
Appeal Decision

Inquiry held on 18,19,20 & 21 November 2014

Site visit made on 20 November 2014

by Lesley Coffey BA(Hons) BTP MRTPI

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

Decision date: 23 February 2015

Appeal Ref: APP/C3810/A/14/2217385

Land at Nyton Road and Northfields Lane, Westergate and Land off of Fontwell Avenue, Eastergate

- 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 Land Fund Ltd against the decision of Arun District Council.
 - The application Ref AL/61/13, dated 7 August 2013, was refused by notice dated 14 February 2014.
 - The development proposed is the demolition of the existing glasshouses, bungalow, stables and outbuildings and a residential development of up to 268 dwellings including 30% affordable housing (incorporating 60 Senior living units) with associated access, public open space and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing glasshouses, bungalow, stables and outbuildings and a residential development of up to 268 dwellings including 30% affordable housing (incorporating 60 Senior living units) with associated access, public open space and landscaping at Land at Nyton Road and Northfields Lane, Westergate and Land off of Fontwell Avenue, Eastergate in accordance with the terms of the application, Ref AL/61/13, dated 7 August 2013, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. The proposal is an outline application for up to 268 dwellings with all matters except the access reserved for subsequent approval. The Appellant submitted a plan showing how the development might be accommodated, but the plan is for illustrative purposes only and there could be alternative layouts for the site. It nevertheless provides a useful guide when considering the proposal before me.
3. The parties submitted Statements of Common Ground in relation to general planning matters, highway issues and housing land supply. These outline a number of areas where the parties are in agreement.
4. An agreement under s106 of the Act covenants to provide affordable housing in accordance with an agreed Affordable Housing Plan. Based on the indicative housing mix, these dwellings would comprise 60 units for senior living and 20 units for affordable rent and intermediate housing. The Council is satisfied that

this obligation would overcome its second reason for refusal and I have no reason to take a different view.

5. The s106 also covenants to make financial contributions towards the provision of infrastructure including a range of sport and recreational facilities, highway improvements to the A29, libraries, health facilities, cycle facilities, a controlled crossing, public transport, fire and rescue services, and primary education. In addition the s106 also covenants to provide and manage public open space within the site, provide a community bus service for a period of three years and submit a travel plan. The Council is satisfied that the s106 agreement addresses its third reason for refusal and I have no reason to disagree.
6. Following the closure of the inquiry the Appellant forwarded a copy of the Housing Land Supply Statement of Common Ground submitted at a recent inquiry in respect of land West of Westergate Street, East of Hook Lane, Westergate (*Appeal Ref: APP/C3810/A/14/2220943*). The Council's position in relation to housing land supply at the Hook Lane inquiry differed considerably by comparison with this appeal. The most significant differences relate to the extent of the housing requirement, whether there had been a persistent record of under-delivery (and therefore whether a 5% or 20% buffer should apply for the purposes of paragraph 47 of the National Planning Policy Framework), and whether the Council is able to demonstrate a 5 year housing land supply.
7. The Hook Lane inquiry opened on 9 December 2014, less than three weeks after the closure of this inquiry. Accordingly the Hook Lane Statement of Common Ground is a material consideration in relation to this appeal. Interested parties were provided with an opportunity to comment on this matter. A number of responses were received by the deadline of 20 January 2015. Neither the Appellant, nor the Council, wished to comment on the representations received. In reaching my decision I have taken account of the evidence within the Hook Lane Statement of Common Ground and the representations from interested parties in respect of it.

Main Issues

8. Taking the above matters into account and the matters raised by local residents, I consider the main issues to be:
 - The effect of the proposal on the character and appearance of the surrounding countryside;
 - Whether the proposal would be at risk of flooding, or increase the risk of flooding elsewhere; and
 - Whether in the light of the development plan, national guidance and other material considerations, including the housing land supply position, the appeal proposal would be a sustainable form of development.

Reasons

9. The appeal site lies immediately to the north of the settlement of Westergate and to the west of Eastergate. Access to the site is from the A29 Fontwell Avenue and from west via Northfields Lane. It comprises about 12 hectares of land, which is predominantly in horticultural use with a complex of large greenhouses and agricultural buildings. The north-eastern part of the site is mostly used for equestrian purposes.

10. The proposal is for a residential development of up to 268 dwellings, 30% of which would comprise affordable housing. The illustrative masterplan shows 2.3 hectares of public open space, including informal amenity and recreation areas, 1 hectare of tree and hedgerow planting as a landscape buffer and a community orchard adjacent to the site entrance. The main vehicular access would be from Fontwell Avenue, with emergency access provided by Northfields Lane. The proposal includes pedestrian and cycle links to Nyton Road, Fontwell Avenue and Northfields Lane.

Policy

Arun District Local Plan

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
12. The development plan for the area comprises the saved policies of the Arun District Local Plan (adopted 2003). Paragraph 215 of the National Planning Policy Framework (NPPF) provides that the weight to be afforded to the development plan policies is dependent on their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).
13. Local Plan policy GEN2 defines built-up area boundaries and GEN3 seeks to protect the countryside, and sets out the limited circumstances in which development within the countryside will be permitted. It is common ground between the parties that these policies should be read together and that the proposal is in conflict with them.
14. Policies GEN2 and GEN3 apply to development up to 2011, and were not intended to meet the housing needs of Arun beyond that period. The built-up area boundaries on which both policies are predicated were fixed having regard to the need to accommodate the development planned for in the Local Plan and therefore are inextricably linked with the housing requirements of the Local Plan. As a consequence, housing land outside of the built-up area boundaries will inevitably be required to meet the post-2011 housing needs.
15. Accordingly policy GEN2 is out of date on its own terms, and conflicts with the Framework's determination to meet development needs and significantly boost the supply of housing. GEN3 can be said to be consistent with the NPPF in so far as it seeks to protect the countryside. Whilst recognising the intrinsic character and beauty of the countryside is one of the core planning principles at Paragraph 17 of the NPPF, paragraph 109 of the NPPF states that decisions should be based upon qualitative and informed judgments rather than a blanket designation regardless of landscape merits. In this regard policy GEN3 is not in conformity with the Framework.
16. The Council acknowledges that a number of previous appeal decisions¹ found policies GEN2 and GEN3 to be out of date, but considers that the conclusions within these decisions rely upon the Council's inability to demonstrate a 5 year housing land supply at the time of these decisions. Whilst the housing land supply situation was clearly a factor in each of these decisions, in all but one

¹ APP/C3810/A/11/2163208, APP/C3810/A/12/2180855, APP/C3810/A/12/2171484, & APP/C3810/A/13/2196029

decision, policies GEN2 and GEN3 were found to be out of date on their own merits.

17. Policies GEN2 and GEN3 both relate to the supply of housing. They are out of date because they relate to a housing strategy for the period up to 2011, and for the reasons given above, policy GEN3 is inconsistent with the policies within the NPPF. Therefore regardless as to whether the Council can demonstrate a five year housing land supply, the presumption in favour of sustainable development at paragraph 14 of the NPPF applies.

Emerging Arun Local Plan

18. The emerging *Arun Local Plan 2011-2031* (ALP) was subject to a period of consultation expiring 11 December 2014. The Council intend to submit the plan for examination later this year, and anticipate that it will be adopted in about September 2015. Paragraph 216 of the NPPF advises that the weight to be accorded to the relevant policies in emerging plans is dependent on the stage of preparation (the more advanced the preparation, the greater the weight that may be given); the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to those within the NPPF.
19. At the time of the inquiry the ALP was still subject to consultation and the Council was not in a position to advise whether there had been any objections to the housing strategy within it. However, it was confirmed that the Appellant had submitted objections in relation to the housing policies. The Parish Council has also objected to the housing allocation on the edge of the settlement. I also noted numerous banners and posters within the locality of the appeal site objecting to the strategic housing allocation at Barnham-Eastergate–Westergate.
20. The housing strategy within the ALP has yet to be tested, both in terms of whether it would meet the housing needs of Arun and the strategy for the delivery of housing, including the proposed strategic allocations. It is evident that there are significant unresolved objections in relation to the proposed housing strategy, and there is no certainty that in its present form the housing strategy will be found sound. I therefore accord limited weight to the housing strategy within the emerging ALP.

