



Appeal Decision

Inquiry held on 10 March - 16 April 2015

Site visit made on 16 April 2015

by **David Nicholson RIBA IHBC**

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

Decision date: 16 July 2015

Appeal Ref: APP/C1435/A/14/2223431

Land at Steel Cross, Crowborough, East Sussex TN6 2XB

- 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 Knight Developments Ltd. against the decision of Wealden District Council.
 - The application Ref. WD/2013/2410/MEA, dated 26 November 2013, was refused by notice dated 13 February 2014.
 - The development proposed is the construction of 103 dwellings including 42 affordable dwellings, provision of 10ha of land for a SANG and multi-functional public open space with associated car parks and accesses, footpaths, playspace, Sustainable Urban Drainage Systems, access to Green Lane via a new roundabout junction, landscaping including woodland and tree planting and enhancement to wildlife habitats, improvements to the wider footpath network including signage and visitor infrastructure.
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Decision

1. The **appeal is allowed** and outline planning permission is granted for the construction of 103 dwellings including 42 affordable dwellings, provision of 10ha of land for a SANG and multi-functional public open space with associated car parks and accesses, footpaths, playspace, Sustainable Urban Drainage Systems, access to Green Lane via a new roundabout junction, landscaping including woodland and tree planting and enhancement to wildlife habitats, improvements to the wider footpath network including signage and visitor infrastructure at Land at Steel Cross, Crowborough, East Sussex in accordance with the terms of the application, Ref. WD/2013/2410/MEA, dated 26 November 2013, subject to the attached Schedule of conditions.

Preliminary Matters

2. The application to which the appeal relates was submitted in outline form with all matters reserved except for access. During the application process it was amended to leave the access as a reserved matter as well. I have reached my Decision on this basis and adjusted the suggested conditions accordingly.
3. A Unilateral Undertaking¹ was submitted under section 106 of the Town and Country Planning Act 1990 (s106). I deal with the contents of this below.
4. The Inquiry sat for 11 days. I held an accompanied site visit on 16 April 2015. I conducted unaccompanied visits before and during the Inquiry.

¹ Inquiry Document (ID) 44

5. The Wealden Local Plan (LP) was originally adopted in 1998. Many of its policies have since been saved. The Wealden District Core Strategy Local Plan (CS) was adopted in February 2013. At that time it was intended that the CS would be followed by two Development Plan Documents (DPDs) being the Strategic Sites DPD and the Delivery and Site Allocations DPD collectively called the Site Allocation DPDs. These were later renamed the Strategic Sites Local Plan (SSLP) and Delivery and Site Allocations LP which together would comprise the new development plan for Wealden, deliver the CS and eventually replace the saved LP.
6. At the time of the Inquiry, the SSLP was awaiting the Inspector's Report following examination sessions in June 2014. It was known that correspondence existed between the Inspector and the Council but the contents of this had not been released. The Council sought, and I granted, time for this to be considered by the Full Council on 29 May 2015. The Inquiry was adjourned, after hearing all the evidence and closing submissions, to allow time for the documents to be published and the main parties to comment². The Council duly provided these and a SSLP Update Note for the Inquiry; the appellant submitted a letter dated 3 June 2015. Following receipt of these, the Inquiry was closed in writing. I deal with some of the relevant detail of this correspondence below, but the overall outcome was that the SSLP has been withdrawn and the Council now intends to continue with a new CS review.
7. Although access is now a reserved matter, the appellant submitted further details, substituting the roundabout with a junction³, which were accepted by the local highway authority (LHA). Subject to a requirement for a traffic regulation order (TRO), the LHA accepted that visibility concerns could be overcome. On this basis the parties agreed that reason for refusal (RfR) 5 and RfR6 were no longer at issue between the main parties. Statements of common ground (SoCG) were agreed on planning, landscaping, air quality, habitats, and highways matters (including accessibility).
8. After I had completed my Decision, but before it was issued, the Approved Judgment was handed down by the Court of Appeal in *Ashdown Forest Economic Development Llp v Wealden District Council and South Downs National Park Authority* [2015] EWCA Civ 681. As I had found that there would be no conflict with Policy WCS12, I have not sought further comments.

Main Issues

9. From the evidence before me at the inquiry, the written representations, and my inspection of the appeal site, their surroundings and other sites, the main issues are the effects of the proposals on:
 - (a) the character and appearance of the area, with reference to:
 - i) the adopted development boundary,
 - ii) the High Weald Area of Outstanding Natural Beauty (AONB);
 - (b) the biodiversity of the Ashdown Forest (AF), with particular regard to pressures from:
 - i) recreational use;
 - ii) nitrogen (N) deposits;

² Bundle at ID45

³ CD2.4 drawing number 4690/01/12A

- (c) sustainability, including accessibility and the availability of non-car modes of transport;
- (d) whether any benefits would outweigh any harm which might be caused;
- (e) whether the proposals would amount to sustainable development as defined in the National Planning Policy Framework (NPPF).

Reasons

Character and appearance

10. The CS notes that Wealden is a large rural district with a dispersed and varied settlement pattern with small market towns, villages and hamlets. There are five main towns including Crowborough. Half of the District's population of around 146,000 live outside the towns. The challenge for the CS was to focus growth where it is most accessible and sustainable, whilst maintaining the balance between rural settlements and larger service centres, ensuring that the facilities and services within the towns are supported for the wider community. The CS anticipated that development would be allocated according to the settlement hierarchy starting with the district centres, including Crowborough. The CS did not review the development boundaries. Nevertheless, Policy WCS4 identifies strategic development areas (SDAs) in broad terms with the allocation of sites to follow in the DPDs.
11. Steel Cross is a small settlement which now adjoins the edge of Crowborough. The appeal site lies near the junction between the main A26 through the town and adjoins Eridge Road and Green Lane which connect to the B2100 running down to the railway station. The site itself adjoins Crowborough Rugby Club to the north. To the east are Limekiln Forest and Limekiln Wood, these being a planted forest and an area of ancient woodland. To the west it is bounded by Palesgate Lane beyond which stand dwellings which are two deep towards the north end but less densely spaced to the south. The large garden to Byelaws is inset between part of the appeal site and Palesgate Lane. Public footpath C2 runs from Green Lane through the site to the Forest and provides access to a small group of dwellings, including Steel Cross House, between the site and the road. Classic Top Stud and its associated paddocks lie between the appeal site and Limekiln Forest.

Landscape

12. The High Weald covers much of East Sussex and beyond. Crowborough lies quite centrally within the High Weald National Character Area 122, the characteristics of which include deeply sunken driveways edged with trees; glimpses of far-reaching views, giving a sense of remoteness and tranquillity; a high proportion of ancient woodland; irregularly shaped fields enclosed by a network of hedgerows; and an essentially medieval landscape reflected in the patterns of settlement, fields and woodlands. At county level, the site is within Local Landscape Character Area 4 'The Central High Weald' and on the edge of Urban Area 37 'Crowborough'. Area 4 characteristics include broad ridges; rolling, heavily wooded landscape; sunken lanes and occasional surprise views. Area 37 notes that the outskirts of Crowborough are of a less attractive late 20th century estate housing, and that the edges of the town are softened by abundant trees.

