



Appeal Decision

Inquiry held on 21 - 24 April 2015

Site visit made on 24 April 2015

by W G Fabian BA Hons Dip Arch RIBA IHBC

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

Decision date: 29 June 2015

Appeal Ref: APP/M1710/A/14/2226723

Land east of 20 - 38 Lymington Bottom Road, Medstead, Hampshire GU34 5EW

- 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 Mr Alan Ward on behalf of CALA Homes (Southern Home Counties) Ltd against the decision of East Hampshire District Council.
 - The application Ref 55197/001, dated 2 April 2014, was refused by notice dated 29 September 2014.
 - The development proposed is 75 dwellings with associated access, landscaping, public open space and provision of allotments.
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Decision

1. The appeal is allowed and planning permission is granted for 75 dwellings with associated access, landscaping, public open space and provision of allotments at Land east of 20 - 38 Lymington Bottom Road, Medstead, Hampshire GU34 5EW in accordance with the terms of the application, Ref 55197/001, dated 2 April 2014, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. A signed multi-lateral Agreement¹ executed as a Deed between the landowners, the appellant and the District Council was submitted at the inquiry. I have taken this into consideration in my decision.
3. After the close of the inquiry a Deed of Variation and Planning Obligation² was submitted, as agreed during the inquiry, to address matters that had been raised. This amends the definition at parts (a) and (b) of the Transport Contribution to reflect updated information from the Hampshire County Council regarding transport improvement works; it provides for a new puffin crossing in a revised location more directly related to the development. It also amends the education contribution to accord with the eligible number of dwellings with two bedrooms or more within the development. This is also taken into consideration below.
4. The Council has confirmed that in light of the Phase 1 Habitat and Protected Species Scoping Survey and the Bat and Badger Survey both submitted with

¹ Inquiry Document 15

² Inquiry Document 26

application, and subject to ecological mitigation secured through a condition, it no longer wishes to pursue the third reason for refusal. No other evidence has been brought to my attention to cause me to reach a different conclusion in this regard and I shall consider the appeal on this basis.

5. In June 2015 after the close of the inquiry but prior to the issue of this decision, the Council confirmed the formation of a consortium led by Taylor Wimpey to deliver the strategic allocation at Whitehill & Bordon. This information was accepted as it relates to evidence before the inquiry and is material to my consideration of the issues in this appeal. Comments³ on this matter from appellant were invited and accepted. This matter has been taken into consideration in my decision. The inquiry had already been informed during the course of the inquiry that on 23 April 2015 the Council had passed a resolution to grant planning permission for 2,400 dwellings on the Whitehill & Bordon site. The Council also sought to update its provisional housing supply figure, but this additional evidence was declined.

Main Issues

6. The main issues are:
 - i) whether the proposal would be consistent with the development plan for the district;
 - ii) whether there is a five year supply of housing land in the district; and
 - iii) whether the proposal would deliver the three economic, social and environmental dimensions of sustainable development.

Reasons

7. The appeal site is a large open field used for grazing which adjoins the rear gardens of houses along Lymington Bottom Road on one side and the shrub-lined boundary of the business park on Station Approach on another. The third side is tree-lined and abuts the curtilage of an equestrian centre along about half of it. There is a fairly narrow band of mainly deciduous woodland on the fourth, uphill, side and a short stretch of unenclosed boundary at the corner leading to further larger open fields beyond. The site is difficult to see from public vantage points, other than from the elevated tourist railway (the Watercress line) beyond the business park, and it has a tranquil undeveloped rural character.
8. Planning proposals should be considered against the development plan, unless material considerations indicate otherwise. The development plan comprises the East Hampshire Local Plan: Joint Core Strategy, May 2014 (JCS) and the saved policies of the East Hampshire District Local Plan: Second Review, 2006, (LP).
9. JCS policy CP1 sets out that the Council and National Park Authority (NPA) will take a positive approach to considering development proposals, which reflects the presumption in favour of sustainable development contained in the Government's Framework⁴. Policy CP2 establishes that new development growth in the period up to 2028 will be directed to the most sustainable and

³ Appellant's comments Inquiry Document 29

⁴ National Planning Policy Framework

accessible locations in the District in accordance with the Spatial Strategy shown in the Key Diagram.