Aldingbourne Neighbourhood Plan

21. The Aldingbourne Parish Council Neighbourhood Plan Group is in the process of producing a neighbourhood plan. At the time of the inquiry the draft plan had yet to be published. Given that the plan is at such an early stage in its preparation I am unable to accord it any significant weight.

Character and Appearance of the Countryside

22. The site comes within the West Sussex Coastal Plain and is situated close to the edge of the South Downs National Park. The southern boundary of the site and much of the western boundary is adjoined by residential development, whilst the eastern boundary is more open in character.
23. The site is generally low lying with no significant changes in levels. Although the site sits outside of the settlement boundary, it does not form part of the more open landscape to the west and south. The design and access statement

and indicative layout show the higher density development situated towards the centre of the site with the lower density development located towards the periphery. Buffer strips are proposed around the periphery of the site and these include drainage swales as part of the surface water management proposals.

24. The illustrative plan shows 2.3 hectares of public open space, with informal amenity and recreation areas located alongside the northern and western boundaries of the site and adjacent to the site entrance at Fontwell Avenue. The proposal would provide three areas of public open space and a central green equipped with areas for children's play. It is intended that the majority of mature trees on the site, together with the established hedgerows, would be retained. These provide a visual break between the eastern and western parts of the site and would limit the distance over which the proposed dwellings would be visible.
25. Due to the relatively low lying nature of the appeal site and its open character, some of the proposed dwellings would be noticeable in views from Fontwell Avenue and to a lesser extent from Nyton Road. From Nyton Road the most prominent views would be from between the dwellings in Barnett Close and across the allotment land adjacent to these dwellings. The views from Nyton Road would be over a distance of about of 60 metres from the boundary with the appeal site and the proposed dwellings would be at a even greater distance from this viewpoint.
26. Although Fontwell Avenue is more open in character, the proposed orchard would provide a focal point for views and in time would also screen the car breakers situated immediately to the north of this part of the site. In this respect the proposal would enhance the character of the wider area.
27. The western-most part of the appeal site adjoins Northfields Lane. The illustrative layout provides a substantial buffer strip between the proposed dwellings and Northfields Lane which together with the existing trees and hedgerows would substantially screen views into the site. Subject to an appropriate design and landscaping scheme the proposed dwellings would have a limited effect on the character of this part of Northfields Lane.
28. The appeal site sits within a relatively enclosed landscape and the Council accepts that the proposal would not have any significant impact on the wider landscape. It nevertheless considers that at a more local level the loss of the countryside arising from the proposal would be detrimental to the setting of the settlement of Westergate. This view is shared by many local residents who also consider that the proposal may contribute to the merging of Westergate and Eastergate.
29. The proposal would result in the loss of views of the open countryside and would have some impact on the setting of Westergate. However, most public views would be glimpsed views between the existing dwellings and the proposal would be viewed over a considerable distance. The scheme is for a relatively low density development, with the higher density elements of the proposal situated towards the centre of the site. The loss of openness would be noticeable in medium range views from Fontwell Avenue but the proposed orchard would maintain the open character of the eastern part of the site.
30. Westergate and Eastergate are situated in close proximity to each other with the land on the western side of Fontwell Avenue providing a visual break

- between the two settlements. The proposed community orchard on the part of the site that adjoins Fontwell Avenue would ensure that the visual separation between the two settlements is maintained. I therefore do not consider that the proposal would contribute to the merging of Westergate and Eastergate.
31. A previous appeal decision, in respect of land at Nyton Nursery (which forms part of the appeal site) was dismissed in 1988. The inspector concluded that that residential development of the site would seriously detract from the appearance and character of the countryside. More recently, the Inspector's report in respect of the Local Plan adopted in 2006 considered representations in relation to the suitability of land east of Northfields Lane, Westergate and the land at Nyton Nursery for housing. The report found that although the sites were relatively well screened the proposal would still be visible within the open flat landscape in which it was situated.
32. The extent of the information before the inspector at the time of the 1988 appeal is unclear. Furthermore, the Local Plan inspector would have considered the principle of residential development rather than a specific scheme. The Local Plan inspector concluded that development of these sites would represent a physical and visual incursion into the open countryside. The decision to exclude these sites took account of their relative sustainability by comparison with the allocated sites and the fact that the local plan did not require greenfield sites in order to meet the housing requirements of the Local Plan.
33. The current appeal would involve a similar physical and visual incursion. However, the Design and Access Statement, the Landscape and Visual Assessment and the illustrative layout provide a clear indication as to the likely impact of the proposal on the surrounding area, including the setting of Westergate and Eastergate. Moreover, it is evident that unlike at the time of the previous appeal or the Local Plan report, greenfield land is necessary to meet the future housing requirements within Arun. Any harm arising from the proposal would be localised. Subject to an appropriately designed scheme and associated landscaping, the proposal would not give rise to significant harm to the character of the countryside. Therefore neither the previous appeal decision, nor the conclusions within the Inspector's report alter my view above.
34. I therefore conclude that although the proposal would conflict with policies GEN2 and GEN3, it would not significantly harm the character and appearance of the surrounding countryside.

Flooding

35. The Environment Agency flood map identifies that a small part of the western edge of the site falls within Flood Zone 2, however, the majority of the appeal site comes within Flood Zone 1 where the proposed dwellings would be located.
36. Local policy GEN9 seeks to ensure that sites are adequately drained and do not add to flood risk elsewhere. This approach is consistent with Section 10 of the NPPF which sets strict tests to protect people and property from flooding. It requires new development to be planned to avoid increased vulnerability to the range of impacts arising from climate change. It advises that when new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

37. The Appellant submitted a Flood Risk Assessment (FRA) with the application and this was recently reviewed in the context of the appeal to take account of the comments from local residents and the flooding in early 2014. The FRA concluded that the appeal site was not at risk of coastal or fluvial flooding.
38. Based on Arun District Council's Strategic Flood Risk Assessment (SFRA) the appeal site is at a medium risk of groundwater flooding. However, a topographical survey indicates that the site is elevated above land to the east, south and west and the FRA concluded that it was highly unlikely that the appeal site was at risk of groundwater flooding.
39. In the light of ground investigations, including soakage tests, hydraulic and hydrological tests the FRA proposes the use of shallow infiltration devices such as permeable pavements and granular drainage blankets for surface water disposal. In addition, surface SUDS such as infiltration swales and basins are proposed to allow drainage into the underlying gravel. The infiltration devices would be designed to accommodate a 1 in 100 year event with a 30% increase in rainfall to allow for the effects of climate change. The swales, basins and permeable surfaces would provide storage for surface water that does not exist at present and thereby reduce surface water run-off from the site.
40. The Environment Agency confirmed that subject to the submission of further details the proposal is acceptable in principle. Neither Southern Water, West Sussex County Council, nor Arun District Council objected to the proposal on the basis of increased flood risk to the surrounding area.
41. Local residents are particularly concerned that the proposal would lead to increased flooding in the locality, due to additional surface water run-off from the site, or an increase in groundwater levels within the surrounding area.
42. Both Northfields Lane and Nyton Road are subject to flooding. The most recent occurrence in February 2014 was particularly severe, and as a consequence Northfields Lane was under water for several weeks. An Environment Agency investigation into the cause of the flooding found that the average rainfall for this period was exceptionally high. The Sussex Downs received 74% of the annual rainfall during this period and this contributed to a dramatic rise in groundwater levels. Northfields Lane is a low point topographically within the wider area and provided a channel for all the localised surface water and groundwater which caused the flooding. The flooding in the locality was exacerbated by a blocked culvert on Nyton Road.
43. The Appellant accepts that in its current greenfield state the site will shed some surface water during prolonged periods of rain and in doing so makes a minor contribution towards existing flooding problems. However, the aim of the drainage strategy is to keep all of the surface water within the site and the proposed drainage scheme would intercept and contain the run-off. The proposed surface water storage measures would also allow surface water to drain into the gravel below. These measures would ensure that the proposal would not add to the risk of flooding in the locality and may reduce the flood risk overall.
44. Residents suggest that the foundations of the proposed dwellings would displace groundwater within the site and thereby add to the flood risk within the surrounding area. The Appellant suggests that any displacement would be off-set by the voids it is proposed to create and fill using granular material. The effect of the proposal on groundwater and surface water within the locality

has been considered by the Environment Agency, Southern Water and Arun District Council. None of whom object to the principle of residential development on the appeal site.