13. At a local level, the Council's Landscape Character Assessment and Development Option Evaluation Study, 2009, (the Landscape Study) looked at development sites in landscape terms in some detail. With regard to North Crowborough, the Landscape Study identifies⁴ that: *The landscape constraints to development around the urban edge of Crowborough are that it is surrounded by high quality countryside much of which is designated as High Weald AONB. There are areas of countryside around the edges of Crowborough which are in the AONB, but where the landscape structure has been degraded. This has resulted in areas of lower quality which is designated AONB. It continues: There is scope to improve the landscape structure in order to conserve and enhance the AONB landscape, which would be consistent with landscape planning policies. For this reason some of the preferred areas for development are in the AONB to the north of the town.*
14. Figure 1 of the Landscape Study shows that Character Area D encompasses the land between Palesgate Lane, Limekiln Forest and the Rugby Club. It includes, but is not limited to, the appeal site. Area D is described as ... *huge fields, divided by new, straight rectangular boundaries of wire and wood, creating a harsh new field pattern. Old hedges have long gone. There is shelterbelt planting along the fencing which is out of character with the High Weald ... on the South East [is] a sunken green lane of great age, lined with ancient majestic beeches. From there stretches sweeping, rolling High Weald countryside of great beauty. The green land has immense local landscape character, it needs management and conservation. Very strong sense of place, eroded within the farm. With regard to its ability to accommodate change, the area is assessed as ... degraded AONB on the urban fringe.*
15. Historically, the appeal site was broken up into irregular field patterns by 1875. In the middle of the last century the land was cleared and planted with fruit trees and shelter belts of Red Alder trees. The perimeter hedges remain intact even if most of the earlier internal hedges have gone. The site falls naturally into three sections. The northern area is currently grazing with wire fencing but otherwise open between the footpath and the Rugby Club. The central section, south of the footpath, is generally similar grazing but also contains belts of trees and hedgerows. The southern part, beyond Byeways, is mostly dense woodland scrub with many self-sown trees.

Proposals

16. Taking these in turn, the northern section is proposed to be part of the suitable alternative natural green space (SANG) with a small area for car parking. A play area could adjoin the footpath here or be located elsewhere. It would be semi-natural meadow grassland with a very similar appearance to that at present. There would be some enhanced planting in front of the Rugby clubhouse and around the proposed car park in the north west corner. The latter would have some impact on Eridge Road but would be close to existing accesses to the Rugby Club and Steel Cross Farm where it would not look out of place. Viewed from footpath C2 it would be mostly around the corner and views of the cars could be heavily screened by planting. On balance I find that for the northern part the effect of the scheme on the landscape would be a marginal improvement on the current divisions.

⁴ CD5.22 at paragraphs 3.1.3 and 3.2.8

17. Footpath C2 runs from the houses at Steel Cross Farm to Limekiln Forest, between the proposed northern SANG and a shelter belt of Red Alder trees around 15m high. As above, the field to the north would be largely unaltered, but the views of the Rugby Club would be better screened, and there would be new planting to the proposed car park. To the south, there are currently glimpses of fields through the shelter belt, more so in winter than summer. The scheme would retain this belt of trees but enhance its appearance with a depth of more mixed tree planting beyond which would stand the new houses. Consequently, the eye would be drawn more to the north, across what would be the SANG, and to views of the AONB in the distance. At present I consider that the footpath is primarily of recreational value as it links the town to other footpaths. However, the stretch that would be affected is not intrinsically of more value than other footpaths in the area. In time, views from the footpath across site would be largely preserved and, the overall effect would be neutral.
18. The central part of the site would be radically altered by the development of 103 dwellings. On the other hand, as well as landscaping to the footpath, the houses would be screened along the whole of the north eastern boundary and on both sides by planting to the proposed SANG footpath which would run around the outside. There would be buffer planting with footpaths to link into the areas on either side. Most of the southern boundary to this part would adjoin the garden to Byeways, where the existing boundary planting would be enhanced. At the upper end of Palesgate Lane there is backland development and a greater density of housing to the west of the Lane creating a more urban feel. Here the illustrative drawings indicate that the proposed dwellings could be set back from the road by 35m with substantial screening so that the character of this part of the Lane would be broadly unaffected.
19. Development could be set back from the dwellings around Steel Cross House. I saw that long distance vistas from there would be heavily curtailed but, subject to reserved matters, there need be no significant effect on privacy or daylight and I give limited weight to the loss of private views. A proposed new pedestrian access onto Palesgate Lane, to aid accessibility, need be no more than a kiss gate or stile in an archway, with trees growing over the top, which could be set at an angle, so that there would be no direct views of housing. Within the site, it was common ground that the proposals could retain the majority of the existing hedgerows and trees.
20. One major change to the character and appearance of the site would be at the point of access at the top of Palesgate Lane. Here, as amended, there would be a new junction and regrading to allow the road to run into the site at a reasonable slope. There would be a significant alteration to the junction layout with cuttings into the bank and new retaining walls. Initially, these would cause significant harm to the appearance of the area. Conversely, I saw that the existing junction at the top of Palesgate Lane includes substantial retaining walls but that these have now blended into the landscaping on the bank above and the proposals could do the same. Indeed, it was also common ground that the access point could be mitigated with structural planting. The new junction would therefore be at a point where there is already an urban character at the top of the road, albeit softened.
21. By contrast, the rest of Palesgate Lane would appear largely unchanged by the development which could be effectively screened for the top third of the lane, through a combination of existing and enhanced planting, while the remainder