10. The text to JCS policy CP2 sets out a sustainable hierarchy of settlements. Four Marks and South Medstead is identified as a Small Local Service Centre, which is at Level 3 of the hierarchy; suitable to accommodate some new development. This comes after Market Towns (Level 1) as the most sustainable location for most new development and after Large Local Service Centres (Level 2) suitable locations for new development. The site lies immediately adjacent but outside the policy settlement boundary for Four Marks and South Medstead defined in the JCS. Policy CP19 seeks a general restraint on development outside settlement policy boundaries, with only development with a genuine and proven need for a countryside location to be allowed.
11. JCS policy CP2 states that provision is made for a minimum of 10,060 new dwellings in the period 2011-2028 and that the detailed distribution of housing numbers is set out in policies CP10 and CSWB4. Policy CSWB4 relates specifically to the strategic allocation for Whitehill & Bordon and so is not directly relevant to this appeal. CP10 identifies the allocation of sites at the most sustainable settlements and amongst these lists Four Marks and South Medstead to provide a minimum of 175 dwellings. It further clarifies that housing should be accommodated through development and redevelopment opportunities within existing settlement policy boundaries in the first instance.
12. There is little dispute between the parties that according to policies CP10 and CP19 the appeal site lies within an area of open countryside, where the development plan resists the proposed new housing development. In this regard, the proposal would be contrary to the development plan.
13. Settlement policy boundaries were established by the LP in 2006 and have not been revised in the JCS; this is to follow from the Council's Proposed Submission East Hampshire District Local Plan: Housing and Employment Allocations, April 2015, (Allocations LP) and individual neighbourhood plans.
14. However, with regard to paragraph 49 of the Framework, 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. At paragraph 14 the Framework establishes that where the relevant development plan policies are out-of-date, permission should be granted for sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Thus whether or not the Council can demonstrate a five-year supply is crucial in this appeal; it determines whether the countryside policies of the JCS may be considered up-to-date.

Housing land supply

15. In September 2014, at the time of the Council's decision that led to this appeal the Council acknowledged that it did not have a five year housing land supply. By the time of the submission of evidence, however, in March 2015, the Council had updated this position. It now considers that it can demonstrate a five year supply. Although referred to in its decision and submissions, the Council confirmed in writing prior to the Inquiry that the Council's Interim

Housing Policy Statement, February 2014, is no longer a material consideration.

16. The parties are agreed on a number of points⁵:

- The relevant five year period in this appeal is from 1 April 2015 to 31 March 2020.
- The housing requirement set in JCS policy CP2 for a minimum of 10,060 new dwellings in the plan period equates to a minimum of 592 dwellings per annum (dpa).
- There has been a total shortfall of 779 in the delivery of dwellings against the minimum target of 2368 (4 x 592) over the four years since the start of the plan period. The individual shortfall for each year since 2011 is 257, 251, 229, and 42⁶. (The SoCGHLS also records these figures disaggregated for the East Hampshire District Council area and the South Downs National Park area.)
- The range of sites to be taken into consideration in calculating the supply is agreed.

17. The parties differ on the approach to calculating the five year housing land supply in several fundamental respects:

- Disaggregation of the district into two areas is not agreed, but agreed figures have been provided in the SoCGHLS for the whole district as well as for each of the two separate areas.
- Whether the 'Liverpool' or 'Sedgefield' method should be taken for the calculation. The Council bases its approach on the Liverpool method, which spreads the housing shortfall over the whole of the plan period to 2028 rather than the Sedgefield method which applies it to the first five years of the period.
- Whether a 5% or a 20% buffer should be applied.
- The parties agree on five year supply figures for the whole district for the majority of the range of sites (the figures are also agreed for these for a disaggregated approach) but they differ on the delivery to be expected from five particular sites. Taking the appellant's position the supply figure for these five sites is 3,722 and taking the Council's it rises to 4,225.

18. As shown in the agreed tables⁷ giving all combinations of these parameters, on the basis of the Sedgefield method and applying variously the appellant's and Council's positions on the five sites, with either the 5% or 20% buffer, the only scenario in which a five year supply is demonstrated is using both the Council's position on the sites and the lower buffer of 5%. Taking the Liverpool method the only scenario for which a five year supply is *not* demonstrated is at the other extreme; using the appellant's position on the sites and the higher buffer of 20%.

Housing land supply - disaggregation

19. As to whether or not the housing supply calculations should be approached separately by disaggregating the total between the East Hampshire District

⁵ Inquiry Document 1 CD9.2 Draft Statement of Common Ground Housing Land Supply (SoCGHLS)

⁶ Inquiry Document 1 CD9.2 SoCGHLS table1.1, page 5

⁷ Inquiry Document 1 CD9.2 SoCGHLS tables 1a and 1b, page 11

(EHD) and the South Downs National Park (SDNP) areas, I have taken into consideration all the factors put forward including the other inspectors' appeal decisions⁸, which accept the disaggregated approach; these all relate to decisions for proposals within the national park. I further note the 'Barnfield' appeal decision⁹, also for a proposal within the national park, which post dates these other three.