45. The proposal is an outline application and the final layout of the site may alter from that shown on the indicative plan. Therefore detailed drainage proposals for the site would need to be submitted for approval and would need to take account of the Arun SFRA which is currently being updated.
46. The chalk stream in Northfields Lane is vulnerable to the effects of pollution. The drainage strategy proposes the use of petrol interceptors and the proposed swales would provide a means of dealing with any pollutants that may arise. Accordingly the proposal would be unlikely to have any adverse effect on this stream.
47. The adjoining land to the north of the appeal site includes a belt of young trees. It was suggested that, should these be removed in the future, it would exacerbate any potential flooding. The removal of these trees, or indeed the consequences arising from their removal, is a matter outside of the control of the Appellant.
48. I am satisfied that the proposed development would not be at risk of flooding. Whilst the appeal proposal may not resolve existing flooding problems within the local area, on the basis of the available information, I consider that it would have at worst a neutral effect on flooding within the locality, and would have the potential to improve the existing situation.
49. Aldingbourne Parish Council commissioned a report to consider the flood risk implications of the proposed strategic housing site at Barnham, Westergate and Eastergate. Amongst other matters, the report concluded that the 2008 SFRA did not provide a sound basis for the assessment of flood risk in that there is now a better understanding of surface water and ground water flood risks; it is was premature for the strategic site to be allocated for housing until the Surface Water Management Plan and Aldingbourne Rife Strategy studies are complete; and the drainage of the site by SUDS may not be economically viable. It is suggested that similar considerations may apply to the appeal proposal.
50. The above findings relate to a much larger site by comparison with the appeal site. The Appellant has carried out a detailed flood risk assessment, including soakage tests, hydraulic and hydrological tests. The FRA provides site specific information for the appeal site and the appeal proposal. Therefore the assessment of the groundwater and surface water flood risk within it is not reliant on the 2008 SFRA. Therefore whilst the above report may provide a useful starting point for the consideration of flood risk in relation to the proposed strategic housing site, it does not detract from the findings of the Appellant's FRA. Therefore, on the basis of the available information, I conclude that the proposal would not be at risk of increase the flood risk elsewhere and would comply with Local Plan policy GEN9 and the aims of the NPPF.

Housing Land Supply

Housing Requirement

51. National planning policy is set out in the NPPF. This seeks to significantly boost the supply of housing. It encourages local planning authorities to ensure that their local plan meets the need for market and affordable housing in their housing market area and to identify a supply of deliverable sites sufficient to provide 5 years' worth of housing against their requirements. To ensure choice and competition in the market an additional buffer of 5% is required or, where there has been a record of persistent under delivery, a buffer of 20%.
52. The assessment as to whether a Council is able to demonstrate a 5 year supply of housing land needs to take account of the housing requirement, any previous shortfall in delivery, the appropriate buffer, and the available housing land supply.
53. Paragraph 47 of the NPPF requires Local Planning Authorities to use their evidence base to ensure that their Local Plan meets the full objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the NPPF. The Planning Practice Guidance (PPG) advises that in the absence of a relevant requirement within a Local Plan the housing requirements should be assessed against the full objectively assessed need for the area.
54. Based on the evidence put to me at the inquiry, the parties agree that the objectively assessed need for the District comes within the range of 550-650dpa. This range is informed by four reports which contribute to the evidence base for the ALP. The *Coastal West Sussex Strategic Housing Market Assessment Update* (November 2012) was prepared jointly with neighbouring authorities within Coastal West Sussex. Following further demographic updates, an additional report *Housing Market Assessment Validation – Report of Findings Housing Study (Duty to Cooperate)* was published in May 2013. In October 2013 *Arun DC Strategic Housing Market Assessment Validation – Report of Findings* was published. This sought to validate the data and methodology of the 2012 SHMA in the light of concerns amongst the local community and stakeholders in relation to the housing requirements. The most recent report, the *Assessment of Housing Development Needs Study: Sussex Coast HMA*, was published in April 2014. This takes account of the PPG which was published in March 2014 and the 2011 based Sub-National Population Projections.
55. Part of Arun District lies within the South Downs National Park (SDNP) and therefore does not come under the jurisdiction of the local planning authority. The parties agree that the objectively assessed need put forward by the various reports includes about 9 dpa for the part of the District that comes within the national park. In September 2014 the Council adopted a housing requirement of 580dpa for the purposes of calculating a five year housing land supply. This figure has been taken forward into the emerging ALP and the Council consider it to be a reasonable estimate of the objectively assessed need for the District, whilst the Appellant considers that the appropriate figure lies close to the upper end of the range at 641 dpa. There is no evidence before me to indicate whether following the Hook Lane inquiry the Council still consider 580dpa to be a reasonable assessment of housing need, but in the light of the Statement of

Common Ground in relation to Hook Lane I consider that it would be difficult for the Council to maintain this position.

56. The most recent report (April 2014) acknowledged that the lower end of the range was consistent with the trend based demographic projections, but that these appear to have been suppressed in the previous decade due to declining affordability and the impact of the recession. It noted that the upper end would support stronger household formation, the delivery of affordable housing and a stronger growth in the workforce to support economic growth.
57. The Appellant submits that the Council's preferred figure takes insufficient account of a number of matters including market signals; the need for affordable housing and employment and the Duty to Cooperate.
58. The April 2014 report assessed whether various market signals, the need to deliver affordable housing, or the need to support future employment growth, indicated whether the housing figure should be adjusted upwards from the starting point of 549dpa. It found that although there had been a modest degree of suppressed household formation, affordability pressures within Arun were not particularly acute relative to other parts of the county and therefore market conditions provided a limited case for an increase in the housing requirement.
59. The report noted a significant need for affordable housing within Arun. It concluded that, whilst it would not be realistic to deliver the annual requirement for 578 affordable dwellings as identified by the SHMA, higher housing numbers could potentially support stronger affordable housing delivery. It acknowledged that the role of the private rented sector in meeting affordable housing needs within the District reduced the pressure for affordable housing and could perhaps justify a lower affordable housing target. However it concluded that the level of affordable housing provided and the manner in which the need for affordable housing is met is a policy decision.
60. The Sustainability Appraisal in respect of the ALP confirms that the affordability of housing in Arun is an increasing concern and that barriers to housing remain an issue. It is evident that there is a considerable un-met need for affordable housing within Arun with about 45% of households unable to afford market housing.
61. The Council's approach to the provision of affordable housing is reliant on the contribution that the private rented sector would make towards meeting this need. Although the Council suggests that market housing is not always effective at delivering affordable housing there does not appear to be any alternative mechanism in place for its delivery. Therefore the Council's adopted housing requirement would fail to meet the full objectively assessed need as required by the NPPF, or accord with the guidance in the PPG.
62. The extent to which the private sector should be relied upon to meet the affordable housing needs of the District is a policy decision and will be a matter for the EIP. The considerable need for affordable housing, and the absence of any alternative strategy for the delivery of such housing indicates that the objectively assessed need for the District should be towards the upper end of the range established by the April 2014 report and agreed by the parties.
63. The April 2014 report also found that the economic projections in the *Updated Demographic Projections Report* indicated a greater housing need (ranging from 850 dpa to 1,021 dpa) than suggested by demographic projections alone.