- would remain unaltered along the boundary to Byeways and the proposed southern half of the SANG. Subject to conditions, I am therefore persuaded that most of the harm could be overcome within a relatively short period of time. I therefore give only limited weight to the harm that would be caused overall at the entrance.
22. The southern area is currently dominated by self-sown woodland scrub. It would also be designated as SANG but retain most of the naturally regenerated planting subject to management and enhancement for the benefit of wildlife as well as public amenity. This could include controlling certain species in favour of more native flora and creating a walk through the woodland with public access where currently there is none. The s106 obligation includes a substantial sum for this purpose. I acknowledge that the SANG would replace one green land use with another and that its main purpose would be mitigation. Nevertheless, in landscape terms and ecological function the management of the southern SANG would be a significant benefit.
23. Turning to the impact from just beyond the site, there would be a major change in appearance at the point of access but, as above, this would be short-lived and along the rest of Palesgate Lane there would be no significant differences. From the east of the site, the sunken footpath adjoins the southern SANG where there would be no harmful changes. It then runs alongside Classictop Stud where the combination of screening and separation would limit all but glimpses of the houses. To the north, the site adjoins the Rugby Club which would not only be screened within the northern SANG but is itself a significant and relatively prominent intrusion into the rural character of the area so that there would be no additional harm.
24. Finally, I have considered the longer distance views of the site from beyond its boundaries of which there are very few. At Boarshead along the A26, and slightly closer to the site from that direction, there are occasional glimpses of the site which is readily identifiable as it lies behind the Rugby Clubhouse. Beyond this would be views of the existing shelter belt alongside the footpath with enhanced planting in front of the proposed houses.
25. From Payne Close, just the other side of Green Lane, there would again be no more than glimpses through the proposed screening, only this time the houses would stand behind, and in the context of, the more densely clustered houses along Palesgate Lane. I acknowledge that rising ground within the site would make some of the houses slightly more apparent from both these directions, particularly at first, above the proposed planting. Nevertheless, in my assessment, the proposed houses would be mostly or fully screened but, even if there were glimpses, these would be less pronounced than the existing Clubhouse or the existing houses along Palesgate Lane and in each case the development would stand behind them. In neither case would the harm to the landscape be significant.
26. Overall, the scheme would certainly change part of the site from open fields to a housing estate. However, only the central section of the site would be altered while the remainder would be enhanced as a SANG. The boundary treatments and footpath would be retained, with the potential for some enhancement compared with the existing wind breaks. Drawing all these strands together, I conclude on this issue that the scheme would harm the character and appearance of the site but that this would be limited to its

central part. There would be some positive benefits to the character and appearance of the north and south areas of SANG through the combination of active landscaping management and public access.

27. For these reasons, I give limited weight to conflict with CS landscape policies SPO1, which aims to protect distinct landscapes particularly the AF and those which are nationally designated, and WCS13 to protect landscape character requiring all new residential development to contribute to green infrastructure.

Development boundary

28. The 1998 LP contains the saved countryside LP policies GD2 and DC17, which do not allow development, or new housing, outside development boundaries unless it would conform with other LP policies. The appeal site lies outside the development boundary. The boundaries were reconsidered as part of the CS process and retained. There was therefore no dispute that the proposals would conflict with policies GD2 and DC17 on account of the site's location. The appellant has claimed that these policies are out-dated, do not meet the full objectively assessed housing need (OAN), are inconsistent with the NPPF, and that other development already breaches these boundaries.
29. There was no dispute that the Council has a 5 year HLS when measured against the CS but also that it is unable to meet its full objectively assessed needs (OAN) because the district is heavily constrained, not least by the AONB and the AF. The CS Inspector essentially found in favour of the Council in accepting a reduced housing requirement while anticipating a review in 2015. With regard to air quality in the AF (see below) this review will now be significantly delayed. Moreover, the SSLP has now been withdrawn so that the anticipated site allocations are unlikely to be adopted in the near future.
30. The Council, citing other appeal decisions, claimed that NPPF 17, which in its fifth core planning principle recognises *the intrinsic character and beauty of the countryside*, does seek to protect the countryside and so the policies are consistent. It argued that existing development outside boundaries should not be taken as a precedent or justification for more housing. It explained that Payne Close, also outside the development boundary, was permitted for other reasons and was part of a planned provision, albeit under a non-statutory plan.
31. The Council considered that the countryside policies deal with the fundamental question of whether it is acceptable to build there. I agree. Indeed, it is precisely for this reason, coupled with the nature of the development boundaries which exclude most undeveloped land, that there is not enough housing land available to meet the full OAN. For the reasons I have set out above, I find that there would be no conflict with the landscape policies, only with those policies which serve to restrain housing in principle.
32. Furthermore, when the NPPF is read as a whole, I interpret the clear direction at the start of chapter 6, *to boost significantly the supply of housing as* generally carrying more weight than the sub-phrase under one of several bullet points to NPPF 17 simply to *take account of ... recognising the intrinsic character and beauty of the countryside*, even if the latter is within the core planning principles. In doing so, I acknowledge that the particulars of each case are different and so weight may be apportioned differently to compliance or otherwise with policies depending on the circumstances. However, this point

reinforces my view that here the weight to the limited harm to the countryside should not outweigh the need for more housing and AH.

33. Therefore, while the proposals would conflict with saved LP countryside policies GD2 and DC17, this should be given only moderate weight in the overall balance. I also note that these policies have also been outweighed in some of the Council's own planning judgements, in granting residential and other permissions outside the Crowborough boundary (including nearby developments at Payne Close and the Rugby Club). I return to these matters in my overall conclusions below.

High Weald Area of Outstanding Natural Beauty (AONB)

34. Some 60% of Wealden District is designated as AONB. Within this a few parts are excluded, one of which is the town of Crowborough. The boundary was drawn tightly around the town and runs down Palesgate Lane, perhaps as that was the edge of the settlement at this point. Consequently the appeal site lies just within the AONB boundary. Saved LP Policy EN6 and CS Policy SP1 aim to protect the character of the High Weald AONB. NPPF 115 gives great weight to conserving landscape and scenic beauty in AONBs which have the highest status of protection in relation to these factors. It follows that there is a presumption against development on the appeal site.
35. The Landscape Study⁵ notes that: *Equally there are areas to the south of the town which are not designated as AONB but are good quality landscape and may be visible from a wide area. And: For this reason some of the preferred areas for development are in the AONB to the north of the town [and] are favoured over the potential areas to the south of the town which are not within the AONB because of the opportunity to improve the landscape structure albeit in limited pockets of one or two fields.* In other words, the Landscape Study acknowledges that there are anomalies in terms of which areas have been designated and which have not. I note that the Council has permitted housing development within the AONB at Heathfield and Wadhurst⁶ and that it passed resolution to grant planning permission on the appeal site itself, in 2008, albeit for sport and recreational use and that this was later withdrawn.
36. The Council acknowledged that the site is not of the highest AONB quality and is not widely visible from long range views. Nonetheless, it argued that the site: still forms part of a wider mixture of fields and small woodlands with a rural character, is connected by footpaths, remains bounded by established hedgerow and woodland, and straddles a ridge. Natural England (NE)⁷ objected to the proposals on the grounds that the semi-natural environment would be lost to houses, introducing noise, light pollution and traffic as well as physical changes. It took a similar stance in objecting to the Heathfield application⁸.
37. The High Weald AONB Management Plan 2014-2019⁹ looks at five key components of the character of the High Weald AONB, these being: Geology, landform, water systems and climate; Settlement; Routeways; Woodland; and Field and heath. Studying these in relation to the appeal site, I find that it has

⁵ Again at CD5.22 paragraphs 3.1.3 and 3.2.8

⁶ CD6.2 and ID22

⁷ CD4.5A letter dated 16 January 2014

⁸ See CD4.5B email dated 10 February 2014

⁹ CD5.19 p26 onwards

uneventful topography and no watercourses. It is crossed by only one footpath, C2, which is not an ancient routeway and, unlike the sunken path just outside the site, this has none of the defined characteristics. Following the recent history of the site, there is no ancient woodland within it and any historical hedges, which might once have been characteristic of field and heath, have been lost to be replaced with more recent windbreaks or fences. There is nothing about the site which is currently characteristic of either a medieval landscape or subsequent historical field boundaries.