20. In this most recent case the inspector records the majority of the factors put to me including the SHMA of 2013¹⁰, the email exchanges up to December 2013 with the Examining Inspector for the JCS, his Report in April 2014 and the adopted JCS. No additional evidence has been put to me in respect of any of these considerations either orally or in writing that carries sufficient weight to persuade me to disagree with his conclusion on this matter. I particularly note that there is no separate development plan yet for the national park area that sets a separate housing requirement and as yet there is no adopted Allocations LP for the East Hampshire district. (Although this has been published and there are relatively few objections it has not been subject to examination.) These will both have to reflect the duty to cooperate.
21. In any event, regardless of whether or not disaggregation is or is not the correct approach at this stage in advance of these it is also important to note that the tables on pages 12 and 13 of the SoCGMLS demonstrate that the same pattern of five year supply outcomes (as set out above) would occur; while the quantum of the supply would alter by a few decimal points, the combination of parameters by which a five year housing land supply could be demonstrated would remain the same for each scenario, with the supply for the disaggregated EHD area slightly less. For this reason and as the requirement figures established in the JCS are expressed for the whole district not the disaggregated areas and in the light of the other evidence put to me, as set out above, I shall base my consideration on the housing requirement and supply figures for the whole district.

Housing land supply – Liverpool or Sedgefield

22. Paragraph 035 of the Government's Guidance¹¹ on this states that local planning authorities should aim to deal with an undersupply within the first five years of the plan period where possible.
23. The Council's reason for using the Liverpool method relates to its large strategic allocation at Whitehill & Bordon identified in the JCS at policy CP10. The allocation for this site is 2,725 within the plan period and 4,000 in total beyond that. The first figure, within the plan period, amounts to 27% of the minimum requirement of 10,060. The majority of this is expected to be provided towards the middle and later parts of the plan period.
24. In support of its stance the Council refers to the Bloor Homes High Court judgement¹², but this pre-dated the publication of the Guidance. It also references the 'Blaby' major application decision¹³, taken by the Planning Inspectorate, in that case the inspector accepted the Liverpool method in line

⁸ Mr Harvey's Proof of Evidence, appendices 5, 6 and 7

⁹ Mr Harvey's Proof of Evidence, appendix 14

¹⁰ CD 1.24 East Hampshire Strategic Housing Market and Local Housing Requirements Study

¹¹ Planning Practice Guidance, Housing and economic land availability assessment

¹² Mr Harvey's Proof of Evidence, appendix 8

¹³ Mr Harvey's Proof of Evidence, appendix 10

with the CS inspector's approach prior to the Guidance and where that application amounted to a substantial majority (73%) of the housing requirement. Finally, the Rother Local Plan Report¹⁴ where the Liverpool approach was accepted as a mechanism to achieve the earlier adoption of that Core Strategy, but this is of less relevance in this appeal, which relates to a single proposal and comes after the adoption of the JCS.

25. The guidance is to focus on what is possible in relation to the first five years of the plan and in this case the Council's own figures show that a five year supply can be secured, using the 5% buffer and the Sedgefield method. I can thus see little justification for adopting the Liverpool approach in the face of the clear Government preference for the shortfall to be made up in the first five years of the plan period, particularly as the allocation for Whitehill & Bordon does not make up anything approaching the majority of the supply.
26. I consider that the Sedgefield method should apply.

Housing land supply – 5% or 20% buffer

27. Paragraph 47 of the Framework states that local planning authorities should add a buffer of 5% to the land needed to meet the 5 year housing requirements (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing the buffer should be increased to 20% to ensure a realistic prospect of achieving the planned supply.
28. The question here is: has there been a record of a persistent under delivery of housing to necessitate application of a 20% buffer? The purpose of the higher buffer is not to punish local planning authorities but to meet the need for housing in the district. Paragraph 47 clarifies that the 20% buffer is not an additional requirement, merely providing flexibility to give a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. According to the Guidance, the approach to identifying a record of persistent under delivery of housing involves questions of judgement. It 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.
29. The SoCGHLS records four years of under delivery since the start of the plan period in 2011. The first three years were all of a similar though slightly diminishing level (257, 251, 229 dwellings per annum), around 40% of the requirement each year. In 2014/2015 there was a marked lowering of this annual shortfall to 42dpa. However, despite this, cumulatively there is a significant shortfall of 779 to be made up; around 33% of the 2,368 requirement. Although the Council regards it as not legitimate to apply the JCS requirement retrospectively¹⁵ (to the period from 2011 to 2014 when it was adopted), and it is apparent that from their perspective the housing requirement 'goal posts' appear to be constantly increasing, nevertheless the Framework aim is to significantly boost the supply of housing and the housing requirement set in the JCS clearly relates to the plan period from 2011. There has been clear and persistent under delivery of housing over the last four years.