This finding is consistent with the conclusions within the *Arun Local Plan Validation Study: Economy and Enterprise-Final Report* (2014) which sought to test and validate the robustness of the ALP with particular reference to the policies and strategic allocations for employment and the economy. It found that the Council's adopted figure of 580 dpa implied a lower level of employment growth than associated with the emerging ALP.

64. The various reports acknowledge that the effect of employment growth on the housing requirement is dependent on a number of factors, including migration patterns, the age profile of migrants, and the level of out-commuting from the District. For this reason the housing requirement is likely to be lower than that suggested by economic growth alone. Economic forecasts from Experian suggest that there is potential for relatively strong employment growth over the 2011-2031 period. If job densities improve and there is no increase in out-migration there would be a need for about 760 dpa over the plan period. Whilst the April 2014 report suggests that such levels of growth would be relatively 'bullish', on the basis of the evidence within the validation study it would seem that 580 dpa would be unlikely to support the level of economic growth envisaged by the ALP. Therefore the 580 dpa advocated by the Council would fail to reflect the Government's commitment to secure economic growth in order to create jobs and prosperity, and the aims of the NPPF to ensure that the planning system does everything it can to support sustainable economic growth.
65. The Demographic Projections Report, the economy and enterprise validation study, and the forecasts from Experian all point towards a higher housing requirement than that advocated by the Council. I therefore conclude that the Council's adopted housing requirement of 580dpa would be likely to be an impediment to sustainable economic growth and that 641 dpa represents a more realistic requirement.
66. Having regard to the considerable need for affordable housing as well as the need to support employment and economic growth within the District in accordance with the aspirations of the emerging ALP and the policies within the NPPF, I consider that based on the evidence put to the inquiry, the objectively assessed need for housing is likely to lie close to the upper end of the agreed range. This higher figure would also support stronger household formation and would accord with the Government's commitment to securing economic growth in order to create jobs and prosperity as set out at section 6 of the NPPF. I therefore conclude that a housing requirement of 641 dpa represents a reasonably robust objectively assessed need for the purposes of this appeal.
67. The Statement of Common Ground in relation to the Hook Lane inquiry found the objectively assessed need to be at least 768 dpa. This represents a considerable increase of over 200 dpa by comparison with the Council's position at this inquiry just three weeks previously. The reason for this very significant change in the Council's position is unclear. The evidence which informed the housing requirements at the Hook Lane inquiry is not before me. Nevertheless, the fact that the Council's position changed to such a considerable extent in such a short period of time reinforces my conclusions above, namely that based on the submitted evidence, the objectively assessed housing need for the Arun is about 641dpa.
68. It was suggested by local residents that since Arun has a relatively elderly population, the indigenous population of Arun would need about 3000 fewer

dwellings than at present over the next 20 years. On this basis it was submitted that allowing for in-migration the objectively assessed need for Arun would be about 425 dpa. This view is not consistent with the findings of the various reports referred to above, or the view of the Council. Indeed, the April 2014 report which takes account of the latest population data and demographic trends considered that 549dpa was an appropriate starting point for the assessment of overall housing need.

69. Some interested parties submit that the housing figure adopted by the Council in September 2014 is not out of date and that the Council should only be required to review the housing land supply position annually. As a consequence they consider that the figures put forward by the Council in the context of the Hook Lane inquiry should not be taken into account in this appeal. The Council's adopted housing requirement of 580dpa has not been tested but represents the Council's view as to the appropriate objectively assessed need for the purposes of assessing a 5 year housing land supply. The robustness of this figure will be a matter for the EIP. As explained above, whilst the Statement of Common Ground in relation to the Hook Lane inquiry is a material consideration, I have not relied on the housing figures put forward at that inquiry.
70. A number of residents are concerned that the assessment of need does not take account of the various land use and other constraints within Arun, such as the proximity to the coast, the South Downs National Park and inadequate infrastructure. For this reason it is argued that it gives rise to an unduly high housing requirement. However, the guidance within PPG at paragraph 02A/004 is clear that the assessment of development needs should be an objective assessment of need based on facts and unbiased evidence. Constraints such as limitations imposed by the supply of land for new development, historic under performance, viability, infrastructure or environmental constraints should not be applied to the overall assessment of need. However, these considerations will need to be addressed when bringing evidence bases together to identify specific policies within development plans. In the case of Arun, these matters will be considered at the EIP.

Duty to Cooperate

71. In addition to meeting the objectively assessed need for their area local planning authorities are required to contribute towards meeting any un-met need from adjoining authorities where this is consistent with sustainable development. The *Coastal West Sussex and Greater Brighton Local Strategic Statement* (October 2013) and *Memorandum of Understanding* between the authorities within the HMA acknowledges that there is a shortfall of housing land across the HMA as a whole. It concludes that the objectively assessed need for the HMA is unlikely to be met.
72. It is intended that this shortfall will be the subject of future Duty to Cooperate discussions between the authorities. Arun was identified as an authority that would probably be able to meet its own needs and perhaps assist with meeting the needs of the wider sub-region. At the inquiry the Council explained that since the needs from neighbouring authorities of Chichester and Worthing are as yet unknown no allowance has been made for this need within the objectively assessed need. However, in order to address any potential need arising from the Duty to Cooperate, the Council has identified sites at Ford and

Fontwell as having the potential to meet the need from neighbouring authorities.

73. It is evident that the Council is actively engaged with the neighbouring authorities in relation to the Duty to Cooperate. The situation differs from the situation at Mid-Sussex where the inspector examining the local plan was not satisfied that the Local Planning Authority had fulfilled its Duty to Cooperate. Therefore for the purposes of this appeal the Duty to Cooperate does not justify an upwards revision on the objectively assessed need.

Shortfall and Housing Requirement

74. The assessment of housing need takes account of previous undersupply in the period up to 2011. From this date onwards the supply of housing falls to be assessed against the objectively assessed need of 641 dpa. There were 1562 completions between 2011 and 2014. This gives rise to a shortfall of 361 dwellings. The parties agree that any shortfall should be met within the first five years and therefore needs to be added to the housing requirement. This approach would be consistent with the NPPF and its key objective to significantly boost the supply of housing. It is also favoured by the Planning Practice Guidance and also the Secretary of State in most appeal decisions because it deals with the issue of past delivery failures promptly over the short-term.
75. Based on an objectively assessed need of 641 dpa, together with the existing shortfall of 361 dwellings there is a five year housing requirement of 3566 dwellings.

Buffer

76. At the inquiry the Council claimed that it did not have a persistent record of under-delivery and therefore the additional buffer required by the NPPF should be 5% rather than 20% as advocated by the Appellant. It referred to a number of appeal decisions where the inspector supported this view².
77. The Council provided evidence of completions for the 8 year period between 2006-7 and 2013-14. These were assessed against the requirement for 565 dpa within the South East Plan for the period up to its revocation, and against the Council's adopted target of 580 dpa for the period from 2011-14. On this basis the annualised target was met in 2 out of the 8 years.
78. The Appellant submits that housing delivery should be assessed over a longer period of 10 years and considers that such an approach would be consistent with the advice within *PAS Ten Key Principles To Owning Your Housing Number- Finding Your Objectively Assessed Needs Housing*. This advises that calculations should be based on an analysis of completions against previous requirements using data representative of the whole economic cycle, which may be from the last 10 years.
79. Paragraph 3-36 of the PPG advises that the assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle. Nevertheless, there is no requirement within the PPG or the PAS document to assess delivery over a period of 10 years. The period extending from 2006-7 onwards is representative of the entire economic cycle. It would give an

² APP/C3810/A/11/2163208, APP/C3810/A/12/2180855, APP/C3810/A/12/2171484, & APP/C3810/A/13/2196029

indication of pre-recession delivery trends and more recent delivery and would therefore take account of peaks and troughs within past delivery in accordance with the advice in PPG.