38. This analysis is not to say that the site is of no value to the AONB at all as the footpath C2 provides a link for the town to the forest and so is of value as part of a recreational experience. Rather, it shows that none of the land shares any of the characteristics of the AONB which gave rise to its designation or which contribute to the value of its landscape or to its scenic beauty. Moreover, there are scarcely any views of the appeal site from within the other parts of the AONB.
39. The proposals would develop the central fields into housing with a new access which would cut into the site. However, other than the link provided by C2 and the value purely through designation, the proposed change from fields to residential use would not harm any of the characteristics of the AONB on the site as it does not exhibit them. Moreover, the footpath link would be retained and the southern scrub (except for the proposed car park which could be omitted) would be managed and enhanced thereby conserving this part of the AONB in rather better condition than it is at the moment.
40. For these reasons, taken as a whole, I find on balance that the proposals would have a neutral effect on the contribution that the appeal site makes to the landscape and scenic beauty of the AONB. The scheme would not harm the important characteristics of the AONB and so would comply with CS Policy SPO1, as above, and with saved LP Policy EN6 which only permits development within the AONB if it would conserve or enhance the natural beauty and character of the landscape with regard to the characteristics of the sub-areas and other criteria. It would accord with the requirement in NPPF 115 to give great weight to conserving landscape and scenic beauty in AONBs.
41. NPPF 116 states that *planning permission should be refused for major developments in [AONBs] except in exceptional circumstances and where it can be demonstrated they are in the public interest*. The parties shared the view that the proposals would be major development. I shall therefore consider the other circumstances before concluding on NPPF 116 and on the effect on the character and appearance of the area as a whole.

Ashdown Forest (AF)

42. The Ashdown Forest (AF) is a block of around 3,000ha of heathland and woodland habitats. Parts of it are classed as a Special Protection Area (SPA) as they support breeding populations of Nightjar and Dartford Warbler. Much of it is also designated as a Special Area of Conservation (SAC) for its Northern Atlantic wet heaths, European dry heaths and great crested newts. In the UK, these European sites are covered by the Conservation of Habitats and Species Regulations (Amendment) 2010 (as amended) (the Habitats Regulations) which essentially take a precautionary approach to potential effects on a site's conservation objectives. At a national level, the AF is also a designated site of

special scientific interest (SSSI) for its heaths, birds, invertebrates, reptiles and amphibians, including great crested newts.

43. The Habitats Regulations apply to both plans and projects including planning appeals for which the Inspector is the *competent authority* charged with carrying out an *appropriate assessment*, where necessary¹⁰. Such an assessment is required if the project would be likely to have a significant effect on a European site, either alone or in combination with other projects. The Courts (ID42)¹¹ have found that the threshold for requiring an *appropriate assessment* is very low.

Ashdown Forest – recreational use

44. As I saw on my visits, the AF is an extremely attractive part of the country which is very popular with local visitors and tourists. Pressures for recreational use can have an effect on habitat and disturb the birds. In particular dogs and cats upset the wildlife and add to the level of fertiliser in the soil which upsets the balance of dry heath vegetation on which the birds feed. Cats are only a significant problem very close to the AF and are not an issue here. Dogs, however, are regularly exercised within it. Mitigation can include the provision of a SANG, to draw dog walkers away, and a strategic access management and monitoring strategy (SAMMS) to consider other ways of helping to conserve the birds.
45. In recognition of this, various policies seek to offset additional pressures which might otherwise arise through development. In particular, Policy WCS12 for Biodiversity, aims: *to reduce the recreational impact of visitors resulting from new housing development within 7km of the AF by creating an exclusion zone of 400 m for net increases in dwellings in the Delivery and Site Allocations DPD and requiring provision of SANG and contributions to SAMMS as part of policies required as a result of development ... in the DPD. Mitigation measures within 7km of AF for windfall development, including provision of SANG and SAMMS will be contained within the DPD In the meantime the Council will work with appropriate partners to identify SANG and SAMMS at AF so that otherwise acceptable development is not prevented from coming forward by the absence of acceptable mitigation.*

Suitable alternative natural green space (SANG)

46. There are SPA sites in the AF to the north west of Crowborough. The Council has proposed a new SANG for its Crowborough strategic sites to the south of the town. This was to have been included in Policy SCR9 of the SSLP which has now been withdrawn. The proposed southern SANG, and that on the appeal site, would be about equidistant from the SPA sites. There are a number of SANG guidelines but as yet no adopted policy. The Council referred to its guidelines, agreed with NE, which the appellant has applied in its analysis of the scheme.
47. In recognising the aims for nature conservation in the AF, and the requirements of Policy WCS12, the appellant has not contested the need for a SANG to mitigate against the potential increase in recreation on the Ashdown Forest, particularly by dog walkers. Rather, the dispute over the proposed SANG centred on its quality and quantity. The proposed SANG on the appeal

¹⁰ Regulations 61 and 62

¹¹ *Sweetman and others v An Bord Pleanala (Galway County Council and another intervening)* [2014] PTSR 1092

site would cover both the northern and southern areas with footpaths linking these on either side of the central housing to produce a longer overall walk. In total, the SANG would amount to some 10ha with a footpath, mostly around the perimeter, extending to over 2.5km. It is common ground that the SANG included within the scheme would likely be capable of meeting most, but not all, of the criteria¹².

48. The Council's objections were concentrated on 6 criteria: distance, surfacing, natural perception, freedom from unpleasant intrusion including noise, rural feel, and space for dogs to exercise safely off the lead. The distance criterion can be met but only by creating an artificially circuitous route taking in the housing development in the centre, which would make it feel less rural. If the surface of the walk becomes so heavily trafficked that it needs a more robust treatment then that would be a sign that it is being well used and a measure of success. I accept that some parts of the walk would lack a natural and remote rural feel, and that the Rugby Club might be noisy on occasions, but the dense vegetation in the southern SANG would allow a sense of getting lost and as the site adjoins Limekiln Wood, a longer and more satisfying stroll could be made into an area with all these attributes. As the play area could be relocated within the central part of the appeal site, the northern area of SANG would be suitable for letting dogs roam freely.
49. I accept that the SANG would not fully achieve all the aims and objective criteria in the guidelines, particularly the 6 referred to above. On the other hand, as the SANG would wrap around the new houses, it would satisfy what was acknowledged to be the important criterion for proximity particularly well. Being so convenient would make it less likely that residents would get into their cars to drive to another location in order to walk their dogs. The additional public open space would also be readily available to existing nearby residents including dog walkers.
50. On this issue I find that the SANG would be capable of catering for both short and long walks for dog owners of both the proposed and existing nearby houses that might otherwise involve the AF. I accept that new residents are still likely to visit the AF from time to time, whether to walk dogs or for other reasons. Nonetheless, I estimate that a significant proportion of visits which might otherwise be to the AF would be offset by the use of the SANG by existing residents. On balance, I find that the proposed SANG would fulfil its objective and satisfy Policy WCS12.
51. Finally on this issue, the long-term maintenance funding has been calculated on the basis of similar contributions in the adjoining district of Mid-Sussex District Council (MSDC) as the Council has not yet assessed what it should be. While I accept that this is a little short of ideal, it should not be held against the appellant which has no better benchmark against which to calculate the requirement. I deal with this more fully under the conditions/s106 below.