¹⁴ Mr Harvey's Proof of Evidence, appendix 9

¹⁵ Mr Harvey Proof of Evidence Table 8 and paragraphs 2.37 – 2.39

30. Looking further back, for the two years before the start of the plan period completions were lower than for the later four years; 266 and 272 (compared to 335, 341, 363 and 550). While these completions met the requirement of 260dpa set for those years in the South East Plan¹⁶, the Council accepted at the inquiry that the requirement in the plan had not been based on objectively assessed need – this basis for establishing the requirement was brought in by the Framework, after it had been set. As also documented in the SoCGHLS, the plan was based on 2006 population projections whereas the 2008 population projections, for these years, were for 400 dpa, well in excess of the completions.
31. In this case there is clear under delivery against the adopted minimum requirement for the last four years and realistically there is also under delivery against the published population projections for the previous two years also. In my view this is a record of persistent under delivery.
32. Further, all the housing requirement figures in the JCS are expressed as the minimum levels to be achieved. This is because the Examining Inspector made an explicit finding in his report that the acute level of affordable housing need in East Hampshire justifies setting a housing requirement in excess of the latest demographic projections. He found that based on reasonable assumptions, consistent with the principles of sustainable development, the need should be set at the top of the mid range of future scenarios as this was the one that could be reasonably expected to occur. This level is 610 dpa (10,370 for the plan period), which the inspector found would be achievable. As the 592dpa figure proposed in the JCS was less but not significantly less, this was found to be within a reasonable margin for error. The Council's record on delivery has been assessed against this minimum figure, which means that the shortfall is clearly serious, not marginal.
33. Taken all in all, to my mind the application of a 20% buffer would chime with the intentions of the Framework and Guidance.
34. I have concluded that the Sedgefield method should be applied and that a 20% buffer should be used. On this basis the parties' agreed position is that even by taking the Council's version of the supply figures for the five disputed sites it cannot demonstrate a five year housing land supply. In such circumstances the Framework at paragraph 49 states that relevant policies for the supply of housing should not be considered up-to-date. Consequently, the presumption in favour of sustainable development at paragraph 14 applies.
35. As such, the question of whether to accept the appellant's or the Council's views on the anticipated delivery of housing from the five disputed sites is not material to this decision.

Sustainable development

36. The Framework clarifies that there are three dimensions to sustainable development – the economic, social, and environmental roles and these are not to be undertaken in isolation, as they are mutually dependent.
37. In economic terms the provision of jobs during construction, and those that would be subsequently derived through local spending by the increased number of households, taken together, are an economic benefit that attracts some

¹⁶ Inquiry Document 1 CD9.2 SoCGHLS paragraph 3.7 first bullet

moderate weight for the proposal. The appellant cites as an additional economic benefit the funding that would be attracted from the Government's New Homes Bonus. As such funding would apply to any proposal for which permission were granted, this does not seem to me to be a benefit that is unique to this case or a material consideration necessarily favouring approval of this proposal.

38. The provision of 75 new dwellings would assist with the Government objective set out in the Framework to significantly boost the supply of new housing. Some 40% of these would be affordable, secured by the submitted planning obligation. These social benefits together are a material consideration to which I attach great weight.
39. The securing through the planning obligation of a financial contribution to provide a new puffin crossing, new footway and measures to provide safer routes to Medstead School would to some extent address existing highway safety issues as well as mitigating the additional pressure that would arise from the proposal in this regard. This adds slightly to the social benefits identified above. Similarly the provision of additional allotments is a social benefit, but the evidence to the inquiry that there is no current waiting list lessens the weight to be given to slight. However, the financial contributions in respect of increased need arising from the proposal for education, sports and recreation provision are not benefits; they merely result in an absence of harm.
40. Turning to the environmental role, the appellant submitted a Landscape Visual Impact Assessment (LVIA) with the application and the Council's Landscape Officer has agreed with its conclusion that subject to appropriate landscaping, secured by condition, the proposal would not result in an adverse visual impact on the landscape. The site is secluded and relatively contained, as set out above. Although at the highest corner it adjoins further open fields, these have a far more open character and are seen in a distinctly different and wider context, more closely related to the northern parts of the village. Accordingly I see no reason to differ from the Council's stance on landscape effects. No objection has been raised to the scheme with regard to the layout or design of the proposed housing in terms of the character and appearance of the adjacent built development and I share this view. The proposal would accord with the design aims of JCS policy CP29. This lack of environmental harm is a neutral factor in the overall balance.
41. For this district JCS policies CP2, CP10 and CP19 seek to direct housing development to specific locations identified in accordance with its Spatial Strategy, distributed between four distinct areas, the South Downs, National Park, Whitehill & Bordon, North of the South Downs National Park and the Southern Parishes, and to limit residential development elsewhere. The Council sees this strategy as a fundamental aspect of the development plan. However, in the absence of a five-year supply of housing, this policy restriction on the location of residential development can attract only limited weight.
42. In terms of the location of the appeal site and its relationship to Four Marks and South Medstead, there is little to demonstrate that the proposal would be unacceptable. The Council has acknowledged the suitability of this location for residential development in principle in terms of access to facilities, public transport and services. There is a wide range of services and facilities in the village, including bus routes and a limited train service, a primary school and