80. In the first Woodgate decision³ the inspector acknowledged the Council's view that 'persistent' referred to a continuous trend and considered that whilst chronic, housing delivery within Arun could not strictly be regarded as persistent when assessed against the annualised target within the SEP. However, he found that the practical SEP requirement of for 603dpa (necessary to address the backlog) had not been exceeded since the start of the SEP plan period. On that basis, he found that the under delivery of housing in Arun District might reasonably be regarded as "persistent", justifying adding a 20% buffer to the five-year housing land supply. The PPG has been published since this decision and provides guidance in relation to the assessment of housing delivery. The requirement to take account of peaks and troughs clearly indicates that it is the overall pattern of delivery that should be taken into account. The fact that the housing target was met in one or more years does not in itself indicate that there has not been persistent under-delivery relative to housing targets.
81. The Ferring decision⁴ did not conclude on whether there had been a persistent record of under delivery, but found that regardless of whether there had been a persistent under delivery, the housing land supply did not provide any additional buffer. The Yapton Road⁵ decision found that the annualised target had been met in two out of the seven years assessed and fell only marginally below on another. The inspector concluded that this did not represent persistent under-delivery and applied a 5% buffer. The inspector in relation to the second Woodgate decision⁶ relied on this view which he considered provided a thorough assessment of undersupply in relation to the SEP.
82. When assessed against the targets within the SEP for the period up to 2011 the average delivery rate was below the SEP target and there was a shortfall of 435 dwellings. In the period since 2011, although the target was significantly exceeded in 2011-12 there was a considerable shortfall over these years as a whole, whether assessed against the Council's preferred requirement of 580dpa, or the 641dpa favoured by the Appellant. In the context of the present appeal there is an additional year of figures to be taken into account by comparison with the Yapton Road appeal and the second Woodgate appeal. The annualised target has only been met in two out of the past 8 years, and when housing delivery is assessed against the overall targets for period it is evident that there has been a persistent failure to deliver the required number of dwellings.
83. I therefore conclude that there is a persistent record of under delivery and that the 20% buffer should apply. This view is consistent with the Hook Lane Statement of Common Ground in which the Council accepts that there has been a persistent record of under-delivery and that the 20% buffer should apply.

Housing Land Supply

84. The Council's housing land supply comprises sites with planning permission, sites identified within the Housing and Employment Land Availability

³ APP/C3810/A/11/2163208

⁴ APP/C3810/A/12/2171484

⁵ APP/C3810/A/12/2180855

⁶ APP/C3810/A/13/2196029

Assessment (HEELA), sites within neighbourhood plans at an advanced stage and windfall sites. These provide a deliverable supply of 3,326 dwellings. The Council states that 212 are windfall sites and that all but 365 of the remainder are on sites where planning permission has already been granted. I note that the supply referred to in the context of the Hook Lane appeal is marginally higher at 3,315.

85. The Appellant considers that the Council has frequently predicted a higher level of completions by comparison with the number of dwellings delivered. The Annual Monitoring Reports for the period 2005-2014 indicate that the Council overestimated the supply of housing by an average of 14% over this period. However, this average figure is not representative of the situation in recent years where the difference between the Council's predicted supply and the number of completions has generally been between 3 and 7%. Footnote 11 to paragraph 47 of the NPPF states that sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years. At the inquiry the Council advised that development has commenced on 9 of the 11 larger sites for 10 or more dwellings. Therefore on the basis of the available information there is no reason to suppose that the 2,716 dwellings on sites with planning permission will not be deliverable.
86. The Appellant was critical of 3 sites within the Council's housing land supply, Windroos Nursery, Toddington Nursery (both of which have planning permission) and the land south of Littlehampton Academy.
87. There is an extant outline planning permission for 91 dwellings at Windroos Nursery. The site is currently in use as a haulage depot which would need to be relocated prior to the commencement of development. Evidence from the Appellant suggests the vendor took the site off the market in order to address soil contamination issues prior to remarketing the site. Whilst it is clear that there are some obstacles to the development of this site, it would seem that it is still the owner's intention to market it for housing. Given the advice at footnote 11 of the NPPF I do not consider that there is compelling evidence to justify the exclusion of this site from the 5 year housing land supply.
88. Outline planning permission was granted for a mixed use development at the Toddington Nursery site in January 2013. It is a large development comprising 1260 homes and a range of other facilities including a care home, hotel and primary school. The Council considers that it will deliver 265 homes in the five year period from June 2014. The site has been acquired by Persimmon Homes and they have advised that they intend to provide 395 homes in the period up to 2019.
89. The Appellant considers this figure to be unduly optimistic due to the complexity of the reserved matters, the average lead-in time for large developments and the average rate of delivery within the District. On the basis of average lead-in times and build-out rates for large sites within Arun the Appellant considers that this site is likely to deliver only 120 dwellings in the period up to 2019. Evidence from a local estate agent, and from West Sussex County Council would also appear to support this view.
90. Whilst I have no reason to doubt the Appellant's figures in relation to average lead-in and build-out times, such an approach evens out the troughs and peaks. Therefore in some instances the number of houses delivered could be significantly higher than the average, whilst in others it would be markedly

lower. The evidence from the estate agent would appear to refer to sales figures, but in any event, neither this evidence, nor that from West Sussex County Council indicates the completion rates envisaged by the Council, or Persimmon Homes, for this site will not be achieved. Therefore I do not consider that there is any convincing justification for the downward revision of the housing delivery figures for this site.

91. There can be a range of reasons why a planning permission is not implemented particularly given the economic circumstances of recent years. Although there is no certainty that all of the sites identified by the Council will be delivered, given the high proportion of sites where development has commenced, and bearing in mind the Footnote 11 advice, there does not seem to be justification for applying a discount of 14% as suggested by the Appellant.
92. The final site is the Land South of Littlehampton Academy. There is no current planning permission in relation to this site, and an application earlier in 2014 was withdrawn due to issues with regard to the viability of the proposal in relation to affordable housing provision. A revised application was submitted and registered during the course of the inquiry. The Appellant considers that there is insufficient evidence to indicate that the site is deliverable in the next five years. The Council's housing land supply indicates that it would deliver 68 houses in this period.
93. Paragraph 3/31 of the PPG advises that sites without planning permission can be included in the five year housing land supply. However, local planning authorities are required to provide robust, up-to-date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. Footnote 12 to the NPPF states that to be deliverable, sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that the development is viable.
94. There is clear evidence that the site which is owned by West Sussex County Council is available. It is allocated within the Littlehampton Neighbourhood Plan, and on the basis of the available evidence I consider that there is a realistic prospect that housing will be delivered on the site within the next five years.
95. The parties differ as to whether windfalls should be included as part of the housing land supply. The Council considers that windfall sites will deliver 212 dwellings over the next five years. The Appellant disagrees, and considers that windfall sites should not contribute to housing land supply. It is evident that windfall sites have consistently continued to come forward at a rate of over 80dpa even in recent years. On this basis I consider the inclusion of windfall sites to be consistent with paragraph 48 of the NPPF. Regardless as to whether windfall sites are included it is apparent that the Council does not have a five year housing land supply.

Overall Conclusion on Housing Land Supply

96. Paragraph 49 of the NPPF states that the relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
97. I conclude the Council's assessment of the supply of deliverable housing sites to be reasonably robust. On the basis of the evidence before me I have found

that the Council has a supply of deliverable sites, sufficient to provide 3326 dwellings over the next five years. This is inadequate to meet the five year housing requirement for 3566 dwellings. Taking account of the 20% buffer required by the NPPF, there would be a shortfall of 881 dwellings. The appeal proposal would go some way to meeting this shortfall and this consideration weighs in favour of the proposal.