Strategic access management and monitoring strategy (SAMMS)

52. The SAMMS projects identified in the SSLP (now withdrawn) range from education/advice and communication to the potential for enforcement, if required. They particularly relate to dogs and would promote the SANG and a Code of Conduct for dog walkers, increase the number of rangers on the

¹² Points 1-3, 5-8, 10-13, 17, and 21-22

ground, and encourage volunteering, responsible dog ownership, areas of walking, and bird monitoring. MSDC is currently the lead authority for the area with NE on the SAMMS, and now has a SAMP Interim Mitigation Strategy in place, and is receiving contributions from developers. With regard to recreational impacts from another development¹³, NE expressed the view that, while there is a lack of clear published evidence, these access management measures would be capable of addressing the likely impact in the short term.

53. Notwithstanding the SANG, the appellant has also offered a contribution toward the SAMMS for the AF with the intention of reducing the recreational and other impacts, and this would accord with Policy WCS12. However, the Council's work on assessing the level of funding is also incomplete despite NE's confidence that a scheme could be in place within a very small number of months after April 2013. The appellant's evidence suggests that such management could have a significant beneficial effect on the AF. While quantifying such matters is difficult, I accept from the evidence before me that the contribution would offset any likely significant adverse effects and more than overcome any shortcoming in the SANG provision.
54. I acknowledge that from the Council's perspective the calculation process is incomplete. Nevertheless, given NE's support and the fact that MSDC has granted permissions based on the delivery of access management measures to address recreational impacts, I am persuaded that the relevant bodies would want to take advantage of these funds and that appropriate mitigation would follow. The contributions would therefore comply with Policy WCS12. For all the above reasons, I conclude that on balance the proposals would not result in any harm to the AF from recreational uses.

Ashdown Forest (AF) – Nitrogen (N) deposition

Annual Average Daily Traffic Flow (AADT)

55. The A26 is a major route from Crowborough to the larger town of Tonbridge Wells and passes close to the AF. Traffic flows on this section of road vary by up to 1,600 from just over 16,000 to nearly 18,000 vehicles per day. Additional houses are likely to lead to additional car journeys. Nitrogen (N) deposits from vehicle exhausts can affect vegetation through increased acid deposition (from exhaust and other gases dissolved in rainwater) and from eutrophication, that is the over-enrichment by nutrients leading to greater proliferation of other forms of vegetation other than the heaths in the SAC. With regard to traffic, the concerns are the likely level of increase in annual average daily traffic (AADT) along roads adjacent to the AF and the resultant effect of this on N deposits. It follows that, in adopting the precautionary principle, restricting any increase in housing would limit any increase in harm to the AF.
56. In preparing the CS, the Council used an established methodology in the Design Manual for Roads and Bridges (DMRB), agreed with the County Council and NE, to identify affected roads by reference to an increase of 1,000 AADT flows on any road within 200m of the AF. It then sought to predict the increase in nearby traffic flows using the DMRB and concluded that no roads would reach that threshold as a result of the proposed housing figure of around

¹³ SoCG for Habitats Regulations, Appendix 2, Natural England letter commenting on proposals at April Cottage, Buxted, dated 13 February 2014

- 9,500 dwellings in the overall CS plan period although one section of the A26 would reach 950 AADT.
57. The Council then undertook a Habitats Regulations Assessment (HRA) screening exercise for the CS, including the AF SAC, using the method in DMRB and 1,000 AADT as the threshold for an *appropriate assessment*. It identified the heaths there as one of the most sensitive habitats in the district and that the baseline N deposition exceeds critical loads within the AF. However, as the maximum would not exceed 1,000 AADT with the CS housing commitments, it concluded that likely significant effects (LSE) could be screened out and that, for the CS, an *appropriate assessment* was not required.
58. The CS Inspector looked at the issue of N deposition. In considering the appropriate housing provision he noted the Council's concern that, in north Wealden, levels of development beyond those proposed would have a significant effect on the AF SAC in terms of N deposition. In finding the CS to be sound, the Inspector noted that the estimate of 950 AADT *did not leave much headroom*. On the basis of the evidence before him, he found that further development should be restricted on a precautionary basis at least until an early review of N deposits, anticipated to be in 2015. This approach was upheld in the High Court¹⁴.
59. The CS Inspector was also concerned with water treatment in the south of the district. This is not relevant here other than that he linked a need for an early review of the CS for that reason with a suggested modification for the AF that: *In the meantime the Council will work with appropriate partners to identify [SANG] and [SAMMS] at Ashdown Forest so that otherwise acceptable development is not prevented from coming forward by the absence of acceptable mitigation. The Council will also undertake further investigation of the impacts of [N] deposition on the Ashdown Forest [SAC] so that its effects on development can be more fully understood and mitigated if appropriate.* This change is now embedded at the end of Policy WCS12 for Biodiversity.
60. It follows that the CS Inspector therefore linked investigation into N deposits with an early review because there was going to be one anyway and that the results would be important in ensuring that housing and other needs were addressed while protecting the AF. The appellant has studied the Council's approach, which found that screening was not necessary for the proposed housing figure, and concluded that the same should apply with the proposed 103 dwellings.
61. Nevertheless, the Council argued that while 9,500 homes could be screened out, a further 103, or even one new dwelling, cumulatively with developments in Wealden and other districts, could not be screened out and that an *appropriate assessment* should be required. It referred to the *Maresfield Decision*¹⁵ for only one additional house which was dismissed due to concerns over the recreational and air quality harm to the nature conservation interest of the AF. I also note from that Decision that no acceptable mitigation was provided and that, back in January 2013, there was no reason to doubt that an air quality review was imminent.

¹⁴ *Ashdown Forest Economic Development LLP v Secretary of State for Communities and Local Government, Wealden District Council and South Downs National Park Authority* [2014] EWHC 406 (Admin), para 73

¹⁵ CD6.10.14

62. I acknowledge the arguments that the figure of 950 AADT may be inaccurate (ID20) and that the scheme might well not generate levels in excess of 1,000 AADT in any event. Nevertheless, given the conclusions in the CS, I find that further development likely to affect the AADT along the A26, beyond that anticipated in the CS, should not be automatically screened out.