shops and the proposal would make contributions via the s106 Agreement to expanding or improving some of the school, shops and local highway infrastructure for pedestrians.

43. I conclude here that on the face of it, the proposal would accord with the three dimensions of sustainable development, as set out in the Framework and as such would deliver sustainable development in accordance with JCS policy CP1.

Neighbourhood Plan

44. In accordance with one of the Government's core planning principles, for planning to empower local people and following the Government's Localism Act 2011, the pre-submission Medstead and Four Marks Neighbourhood Plan 2015 - 2018 (MFMNP) has been drawn up by the Steering Group for the two Parish Councils in consultation with local residents. It will be subject to consultation with statutory bodies and, following any necessary amendments, will be submitted to the Council for examination by an independent examiner. The Steering Group anticipates the referendum on the plan in September, following the examination.
45. The MFMNP is based on the draft Site Allocation Plan and the JCS housing figures set in policies CP2 and CP10. It recognises that these set a target for a minimum of 175 new houses between 2011 and 2028. The MFMNP states that the Council has confirmed that no further allocations outside the settlement policy boundary are required within the village: only windfall applications within it will be allowed and these would be small scale.
46. The draft Site Allocation Plan, now the Allocations LP¹⁷, records allocations/commitments for Medstead and Four Marks that total 241 dwellings. This is 66 dwellings, or 37.7%, above the minimum 175 allocation set in policy CP10. This 241 total is referred to in the MFMNP and the increase in the annual rate of build is recorded as having increased from 32 dwellings per year between 2001 - 2011 to 60 per year from 2011 - 2015 and it predicts 120 per year if the as yet unbuilt permissions are all completed during the next two years from 2015. Local residents are alarmed that the minimum requirement for new dwellings in their community set in the JCS has been so far exceeded 'before the ink is dry on the paper' and that the appeal proposal would lead to a total amount of new dwellings some 81% above the minimum requirement.
47. Representatives of the Steering Group, the Parish Councils and numerous local residents attended the whole of the inquiry to put their major concern that this rate of growth is socially unsustainable; they feel that as a result of the ongoing authorised developments the character of their community is tangibly changing from a rural to an urban one and this is reducing social cohesion within it. While the MFMNP seeks to focus on opportunities to rebuild a sense of community spirit through various planned provisions (including at policy 6 the support for the development of a community hub at the railway station), there is a strong fear that to allow the appeal proposal would exacerbate this current problem and run counter to the aims of the local community in its Neighbourhood Plan.
48. Policy 1 of the MFMNP designates an updated separate settlement policy boundary for South Medstead, which takes account of the recently allowed sites

¹⁷ Proposed Submission East Hampshire District Local Plan: Housing and Employment Allocations, April 2015

but does not include the appeal site. The policy echoes JCS policy CP19, which resists all development within the countryside other than for certain exceptions. The proposal would thus conflict with the MFMNP.

49. The pre-submission MFMNP is emerging and this conflict therefore does not attract the weight accorded under s38(6) of the 1990 Act as it is not yet a part of the development plan. That said, given the stage to which it has progressed through the process, with the Council's publicity period underway, and given the evident high level of voluntary effort in its preparation and the degree of local support for it, I give it serious weight as a material consideration.
50. The scale of the proposed development is not of such a size that on its own it can be seen as premature in relation to paragraph 216 of the Framework and the Guidance on this matter, which indicates that refusal of planning permission on grounds of prematurity will seldom be justified in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. The Council has not made its case in these terms.
51. I recognise and sympathise with the heavy degree of local concern that the cumulative effect in terms of the rate of growth on the village of existing residential development that is underway, committed or with extant planning permission would result in excessive pressures relating to congestion on the local road system and on the services infrastructure, but this must be weighed against the back log for delivery in the district set out above and the national need to significantly boost the supply of housing. No party gave me substantiated evidence to demonstrate any significant planning harm that would arise and I am unable to give this consideration more than modest weight. Moreover, these effects would be reduced by the mitigations that would be achieved by the s106 financial contributions set out above and this lessens this moderate weight.
52. There are fears that the appeal proposal could lead to pressure for additional development of the adjacent fields to the northeast of the appeal site, which are identified with it in the recent SHLAA¹⁸ as a potential allocation site for 539 dwellings in total. This has yet to be examined through the Allocations LP and any such future application would fall to be determined on its own merits and the particular site circumstances.

