on bats and lighting and minimising any light spill into sensitive boundary areas such as the woodland) and a detailed planting plan (showing how the ecological recommendations will be implemented), together with a timetable for their implementation,

- have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details and timetable.
- 8) No development shall take place until details of any walls, fences and/or hedges, including a timetable for their erection or planting, have been submitted to and approved by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details and timetable and no dwellings shall be occupied until the walls/fences and/or hedges associated with them have been erected or planted.
 - 9) Notwithstanding any details shown on the approved drawings, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
 - 10) No development shall take place until details of a scheme for the drainage of surface water and its means of disposal, including a timetable for the scheme's implementation and provisions to prevent surface water draining onto the public highway, have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall also include a management and maintenance plan detailing any arrangements for adoption by a public authority or statutory undertaker and any other arrangements necessary to secure the operation of the scheme for the lifetime of the development. No building shall be occupied until all drainage works have been carried out in accordance with the approved details.
 - 11) Demolition or construction works, including the receipt, despatch, loading and unloading of delivery vehicles, shall not take place outside 08.00 hours to 18.00 hours Mondays to Fridays and 09.00 hours to 13.00 hours on Saturdays nor at any time on Sundays or Bank Holidays.
 - 12) No dwelling shall be occupied until its associated site vehicular access has been constructed in accordance with detailed construction plans previously submitted to and approved in writing by the Local Planning Authority.
 - 13) No dwelling shall be occupied until covered secure cycle parking spaces have been provided in accordance with detailed construction plans previously submitted to and approved in writing by the Local Planning Authority.
 - 14) No dwelling shall be occupied until the car parking spaces and turning areas have been provided, surfaced and marked out in accordance with a detailed construction plan previously submitted to and approved in writing by the Local Planning Authority. These spaces and areas shall thereafter be retained at all times for their designated use and no development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 or any revision thereto, shall be carried out on the site in such a manner or in such a position as to preclude the use of or access to these spaces or areas.

- 15) Notwithstanding any details previously submitted, no dwelling shall be occupied until a Travel Plan, incorporating arrangements for its monitoring, reporting and revision, has been submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan, including the arrangements for its monitoring, reporting and revision, shall be implemented on first occupation of the development.
- 16) The development shall, in respect of energy efficiency, sustainable construction and renewable energy, be carried out in accordance with the Energy Proposal dated June 15th 2012, the Planning Statement and the Design and Access Statement excepting that no development shall take place until further details in respect of any plant associated with the air source heat pumps have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.
- 17) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 18) No development shall take place until details of a scheme of off site highway improvement works as identified in Paragraph 5.4.2 of the statement on highway matters (CMB/RDRH/2012/1618/AS01), and illustrated on Plans 01, 02 and 03 attached to the Transport Assessment, have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved scheme has been fully implemented.
- 19) No development shall take place until details of the proposed site levels, including finished floor levels, have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.
- 20) The development hereby permitted shall be carried out in accordance with the following approved plans: 7677 / 01, 02, 03, 04, 05, 06, 07A, 08A, 09, 10A, 11A, 12A, 13A, 14A, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 36, 37, 108, 109; E11-025-100J, 101J, 102H, 103E, 104E, 105C, 106A; Landscape Strategy Plan Figure 10D; JBA 12/164/TS01, TS02, TS03.