Other Matters

Traffic/Highway matters

98. Local residents are concerned that the existing road network would be unable to accommodate the additional traffic movements generated by the proposal. The Appellant's Transport Assessment modelled the impact of the appeal proposal on the capacity of the highway network in future years. The assessment for 2018 identified a capacity issue at the northern arm of the B2233 Nyton Road and A29 Westergate Street junction due to vehicles turning right from the A29 onto Nyton Road. The Transport Assessment indicates that the development would increase the delay at this junction from 199 seconds (without the development) to 262 seconds. The number of vehicles queuing would increase from 30 to vehicles to 42 vehicles.
99. A further sensitivity test to take account of potential trip reductions due to the measures within the Travel Plan and a reduced number of vehicles turning right (which the Highway Authority considers to be a more realistic route choice) was undertaken. This showed that the increase in delays would be about 34 seconds and that queues would increase to 38 vehicles.
100. These delays and queues are based on the worst performing 15 minute time segment during the AM peak period. They do not take account of any planned road improvements and assume that all the proposed dwellings would be private residential properties. Therefore the appeal proposal which includes up to 80 affordable dwellings (including 60 senior living apartments) is likely to generate a lower number of peak hour trips by car than suggested by the Transport Assessment. Furthermore, the assessment does not take account of changes in predicted traffic flows which the Highway Authority advise are decreasing rather than increasing on some parts of the highway network.
101. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The Highway Authority state that having regard to the Transport Assessment it does not consider the effect to be severe and that there are no highway reasons to resist the proposal. On the basis of the available evidence I have no reason to take a different view.
102. The proposal includes a number of sustainable transport measures and makes provision for financial contributions towards the construction of the proposed Eastergate to Barnham cycleway; a controlled crossing point adjacent to Limes Avenue; the installation of real-time information screens and improved passengers waiting facilities at bus stops close to the appeal site, together with the widening of the footway along the northern side of the A29 between the pedestrian access to the site and the proposed crossing point.
103. The Eastergate to Barnham cycleway would provide future residents with a safe and convenient off-road foot and cycle route to the existing services and

facilities within Barnham. It would also benefit those residents accessing Barnham Train Station. The proposed crossing point would improve safety for those crossing the A29 and pupils accessing the Ormiston Academy, the Six Villages Leisure Centre, as well as pedestrian trips to the nearby convenience store. Together these measures would encourage trips by methods other than the private car, and thereby limit the overall number of vehicle movements arising from the proposal.

104. It is proposed that Northfields Lane would provide an emergency access to the appeal site. I understand residents' concerns regarding the suitability of Northfields Lane for vehicular traffic. However, it is intended that the access would only be used in the event of an emergency when access from Fontwell Avenue was not available.

Living Conditions

105. Mr Ellis, a resident of Northfields Lane, explained that he had moved to his property in order to benefit the health of his sons, both of whom suffer from autistic spectrum disorder and are especially sensitive to noise and light. Mr Ellis is concerned that the introduction of street lights may have a detrimental effect on the health of his sons. He also considered that the proposal could give rise to a loss of privacy.
106. The proposed dwellings would replace the view over open farmland from the upper floor bedroom that the property currently benefits from. Based on the indicative layout there would be a 10 metre buffer strip between the proposed dwellings and the boundary with Mr Ellis's property and the proposed dwellings would be about 25 metres from the boundary. Due to the relatively level nature of the appeal site there is potential for views between the proposed dwellings and the upper floor of Mr Ellis's property. This is a matter that could be addressed in the context of the detailed layout and landscaping scheme for the site. I am satisfied that there is sufficient distance to enable a scheme that would limit the potential for views between properties and light spillage from the appeal scheme. Moreover, Mr Ellis's property is located towards the western part of the site where the mitigation proposals in relation to biodiversity seek to limit lighting. Whilst I am sympathetic to Mr Ellis's situation, given the extent of the separation between the proposed dwellings and his property, I do not consider that the effect of the proposal on his living conditions justifies the dismissal of the appeal.

Biodiversity

107. Local residents questioned the adequacy and robustness of the Ecological Report which they consider downplays the ecological value of the site. In particular, they have noted bats using the western part of the site for foraging and note that the report does not have regard to tawny owls which have been recorded nearby.
108. The Ecological Report submitted with the application was updated in 2013. It was further updated to reflect the result of surveys undertaken in 2014. The study area on which the report was based included the appeal site and a 2km zone around it.
109. The habitat survey identified a number of trees and buildings on the appeal site with potential for bat roosts. The rural nature of the appeal site, and in particular the western part of the site, means that it provides suitable foraging and commuting opportunities for bats.

110. No evidence of bat roosts was found within the mature oak trees in the north and centre of the site. Bat droppings were found within the roof void of the bungalow on site, however the most recent bat activity surveys did not identify any bats emerging or entering the bungalow. Although it is not thought to support an active roost, the bungalow does represent a potential roosting opportunity for bats and the roost could potentially become active again in the future.
111. Bats are a European Protected Species under Article 12 (1) of the European Commission's Habitats Directive. This prohibits the deliberate killing, catching or disturbing of species and damage to or destruction of their breeding sites or resting places. In the event of a breach of Article 12, the applicant would need to apply to Natural England for a derogation licence based on the exceptions set out in Article 16. The Conservation of Habitats and Species Regulations 2010 places a duty on decision makers to have regard to the requirements of the Habitats Directive and deals with the licensing regime. Therefore should the roost become active in the future a derogation licence would need to be in place prior to the demolition of the bungalow. This would require mitigation to limit the adverse effects of the proposed demolition on the local bat population and to avoid killing and/or all injury of bats.
112. The proposed mitigation strategy includes providing roosting opportunities within the proposed dwellings, sensitive lighting designs and the creation of unlit areas suitable for bats particularly towards the western boundary of the site. In addition the mature oak trees towards the centre of the site would be retained. In view of the mitigation and compensatory measures proposed there is no reason to suppose that Natural England would not grant derogation licence should it be necessary.
113. There is no available evidence, to support the suggest of local residents that views of West Sussex County Council Ecologist are flawed. Nor is there any reason, subject to the implementation of a suitable mitigation and enhancement scheme, to suppose that the proposal would have an adverse effect on the nature improvement area proposed by the emerging Aldingbourne Neighbourhood Plan. Indeed, taking the range of mitigation measures into account, including the clearance of Japanese Knotweed and the provision of surface water attenuation features which would be beneficial to amphibians, the proposal is likely to have a beneficial effect on biodiversity overall.
114. Although the site was not surveyed for tawny owls, a number of bird species were noted. Tawny owls are unlikely to be resident within the buildings on the site and the majority of the mature trees on the site would be retained. Therefore the appeal proposal would be unlikely to have an adverse impact on Tawny Owls.

Infrastructure

115. The completed S106 agreement contains obligations in relation to affordable housing, on-site play facilities and open space, the provision of an off-site multi-use games area, leisure facilities, primary education, library facilities, fire and rescue services, health, sustainable transport and public transport infrastructure, including the controlled crossing and a travel plan and the realignment of the A29.
116. In considering these obligations I have had regard to policies GEN8, GEN14, GEN15 and DEV17 of the Local Plan, the Council's *Interim Housing Policy – New*

Standards for Affordable Housing (August 2010) and to the *Supplementary Planning Guidance: Open space and Recreation Standards (2000)*(SPG).

117. The proposal would make provision for affordable housing in accordance with Interim Housing policy. It would also accord with paragraph 50 of the Framework.
118. The illustrative layout shows a large open space and children's play area towards the centre of the site, a further play area towards the north of the site and an area of open space and situated within the south-eastern part of the site. The provision of these facilities accords with the requirements of the SPG and is necessary to ensure that there are suitable facilities for future residents of the appeal site.
119. The Council provided evidence to show that there is currently a deficit in leisure facilities within Bognor Regis, including swimming pools, sports halls and playing pitches. The appeal proposal would add to the existing pressure on these facilities. The relevant contributions would be used to mitigate the effect of the residents of the development on these services. The proposed multi-use games area would be provided off site at Aldingbourne Community Sports Centre. The SPG requires developments for more than 200 dwellings to make provision for formal sports pitches. The proposed multi-games area would be a benefit to both future residents of the appeal site and the existing community. These contributions would accord with policy GEN8 which requires proposals to make appropriate provision for infrastructure, and would contribute to the social sustainability of the appeal proposal in accordance with the principles within the NPPF.
120. The primary schools within the area are operating at capacity, and the contributions would be used to provide additional school places that would be accessible to the local community. The proposal would add to the demand for library facilities within the area. Bognor Regis library does not have sufficient space to cope with demand arising from future residents of the appeal site. The contribution would be used to expand the existing facilities at the library in order to cope with the additional demand.
121. The Fire and Rescue Service contribution reflects the need for provision of fire hydrants on the appeal site and the additional demand for this service that would arise from the occupants of the new dwellings. The Health Contribution would be used to mitigate the direct impact of the proposal upon health services that are currently operating at capacity, and would be used in connection with the extension of the Croft Surgery.
122. The obligations in relation to sustainable transport and public transport infrastructure, including the controlled crossing, would reduce dependency upon the use of the private car. These measures would encourage future residents to use alternative means of transport to the car and would mitigate the effect of any additional traffic arising from the appeal proposal on the highway network. They are consistent with local and national planning policies that seek to reduce the need to travel and reliance on use of the car.
123. In each case, I am satisfied that the above obligations are necessary to make the development acceptable in planning terms and that the scale of the contribution is directly, fairly and reasonably related to the development in scale and kind. I have therefore taken them into account in reaching my decision.