Conclusions

53. I have found that the development would amount to sustainable development, which the Framework advises should be allowed, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
54. I have assessed the economic benefits in terms of employment and spending as moderate. I have given great weight to the housing benefits, which adds to the slight benefit of financial mitigations for pedestrian improvements and the provision of social facilities and combines to provide substantial social benefits. All in all the limited weight to be given to the locational objection arising from the Council's spatial strategy and the material considerations relating to the conflict with the emerging MFMNP and the local community's concerns with regard to the cumulative impacts on traffic congestion and the services

¹⁸ CD 1.6 East Hampshire Strategic Land Availability Assessment, 2014, Appendix H (CD 1.7) site MED001

infrastructure, attract less than significant weight taken together. In my judgement, even in combination, this harm is insufficient to significantly and demonstrably outweigh the acknowledged benefits of this sustainable development.

55. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

56. The Council's lists of suggested conditions¹⁹ were discussed and amendments agreed by the main parties at the inquiry. Although the suggested commencement condition indicated expiry in two years, it was agreed by both parties that the standard limit of three years should be applied. For the reasons set out below the following conditions are necessary and reasonable and comply with the Framework and Planning Practice Guidance.
57. For the avoidance of doubt and in the interests of proper planning a condition specifying the approved drawings. One to secure the provision and maintenance of a sustainable form of surface water drainage, in accordance with the Flood Risk Assessment. One to secure the timely provision of a suitable sewer connection, as suggested by Thames Water. A scheme of external lighting to safeguard the character and appearance of the area and in the interest of wildlife conservation. A construction method statement, to protect trees subject to a Tree Preservation Order in accordance with the appellant's Arboricultural Impact Assessment, to safeguard the natural environment and the living conditions of adjacent residents in terms of noise, air quality and highway congestion.
58. A scheme of ecological mitigation, to safeguard wildlife interests. Details of all external materials and implementation of hard and soft landscaping, to ensure visual continuity with the surroundings. Further archaeological investigation as advised by the County Council and the appellant's submitted report, to safeguard the historic environment. In the interests of highway safety, provision should be made for the on site parking, turning and loading of vehicles. In the interests of local character and appearance and the privacy of adjacent residents, further details of finished ground surfaces and slab levels are needed. To safeguard the living conditions of future residents in terms of noise, the recommendations of the appellant's Noise Exposure Assessment Report should be implemented.
59. As the Code for Sustainable Homes was withdrawn in March 2015, the parties undertook to agree and submit a revised wording for an energy condition²⁰ after the close of the inquiry. Energy saving measures accord with the Government's objectives to reduce carbon emissions. As the wording provided for this and some of the other suggested conditions allows for alternative measures to be agreed and this imprecision could result in fundamental changes to the development (as discussed at the inquiry), I shall amend them accordingly.
60. Representations by local residents regarding their experience of the effect of new residential developments nearby on water pressure were acknowledged by

¹⁹ Inquiry Document 16

²⁰ Inquiry Document 28

the appellant at the inquiry and I shall attach the suggested a Grampian condition to secure an adequate supply.

61. The submitted Geo-environmental site assessment (RSK), March 2014) reported no adverse findings in respect of contamination. Accordingly there is little evidence to show that the suggested condition is necessary.
62. As the implementation of a capacity increase at the Four Marks Primary School is not within the appellant's control, the suggested condition would not be enforceable. The Education Authority would be accountable for expending the financial contribution provided to secure this in the submitted s106. This would be appropriate mitigation in this regard.

Obligation

63. As referred to above, the appellant have provided a multi-lateral Agreement and Deed of Variation. These planning obligations would secure the following provisions and index-linked financial payments:
 - Affordable housing: 30 of the dwellings (40%) to be affordable housing, provided as at least 21 units let via a registered provider as affordable rented accommodation and 9 units as shared ownership/shared equity to those defined as in housing need, with priority to local people as defined within the undertaking.
 - A pooled contribution of £18,750 for a community project worker
 - Education: £348,933 (as amended by the Deed of Variation) towards the cost of enlarging the Four Marks Primary School
 - Environmental improvements: £41,850 comprising; £35,000 towards access improvement and biodiversity improvements at Medstead village pond; £2,000 for signage for walks in Four Marks to encourage pedestrian access to the village; and £4,850 towards landscaping and car park works at the Oak Green shops
 - Highway Agreement and Works: entering into a section 278 agreement for off-site formation of a footway along Lymington Bottom Road
 - Monitoring fee: £10,000 for the Council's monitoring and administration costs in respect of the Deed
 - Open space: provision of open space including allotments and play space within the site in accordance with agreed specification, maintenance and management details, and a £54,075 pooled contribution towards a new sports centre building at Four Marks recreation ground
 - Transport: £265,967 towards provision of a new puffin crossing, new footway and measures to provide safer routes to Medstead School.
64. Each of these provisions is subject to this decision finding that it satisfies the requirements of regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 (CIL) and the Framework and I consider each of the provisions below.