Air quality

63. The original application in 2013 was supported by an Air Quality Assessment (AQA) which looked at two scenarios. Both took account of the development traffic and that which would be generated by proposals in the CS, but looked with or without the 3 draft allocation sites. Consultants commissioned by the Council to review this work¹⁶ considered that there were 6 deficiencies in the study. A revised AQA¹⁷ used new monitoring and traffic data, and an updated model, emission factors, baseline and assessment years. It only covered a single scenario against a background with the CS and committed development traffic. The modelling methods in the 2015 AQA were agreed to be consistent with normal practice and to use modelling tools which have been updated since 2013. The Council accepted that, using the appellant's methodology, the incremental impact of the proposed development alone would be insignificant and that 5 of the 6 deficiencies had been addressed. However, it maintained that the assessment of the in-combination effects required data for the CS and non-CS related growth, which might include traffic from developments outside the district.

64. Since the CS was adopted, the Council has commissioned extensive, detailed monitoring of air quality (with samplers, diffusion tubes and a continuous analyser, based on over 100 monitoring sites) and of traffic counts. This will enable the Council to determine whether air quality considerations should continue to restrict housing development. Results are now anticipated by the Council in 2017 rather than this year as anticipated by the CS Inspector; the appellant suggested that they will take much longer. The Council therefore relied very heavily on the precautionary conclusions in the CS Inspector's report. NE is a statutory consultee. Regarding air quality, in its second response on the application (see above) it confirmed that as the Council had air quality consultants assessing and commenting on this aspect, it was satisfied that it was being adequately addressed and therefore NE had no need to comment.

65. The appellant has carried out its own monitoring and modelling, including the use of some diffusion tubes located around the forest. The timetable for this was necessarily much shorter than that commissioned by the Council and the results are not as comprehensive as those expected from the latter's consultants. On the other hand, the appellant's work was focussed on the proposals before me, rather than any wider considerations, and provided more evidence than was available at the CS.

66. I note three points. First, the CS Inspector was relying on limited evidence. Second, the deadline for the anticipated review is nearly up with no prospect of results in the near future¹⁸. Third, the SSLP has been withdrawn meaning that there are likely to be even fewer houses delivered in Crowborough than the CS

¹⁶ CD4.11: Mott Macdonald review, January 2014

¹⁷ CD3.15: AQA report dated 28 January 2014

¹⁸ The evidence at the Inquiry suggested somewhere between 2017 and 2027

Inspector anticipated. Nevertheless, while the appellant's study concludes that the effects of the proposed development would be insignificant at the receptors in the AF, it does not exclude any impact.

Conclusions on N deposits

67. Notwithstanding my conclusion on air quality, there is little evidence of a direct link between AADT along the A26 and eutrophication in the AF. It is common ground that the proposals alone would not generate additional AADT above the threshold regarded as likely to result in a significant effect and the only issue was from in-combination effects. Nevertheless, I accept that a precautionary approach should be taken and that, given the importance of the SAC, and the requirements of the Habitats Regulations, this is a high bar. In the form the application was submitted, there would therefore be some risk, however low, of a significant in-combination effect.
68. The appellant has subsequently offered contributions to SAMMS in accordance with its evidence of habitat management practice elsewhere and using the best information on tariffs available (see under s106 below). As well as addressing the problems caused to the SPA by dogs, the contributions would also be used to take measures such as cutting and grazing to reduce nutrient levels. While not accepting that the contributions were acceptable, the Council did not offer any contrary evidence to indicate that the projects which would be funded by SAMMS would not be effective in reducing what would in any event be a very low risk of additional eutrophication. I therefore accept from the evidence before me that, as well as supplementing the SANG, the SAMMS contribution would have a significant beneficial effect on biodiversity in the AF and so also offset any small chance of harm as a result of N deposition.
69. I acknowledge that the evidence on habitat management (ID9) was produced late on. However, this follows on from discussions which the Council has been having with NE for a number of years even prior to 2013¹⁹. At that time NE anticipated that a scheme of contributions for wardening and monitoring could come forward within a very small number of months. To date, nothing has been finalised.
70. In a recent response to another application²⁰ NE commented that its approach to air quality issues differs from the Council's in that its specialists advise that an in-combination assessment is not required unless a proposal is considered significant alone (i.e. an increase of greater than 1,000 AADT or more than 1% of the critical load). As that proposal would not breach these thresholds it had no objection. While I note that this response concerned a development on quite a different scale, and I have taken a more precautionary approach, this reinforces my conclusion that, with mitigation, there would be no LSE.
71. I note that NE had no objection to the scheme with regard to air quality issues and so, while it may not have considered the SAMMS mitigation, this would not affect its response on this point. Overall, even if there were clear and specific evidence that there would be an increase in N deposition on the AF which would measurably reduce plant diversity and harm habitat conservation, which there is not, contributions to SAMMS would make positive and demonstrable improvements to the habitat on the AF. These would have a beneficial effect

¹⁹ SoCG on Habitats Regulations: Annex 1 to Appendix 2, letter dated 15 April 2013

²⁰ ID21a email dated 24 March 2015 concerning Benchmark Barn

on biodiversity which would clearly outweigh any unproven and, at worst, almost negligible harm from N deposits.

72. In the *Hart*²¹ case, the claimant argued, inter alia, that: '*... the Secretary of State had erred in considering mitigation proposed as part of the package at the screening stage to determine the significance of effects on the SPA and consequent need for an AA.*' However, it was held that: '*There was no legal requirement under reg.48(1) that an SPA screening assessment had to be carried out disregarding of any mitigation measures that formed part of a plan or project.*' I am therefore convinced that, even taking account of the low threshold required by *Sweetman*, with mitigation, there would be no LSE on the heaths. It follows that an *appropriate assessment* is not required, and that concerns with regard to N deposition should not prevent the development.
73. Given the informative nature of the wording on air quality added to biodiversity policy in WCS12, which notes further investigation but does not prohibit development in the meantime, there would be no breach of development plan policy. Having regard to the representations made by NE, I find that the implications of the scheme on air quality would accord with policy in NPPF chapter 11 regarding biodiversity, SSSIs, SPAs, SACs and air pollution.