124. At the time the application was considered the Highways Authority did not request a contribution towards the realignment of the A29. The realignment is proposed to be delivered together with the strategic site allocation for a minimum of 2000 homes on land between Barnham, Eastergate and Westergate.
125. Following the refusal of the application, West Sussex County Council has identified the realignment of the A29 as a priority scheme to support local economic growth. A feasibility study published by Arun District Council confirmed that there are no overriding constraints to prevent the delivery of the scheme. In September 2014 the Council also approved the Arun Local Plan 2011 to 2031 publication version which included the strategic site allocation referred to above. As a result of these changes, the Council considers that there is now far greater certainty that additional development will take place within the area which together with the appeal site would have a cumulative impact of the transport network.
126. The Council now consider that the A29 realignment scheme would be required to mitigate the cumulative impact of development in the area. The contribution towards the realignment of the A29 would facilitate the delivery of strategic highway infrastructure within the District and would mitigate known capacity issues, and predicted issues, along the existing route of the A29.
127. The realignment of the A29 may well be necessary should the strategic housing allocation at Barnham, Eastergate and Westergate be carried forward into the emerging plan. However, there is limited evidence to indicate that the appeal proposal either by itself, or in combination with previously permitted development, would have an adverse effect on highway capacity in the locality. Therefore notwithstanding the economic and other benefits emanating from the realignment of the A29, and having regard to the views of the Highway Authority at the time of the application, I conclude that there is no compelling evidence to indicate that the realignment scheme is necessary to make the development acceptable. Therefore this obligation would not comply with the tests within CIL⁷ Regulation 122 and I am unable to take it into account.
128. I therefore conclude that with the exception of the obligation in relation to the realignment of the A29 the infrastructure contributions sought by the Council are reasonable and necessary, and would comply with the tests within Regulation 122.

Overall Planning Balance

129. The NPPF sets out a presumption in favour of sustainable development. It advises that sustainable development should be seen as the golden thread running through both plan-making and decision-taking. It identifies three dimensions to sustainable development - economic, social and environmental.
130. Economically, the development would bring short-term advantages in respect of jobs. In the longer term it would increase household spending within Arun. It would also support economic growth through the provision of housing and the creation of jobs in local services to meet the additional demands arising from the development. The proposal would also add to the number of economically active residents within Arun.

⁷ Community Infrastructure Levy

131. The proposal would be socially sustainable in that it would provide up to 268 new dwellings, 30% of which would be affordable dwellings. It would also meet the need for retirement properties within the district. The proposal would benefit the wider community through the contributions towards the controlled crossing, the provision of a multi-games area at Aldingbourne Community Sports Centre, the provision of public open space, enhanced public transport measures and the contribution towards the Barnham to Eastergate cycle route.
132. The Appellant and the Council are agreed that the site lies within a sustainable location being immediately adjacent to the settlement boundary of Westergate. The site is close to a range of services and facilities that are within walking and cycling distance of it. The proposal would provide safe routes for pedestrians and cyclists. The scheme would help meet the needs of present and future generations for housing, and has the potential to provide a high quality built environment including areas of publicly accessible open space. The development would not be at risk of flooding or increase flood risk elsewhere. Overall, I conclude that the proposal would be socially, environmentally and economically sustainable.
133. Paragraph 14 of the NPPF states that where the development plan is absent, silent, or the relevant policies are out of date, permission should be granted for development, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework as a whole, or specific policies within it that indicate that development should be restricted.
134. The appeal site is situated within the countryside and the proposal is contrary to Policies GEN2 and GEN3 of the Local Plan. However, for the reasons given above these policies attract minimal weight. Moreover, the Council cannot demonstrate a 5 year supply of deliverable housing land, and therefore policies GEN2 and GEN3, which are policies relevant to the supply of housing, cannot be considered up-to-date. For these reasons the presumption in favour of sustainable development set out in paragraph 14 of the NPPF applies.
135. The Appellant indicates that the site is deliverable. The current deficit in housing provision and the contribution that the appeal proposal would make towards providing much needed housing, including affordable housing, in a sustainable location is a strong material consideration in favour of the appeal proposal.
136. Whilst the proposal would result in the encroachment of built development into the countryside, it would not result in material harm to the character and appearance of the area, or to the setting of Westergate or Eastergate. I have not identified any other factors which weigh against the proposal. I conclude that in this case the factors weighing in support of the appeal are sufficient to outweigh the intrinsic harm arising from the loss of countryside.
137. On behalf of local residents it was suggested that the proposal is premature given the resources that have been committed to the preparation of the ALP and the volunteer time committed to the careful preparation of the Aldingbourne Neighbourhood Development Plan. This view is not shared by the Council. It is submitted that both plans are at an advanced stage and will proceed to EIP and Referendum respectively within the next few months.

138. The PPG is clear that arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both: a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.
139. The appeal proposal is for 268 dwellings. Having regard to the scale of the housing requirement within Arun, and the Council's intention to provide a minimum of 2000 dwellings at the Barnham, Eastergate, Westergate Strategic housing site there is no evidence to suggest that the proposal would undermine the plan making process.
140. The housing strategy within the ALP, as well as the overall housing requirement for the District, has yet to be tested through the development plan examination process. Therefore, particularly in the light of the objections to its housing strategy, it cannot be considered to be at an advanced stage. At the time of the inquiry the Neighbourhood Plan had not been published and therefore it cannot be afforded significant weight. In these circumstances I do not consider that proposal is premature in relation to either the emerging LDP or the emerging Aldingbourne Neighbourhood Plan.

Conditions

141. I have considered the suggested conditions in the light of discussions at the inquiry, the advice at paragraphs 203 and 206 of the NPPF and the PPG. For the avoidance of doubt and in the interests of proper planning the proposal should be carried out in accordance with the approved plans. Details of the design and appearance of the dwellings are reserved matters, therefore a separate condition requiring the submission of materials is not necessary. For the same reason, an additional condition specifying the level of detail required in respect of the landscape scheme is also unnecessary. Furthermore, details of the layout and management of the public open space and play areas will be submitted in connection with the s106 agreement.
142. The existing trees and hedges form an integral part of the existing landscape and I agree that they should be retained in order to ensure that the development integrates with its surroundings and in the interests of biodiversity. For the same reason protective fencing should be erected around the trees on the site in accordance with an approved Tree Protection Plan and Arboricultural Method Statement.
143. Ground investigations found no evidence of soil contamination. Therefore a condition requiring a risk assessment and remediation strategy in respect of soil contamination is unnecessary. However a condition detailing measures in the event that any unexpected contamination is discovered is required in the interests of the health and well-being of future occupants of the site.
144. A condition requiring an archaeological investigation is necessary in order to protect the archaeological potential of the site. In the interests of sustainability

the pedestrian and cyclist access points onto Northfields Lane and adjacent to Apogee House should be provided before the dwellings are occupied. A condition requiring the provision of the vehicular access to the site is unnecessary since is shown on the approved plans. In the interest of highway safety the existing vehicular access at the south west corner of the site should not be used by vehicles, pedestrians or cyclists. The visibility splays at the access to the site are necessary in the interests of highway safety.