65. The Council has provided a Supplementary Statement of CIL Compliance²¹ which addresses these tests and provides the justification for each of the sums set out above, with the relevant policy background and details of how and where the sums would be expended. Copies of the policies and guidance documents referred to are provided. The statement clarifies that none of the pooled contributions would lead to an excess of more than five such previous contributions. I have no evidence to the contrary on this matter and accept that the Agreement would comply with CIL regulation 123 in this regard.
66. The provision of affordable housing would accord with development plan and government policy. The local community has made representations at the inquiry that local services, particularly the primary school, are being put under pressure by new residential developments in and around Earls Barton and this would be mitigated by the contribution to enlarging the school. Concerns about traffic congestion in terms of pedestrian safety would also be assisted by the contribution to provide new signage, footways and a road crossing. Environmental improvements to local village facilities at the village pond and shops would mitigate the lack of green infrastructure provision within the site and benefit future residents of the proposed development, as would the provision of open space, allotments and play areas. The lack of playing field provision within the scheme would be mitigated by the pooled contribution to the sports centre. The pooled funding for a community project worker is directly related to Housing Association work to ensure the integration of the affordable and market housing on site and based in development plan policy and guidance.
67. In respect of the monitoring fee, it was acknowledged at the inquiry that the basis for this to be levied under the CIL regulations has been previously challenged and found not to comply. In addition the amount sought is the maximum required under the Council's guidance and as such cannot be shown to be fairly and reasonably related in scale and kind to the development.
68. With the exception of the monitoring fee, nothing has been brought to my attention to cause me to doubt that all the other provisions and financial contributions are well founded in development plan policy and are necessary to make the development acceptable in planning terms. Together with the conditions, they would deal satisfactorily with the impact of the development on the local infrastructure, services and the environment. All the obligations in the Agreement, other than the monitoring fee, meet the tests of being necessary, directly related to the development and fairly and reasonable related to it. It can, therefore, be given weight in support of the proposal.

Wenda Fabian

Inspector

²¹ Inquiry document 20

Schedule of Conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule at the Inquiry Core Documents, 2.21 – 2.61
- 3) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 4) No development shall take place until a detailed scheme of ecological mitigation, including a programme for implementation, in accordance with the recommendations set out in the Phase 1 Habitat and Protected Species Scoping Report (RPS Ecology, October 2013) and the Bat and Badger Survey (RPS Ecology, March 2014 and additional information July 2014) has been submitted to and approved in writing by the local planning authority. Thereafter the mitigation shall be implemented as approved.
- 5) No development shall take place until details of the existing and proposed ground levels, finished slab levels and finished ridge heights of all the buildings hereby approved have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until a scheme with details of the on-site and off-site works to provide an adequate water supply to serve the development has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the water supply works have been completed in accordance with the approved details.
- 7) No development shall take place until a scheme and details of the foul water drainage provision to serve the development has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the foul water drainage works have been completed in accordance with the approved details.
- 8) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme, in accordance with the Flood Risk Assessment (RSK LDE Ltd, dated April 2015) have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

- 9) No development shall take place 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) a programme, methods and phasing for construction work, including the hours of work
 - ii) facilities for the parking within the site of vehicles of site operatives and visitors
 - iii) arrangements for deliveries, loading and unloading of plant, machinery and materials associated with all construction work
 - iv) a scheme for storage of plant and materials used in constructing the development, including the location of temporary site buildings, compounds and storage areas
 - v) measures to control the vibrations and emissions of dust and dirt during construction, in accordance with BS5228-2: 2009 the *Code of Practice for noise and vibration control on construction and open sites*, including measures to prevent surface water run-off, and the deposit of mud and similar debris on the public highway
 - vi) protection of pedestrian routes
 - vii) a scheme for contractor liaison with local residents
 - viii) a scheme for storage and recycling/disposing of waste, rubbish and spoil, resulting from construction works, including for its re-use on site
 - ix) measures to control and prevent pollution to groundwater (including the storage of fuels and lubricants)
 - x) measures to protect existing natural features including hedgerows, trees and ditches, in accordance with the Arboricultural Impact Assessment (Ruskins, Revised September 2014) and the Tree Protection Plan
 - xi) a lighting strategy (designed to avoid light spillage onto adjacent habitat features in accordance with the Bat and Badger Survey (RPS Ecology, March 2014 and additional information July 2014))
- 10) All hard and soft landscape works, including boundary treatments, shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme previously submitted to and agreed in writing by 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 approval to any variation.
- 11) The development hereby permitted shall be carried out in accordance with the recommendations set out in the Arboricultural Impact Assessment (Ruskins, Revised September 2014) and the Tree Protection Plan.
- 12) The development hereby permitted shall be carried out in accordance with the recommendations set out in the Noise Exposure Assessment Report (Clarke Saunders Associates, March 2014).