Conclusions on the AF

74. The CS Inspector adhered to the precautionary approach to the European sites²². However, given the contributions to SAMMS through the s106 obligation, the LSE, if any, can be minimised or avoided altogether and there is little doubt that the necessary mitigation can be put in place. For the reasons set out above, I find that the contributions satisfy the tests in the NPPF and would improve biodiversity to a degree that would safely exceed the theoretical harm on account of increased traffic and consequential N deposition.
75. Mitigation should be in place before harm occurs. Conditions would require the proposed on-site SANG. The SAMMS contributions would also be paid in accordance with a timetable. There would be a delay between payment and occupation which would enable measures to be put in place.
76. For the reasons given above, and subject to conditions and the s106 obligation discussed below, I conclude that the proposed mitigation would sufficiently overcome any possible LSE on biodiversity to the SPA or SAC and that an *appropriate assessment* is not required. The proposals would accord with saved LP policy EN7 which, with reference to the AF, only permits development if it would conserve the landscape and historic character, and with CS Policy WCS12, as above. In the event of an *appropriate assessment*, which does to apply, I note that there is a statutory requirement to consult the appropriate nature conservation body. As NE has commented on the application, made its views very clear, and delegated any decision to the Council, I consider that this requirement has already been met anyway.

Accessibility

77. Crowborough is a large town with most services including community facilities, shops, supermarkets, and employment opportunities. The edge of the town centre and a choice of supermarkets are around 2km from the site

²¹ CD6.11.2 *R. (Hart DC) v SSCLG* [2008] 2 P. & C.R. 16

²² Detailed in the *Waddenzee Judgement* ECJ [2004] C-127/02

entrance. The proposed houses would stand further into the site. The nearest Post Office, with a small general store, stands on the junction of Green Lane and Poundfield Road, just under 1km away. Four schools (primary, infants, secondary and 6th form) are within 2km as are a surgery and health centre. There are two recreation grounds within 1.5km while 3 business areas are each around 2.5km away. It is 200m from the site entrance to the bus stop on Eridge Road. Bus stops within 600m of the site entrance provide a reasonable level of service to Crowborough station and the town centre, Uckfield, Lewes, Tunbridge Wells and Brighton. It is a little over 2km to the nearest railway station with the proposed pedestrian access providing an alternative route.

78. I accept that neighbourhoods are generally considered to be walkable if they offer a range of facilities within 800m and that the greater the distance, the fewer people will choose to walk. I also saw that Crowborough is a hilly town and that not all the routes have even and unobstructed pavements. On the other hand, this site offers nearly all the destinations which most people travel to regularly within 2km and a s106 contribution could address deficiencies in local footways, if not the inclines. An assessment of accessibility is always a balance. In this case, there are not many facilities very close to the site but a wide range of popular trip destinations within 2km. Moreover, even if car journeys are involved for some local trips, as is usually the case for a main food shop regardless of distance, these are likely to be short. On balance therefore, I find that the shortcomings with regard to services very close to the site would be off-set by the very wide range of facilities a little further away and that overall the site is reasonably well located with regard to accessibility.
79. Turning to cycling, I accept that the routes are not perfect, and often involve a hill climb, but distances to many destinations are not great and local cyclists will be, or would become, used to the topography. In particular, there is a choice of two railway stations fairly nearby. The frequency of bus services could be greater but the nearest stops are very close by and the s106 (see below) would include a significant contribution towards real time passenger information, and a modest sum towards community bus services in order to encourage greater bus use. I acknowledge that the Travel Plan, which is at early stage, is largely aspirational and has few definite enforceable or significantly funded proposals that are likely to make much difference and I therefore give this rather less weight than in other circumstances. Nevertheless, taken in the round, I find that a range of opportunities exist to avoid car use and that the deficiencies are not so great as to prevent a reasonable measure of public transport use.
80. In its consultation response, the County Council advised that a site immediately adjoining the nearest bus stops²³ was well located from a sustainability point of view. While I note that dwellings within the site would be at a greater distance than the small site considered by the County Council, from my study of the surrounding area and its services, I have no reason to reach a different conclusion. Subject to conditions and the s106 obligation, on this issue I find that the scheme would amount to sustainable development from an accessibility point of view.

²³ land at Manor Nurseries

81. The proposals would therefore accord with saved LP Policy TR3 which, where appropriate, expects the provision of public transport facilities; Policy WCS14, which sets out a positive approach reflecting the presumption in favour of sustainable development in the NPPF; and CS Objective SPO7 which encourages a reduction in the need to travel by car by concentrating development where it can most closely relate to public transport opportunities and improvements in journey quality for those on foot or on a bicycle.
82. In my interpretation, the test of *severe* in the third bullet point to NPPF 32 should not be applied to the earlier bullet points, including that referring to sustainable transport modes, and I have not done so. Nevertheless, for the above reasons I find that, in its context, the proposals would comply with NPPF 32, second bullet point, by taking up the opportunities for sustainable transport modes. NPPF 29 recognises that *opportunities to maximise sustainable transport solutions will vary from urban to rural areas*. The scheme would accord with NPPF 34 which expects that developments which would generate significant movement would be located where the need to travel would be minimised and the use of sustainable transport modes can be maximised.

Benefits

83. The scheme would provide housing towards the unmet full OAN. On the matter of AH, the CS seeks to optimise provision, subject to limitations, and even if I accepted that the appellant's AH need figures should be treated with caution, the Council conceded that there is still a large need. The SSLP proposed housing provision at Pine Grove in central Crowborough but the SSLP Inspector recommended that this be removed. Now that the SSLP has been withdrawn, this is even less certain and so the need for housing in Crowborough is likely to be even greater. The scheme would bring economic benefits during construction and support for local shops and services. The appellant also argued that Council Tax revenues and New Homes Bonus payments were benefits but I give these limited weight. While there would be landscaping benefits, to the SANG areas in particular, these should more properly be considered as mitigation. Although the SANG, associated contributions and links to wider footpaths would offer mitigation beyond new residents, as above, I have weighed these against its shortcomings.

Other matters

84. With regard to vehicle noise during rush hour in term times, I drove through Crowborough on my way to the Inquiry each morning and took several detours with the precise aim of assessing the levels of traffic during the rush hour in the town and around the nearby schools in particular. While busy, I found nothing exceptional for a town in southern England that would justify rejecting the appeal. I have noted concerns with regard to flooding in the area but there has been no challenge to the flood risk assessment.

Conclusion on sustainability

85. Sustainable development is defined in NPPF 6 as the policies in NPPF 18 to NPPF 219 as a whole while NPPF 7 identifies 3 dimensions to sustainability as economic, social and environmental. I find that new construction, and more accommodation, would provide economic benefits. There would be no

significant economic downside to the proposals. New housing, and AH in particular, would provide substantial social benefits.

86. With regard to the environmental dimension, subject to mitigation, no significant harm would be caused to the landscape and scenic beauty of the AONB or to the nature conservation interest of the AF. The loss of greenfield land counts against the scheme but the weight to this should be tempered by the proposed landscaping, the provision of public open space, and the likelihood that greenfield land would be lost to housing in any event to meet even the CS housing target. Overall, I find that the environmental effects would be neutral.
87. For all these reasons, on balance, I find that the proposed development would amount to sustainable development as defined by the NPPF. This is a material consideration to which I give substantial weight.