145. I agree that the car parking spaces and footways associated with individual dwellings should be provided before the dwellings are occupied. In the interests of sustainability cycle parking should be provided for individual dwellings. In the interests of highway safety and sustainable transport the bus stop close to the entrance of the site should be relocated.
146. A scheme for the removal of the Japanese Knotweed on the site is necessary in the interests of biodiversity. For the same reason a Construction Environment Management Plan and an ecological enhancement scheme are necessary. Details of proposed external lighting should be submitted for approval to avoid disturbance to bat species and other wildlife which avoid areas of artificial illumination.
147. In order to safeguard the amenity of surrounding residents and to limit the effect of the proposal on the highway network, a Construction Environmental Management Plan should be submitted. Separate conditions requiring details of refuse storage arrangements and the minimum size of garages is not necessary since these matters will be addressed as part of the layout of the site.
148. In the light of the flooding issues in the locality details of the surface water drainage scheme and proposals for its management should be submitted for approval. Any proposed discharges into existing watercourses should also be submitted for approval. A scheme in relation to the foul water drainage system is also required, together with details of a scheme to attenuate flows from the private treatment plant.

Conclusion

149. For the reasons given above, subject to the provisions of the Unilateral Undertaking, with the exception of the financial contributions towards the realignment of the A29, I conclude that the appeal should be allowed.

Lesley Coffey

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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Of Counsel

Instructed by the Solicitor to Arun District Council

He called

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David Price

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Michael Dewson

Drainage Consultant

Richard Hudson

Transport Consultant

INTERESTED PERSONS:

Councillor Hodgeson

Laurence Ward

Louise Beaton

Jonathon Ellis

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Letter interested parties of the arrangements of the inquiry
- 2 Updated list of plans submitted by the appellant
- 3 Arun Local Plan Validation Study: Economy & Enterprise submitted by the appellant
- 4 Arun District Council Duty to Cooperate Statement submitted by the appellant
- 5 Coastal West Sussex and Greater Brighton Local Strategic Statement submitted by the appellant
- 6 ADC Sustainability Appraisal submitted by the appellant
- 7 Coastal West Sussex & Greater Brighton Authorities Memorandum of Understanding
- 8 Jim Redwood Summary Proof of Evidence

- 9 Arun Local Plan 2011-2031 Publication version submitted by the local planning authority
- 10 Coastal West Sussex SHMA Update submitted by the local planning authority
- 11 Information on various local issues submitted by Louise Beaton
- 12 Signed S106 Agreement
- 13 Extract From PAS Ten Key Principles To Owning Your Housing Number- Finding Your Objectively Assessed Needs Housing submitted by the local planning authority
- 14 Housing Completions 2007-2014 submitted by the local planning authority
- 15 Letter from West Sussex County Council regarding housing completion rates submitted by the appellant
- 16 Table comparing Housing Land Supply core documents
- 17 Housing Study (Duty to Co-operate) Executive Summary
- 18 Housing Land Supply including windfall sites submitted by the appellant

DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE INQUIRY

- 1 Housing Land Supply Statement of Common in respect of Hook Lane Appeal (Ref APP/C3810/A/14/220943) submitted by the appellant
- 2 Letter from Joyce Pierce dated 13 January 2015
- 3 Letter from Louise Beaton dated 14 January 2015
- 4 Letter and enclosure on behalf of Aldingbourne Parish Council dated 18 January 2015
- 5 Letter on behalf of Villages Action Group dated 19 January 2015

Appeal Ref: APP/C3810/A/14/2217385

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) The development hereby permitted shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 3) The development hereby approved shall be carried out in accordance with the following approved plans: Site Location Plan - Drawing No. 10; Site Access - Drawing No.022.1970-3000 Revision: P10; Pedestrian/Cycle access Access point details sheet 2 - Drawing No. 22; Pedestrian/Cycle access Access point details sheet 3 - Drawing No. 23.
- 4) No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.
- 5) Prior to the commencement of development, an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. The Arboricultural Method Statement shall include the details of the specification and location of tree and hedgerow protection, shown on a tree protection plan (TPP). The TPP shall also show root protection areas of all retained trees and details of pruning or removal of trees and hedges both within and overhanging the site. The Arboricultural Method Statement shall provide details of any construction activities that may require works within the protected root areas. All works shall be carried out in strict accordance with the approved details.
- 6) No pedestrian, cyclist or vehicular access shall be formed at the southwest corner of the site, or make use of the vehicular access onto Nyton Road.
- 7) If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
- 8) An archaeological investigation of the site asset shall be carried out at the expense of the developer in accordance with a written scheme of investigation to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.
- 9) Visibility splays of 3 metres by 120 metres to the north and 59 metres to the south have been provided at the proposed site vehicular access onto A29 Fontwell Avenue in accordance with the details indicatively shown on drawing no. 022.1970-3000 Rev P10 prior to the occupation of the dwellings hereby permitted. The splays shall thereafter be maintained

- and kept free of all obstructions over a height of 0.6 metres above adjoining carriageway level.
- 10) The pedestrian and cyclist access points onto Northfields Lane and adjacent to Apogee House shall be constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development.
 - 11) No part of the development shall be occupied until the roads, footways, and parking areas serving that part of the development have been constructed, surfaced and drained in accordance with plans and details to be submitted to and approved by the Local Planning Authority. The parking areas shall thereafter be retained at all times for their designated use.
 - 12) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.
 - 13) No part of the development shall be first occupied until such time as the northbound bus stop on A29 Fontwell Avenue has been relocated in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.
 - 14) No development shall take place until a scheme for the removal or the long-term management and control of Japanese Knotweed on the site is submitted to and approved in writing by the Local Planning Authority. The scheme shall include be implanted in accordance with the approved details and a programme of implementation.
 - 15) Prior to the commencement of development, any preparatory works, a Construction Environmental Management Plan describing how the construction of the scheme will proceed to mitigate potential impact on local ecology shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and adhered to throughout the construction period.
 - 16) Prior to the installation of any external lighting, except for the dwellings hereby permitted, the precise details of any proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall take into account any ecological mitigation measures as identified in the ecological surveys. The external lighting shall be installed in accordance with the approved details.
 - 17) Prior to the commencement of development, or any preparatory works, an Ecological Enhancement Scheme shall be submitted to the local planning authority. The scheme should be based on the recommendations at sections 5 and 6 of the Ecology report dated 29 July 2014. The development shall be implemented and maintained in accordance with the approved scheme and a programme of implementation.
 - 18) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) loading and unloading of plant, materials and waste
- iii) storage of plant and materials used in constructing the development
- iv) the erection and maintenance of security
- v) the provision of wheel washing facilities and other works required to mitigate the impact of construction on the public highway
- vi) details of public engagement prior to and during construction
- vii) temporary arrangements for access to the site and routing of construction traffic.

- 19) Development shall not commence until full details of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority.

The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations and the recommendations of the SUDS Manual produced by CIRIA.

No dwelling shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details.

- 20) Prior to the commencement not proceed until written consent has obtained from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site.

Any discharge to a watercourse must be at a rate no greater than the predevelopment run off values.

- 21) Prior to the commencement of development full details for the maintenance and management of the SUDs system shall be set out in a site-specific maintenance manual. The manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life and shall be submitted to and approved by the local planning authority. Upon completed construction of the SuDs System, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.
- 22) Prior to the commencement of development arrangements for the future access and maintenance of any watercourse or culvert crossing or abutting the site has been submitted and approved in writing by the Local Planning Authority.
- 23) Before the development hereby permitted is commenced details of a proposed foul drainage system (including details of its siting, design and subsequent management/maintenance, if appropriate) shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.
- 24) Prior to the commencement of development details of a scheme to attenuate flows from the proposed private treatment plant shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details to show how peak flows from the proposed treatment plant can be attenuated on site and restricted to a suitable rate

so to not increase the risk of flooding to communities from the Lidsey Rife. The proposal shall be implemented in accordance with the approved details.

Richborough Estates