- 13) The development hereby permitted shall be carried out in accordance with the energy saving recommendations set out in the Energy Demand Statement (Abbey Consultants (Southern) Ltd, April 2014).
- 14) No dwelling shall be occupied until a scheme of external lighting has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and thereafter no street lighting or other external lighting shall be installed without approval in writing by the local planning authority.
- 15) No dwelling shall be occupied until space has been laid out within the site for cars to be parked, for the loading and unloading of vehicles and for vehicles to turn so that they may enter and leave the site in forward gear.

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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Stemp of Counsel	Instructed by the Head of Legal Services, East Hampshire District Council
He called	
Mr A Harvey BA Hons MA MRTPI	Principal Planning Officer, East Hampshire District Council
Mr S Wood BA Hons BTDRTP	Regional Planning and Building Control Manager, Urban Vision Partnership Ltd

FOR THE APPELLANT:

Mr A Tabachnik QC	Instructed by Mr S Garnett on behalf of the appellant
He called	
Ms M Berrington	Associate Director, Transport Planning Associates
Mr S Garnett	Associate Director, Savills UK
Mr A Dineen	Consultant to Intelligent Land Ltd

INTERESTED PERSONS:

Mr Kemp-Gee	Councillor, Hampshire County Council
Mrs J Foster	Parish Councillor, Four Marks
Mr R Pullen	Parish Councillor, Medstead
Mrs I Thomas	District Councillor, Four Marks and Medstead
Mr N Stenning	Medstead and Four Marks Neighbourhood Plan Steering Group
Mr F Maloney	Medstead and Four Marks Neighbourhood Plan Steering Group, Secretary
Mrs A McMillan	resident, Medstead
Mr M Overy	resident, Medstead
Mrs J Carne	resident, Medstead
Mr M Seal	resident, Four Marks
Mr B Tims	Parish Councillor, Four Marks

DOCUMENTS

- 1 Core Document folder CD9
- 2 CIL Compliance Statement
- 3 Letter, 17 April 2015, from Laytons Solicitors
- 4 Opening Note on behalf of the East Hampshire District Council
- 5 Emails re Neighbourhood Plan status from Mr Wood, 16 April 2015, and Ms Altman, 15 April 2015
- 6 Extract Planning Policy Guidance paragraph 014
- 7 Draft S106 with track changes
- 8 Statement by Mr R Pullen
- 9 Statement by Mrs I Thomas + Dwellings Growth sheet + bus timetable
- 10 Statement by Mr F Maloney (handwritten) + email, 9 December 2014, re Neighbourhood Plan + letter, 22 April 2015, from Thames Water
- 11 Statement by Mrs A McMillan
- 12 Emails 20 April 2015 and 17 November 2014 from Strategic Transport and

- Highways Authority
- 13 Hampshire Home Choice forms
- 14 Revised CIL Compliance Statement + 6 Appendices
- 15 S106 multi-lateral Deed, signed and dated 22 April 2015
- 16 Updated agreed conditions + Conditions note
- 17 Update to Mr Garnett's PoE
- 18 Addendum to Statement of Common Ground on Transportation Issues
- 19 Supplementary Matters document, Planning Committee 23 April 2015
- 20 SHLA Sites Map - Four Marks and Medstead
- 21 A3 versions of Inset Maps, Four Marks and Medstead Neighbourhood Plan pre-submission version
- 22 Conditions note, Mr Maloney
- 23 Closing Note on behalf of the East Hampshire District Council
- 24 Appellant's Closing Submissions
- 25 Permitted Housing Sites Medstead and Four Marks, plan

Documents submitted after close of inquiry

- 26 Deed of Variation and Planning Obligation, signed and dated 30 April 2015, with covering letter
- 27 Appeal Decision Ref APP/M1710/A/2229095 issued 7 May 2015
- 28 Revised energy condition agreed by both parties, submitted 1 May 2015
- 29 Appellant's comments, dated 10 June 2015 to Council's additional information referred to at paragraph 8 above

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