Conclusions on NPPF 116

88. Considerations under NPPF 116, where *planning permission should be refused for major developments in [AONBs] except in exceptional circumstances and where it can be demonstrated they are in the public interest, ... should include an assessment of: the need for the development ... ; the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*
89. While housing, and AH, could theoretically be developed elsewhere, most of the district is within the AONB and so there are few alternatives that are not equally constrained. The Council put forward the Pine Grove and South East Crowborough (SEC) emerging allocations. However (as above) the Pine Grove allocation was not endorsed by the SSLP Inspector and SEC has potential highways problems. Even if the latter can be resolved, and it appeared to me that they could, this does not alter the fact that there is a need for more housing as well as at SEC. Even if the search for alternative sites is taken wider than Crowborough, there is a lack of housing land to meet the full OAN and one alternative being considered when preparing the draft SSLP would itself be in the AONB. The existence of other sites, which collectively still fall short of the full OAN, does not amount to an alternative and there are no plans, through the duty to cooperate or otherwise, for neighbouring districts to provide for the shortfall.
90. Moreover, the withdrawal of the SSLP makes it less likely that more sites will come forward and strengthens the case that housing can amount to exceptional circumstances. This applies particularly to the AH which would amount to 40% of the proposed dwellings. In the absence of adequate housing land to meet the full OAN, let alone the AH requirements, I find that there is a need for the development. Moreover, taken with the lack of harm that would be caused to its landscape and scenic beauty, I find that this need amounts to exceptional circumstances to justify development in the AONB.
91. As set out above, mitigation would be put in place to deal with the detrimental effects. For all these reasons, I find that exceptional circumstances do exist and that the proposals would accord with NPPF 116. I note that at Heathfield

and Wadhurst²⁴ the Council also found that the need for housing, and AH, amounted to the exceptional circumstances with regard to NPPF 116. I find that this analysis should also apply to the appeal proposals and that no precedent would be set by allowing this appeal.

Conclusions on planning policy

92. The CS was found to be sound with a housing requirement well below that of the full OAN for the area based on the constraints of the AONB and the AF. Even if, as the Council claims, the appellant has over-stated the figures, there is still a demonstrable need for housing and AH in the area. There are sound reasons for the requirement to be constrained, including the AONB and the AF. However, for the above reasons, I have found that in the case of the appeal site, neither of these constraints should apply. While I acknowledge the conflict with saved LP policies GD2 and DC17, for this appeal I therefore give reduced weight to conflict with these elderly development boundary policies compared with the need for housing.
93. With regard to policies to protect the AONB, as the scheme would not harm its important characteristics it would comply with saved LP Policy EN6 and CS Policy SPO1. It would accord with NPPF 115 and, as exceptional circumstances exist, the proposals would accord with NPPF 116. On balance, the effect on the character and appearance of the area as a whole would be neutral.
94. Turning to the AF, subject to mitigation, there would be no overall harm to biodiversity on account of recreational impacts or N deposits. There would be no conflict with either Policy WCS12 or NPPF chapter 11.
95. As identified in the CS, Wealden has significant obstacles to sustainable development on account of its dispersed and varied settlement pattern. In the context of a site on the edge of a main town, I find that the scheme would be reasonably well located and would accord with NPPF chapter 4.
96. Finally, I have found that the proposed development would amount to sustainable development as defined by the NPPF. As CS Policy WCS14 echoes the presumption in favour of sustainable development in the NPPF, the proposals would comply with this as well.

Conditions

97. Other than for clarity, and to adhere to the requirements for conditions set out in NPPF 206, I have generally adopted the agreed conditions for the reasons set out below. As above, the application was amended so that all matters are reserved and a roundabout is no longer proposed. I have adjusted the conditions accordingly. Given my reasoning, the proposed car park should be omitted and the play area relocated. However, this can be dealt with at reserved matters stage without further conditions.
98. Notwithstanding the provisions under the s106 Undertaking, and subject to minor rewording, the suggested condition to require the SANG is necessary to ensure it is available prior to any occupation in order to satisfy the requirements of the Habitats Regulations.

²⁴ CD6.1a s5 p36 and ID22 pp 53-56 and p64

99. Given the concerns raised, and in the interests of sustainability, surface water drainage should be controlled. As the site has been used in the past, conditions to require archaeological investigation is needed. To maintain air quality, control is required over site working practices and I have included the suggested wording to reduce dust accordingly. The same requirement can also protect the reasonable amenity interests of local residents without me altering the wording. Given NE's concerns over light pollution, external lighting should be controlled but control over internal lighting would be unreasonable. Although landscaping is a reserved matter, to ensure that any proposals are fully implemented and maintained for the benefit of ecology as well, a detailed scheme and programme are needed.
100. In the interests of sustainability, the parties agreed that Level 3 of the Code for Sustainable Homes should be required. However, since then the government has issued a written ministerial statement withdrawing the code. In relation to energy performance, the Building Regulations Part L 2013 is already equivalent to the former Code level 3 on energy so no condition is required. Where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy a standard consistent with the policy set out in the earlier paragraph in this statement, concerning energy performance. I have therefore substituted a condition requiring compliance with the new optional requirement for tighter water efficiency in Regulation 36 (section G2).
101. In accordance with the statutory requirements of section 28I(6) of the Wildlife and Countryside Act 1981, NE must be sent a copy of this decision, in order to allow it to consider any further action, and I have added a condition accordingly. As all matters are reserved, the suggested condition listing all the planning application documents is unnecessary but, for precision, the relevant application drawings should be specified.

Planning obligation

102. I have assessed the s106 Undertaking in the light of the Community Infrastructure Levy Regulations 2010 (CIL Regulations), and NPPF 204, which set 3 tests²⁵ for such obligations. From April 2015, CIL Regulation 123(3) also restricts the use of pooled contributions that may be funded via a s106 obligation if five or more obligations for that project or type of infrastructure have already been entered into since April 2010 which could have been funded by the levy.
103. The s106 Unilateral Undertaking would bind the appellant to: provide, or transfer to a registered provider, 40% of the total number of dwellings as affordable housing (AH); provide public open space, including play equipment; carry out off-site highway works; pay the County Council towards 8 items of infrastructure, including contributions for libraries, early years and primary school places, rights of way, TROs with regard to RfR6, community bus, local footpath, and real time passenger information; pay the Council contributions for off-site play space; and use reasonable endeavours to implement a Travel Plan and cover an auditing fee. For the reasons set out in the Council's Response to CIL Regulation 123 (ID35), including confirmation that none of

²⁵ necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

the contributions would exceed the five obligations limit, I am satisfied that all these obligations would satisfy the NPPF tests.

104. It would also require the transfer to the Council, or failing that a management company, of not less than 10ha for the proposed SANG together with a SANG maintenance commuted sum of a little under £1m. Given my reasoning above, this is necessary. Next it would require a commuted payment towards the Council's proposed SANG at Walshes Manor Farm. However, as I have found the proposed on-site SANG would be adequate, this would not be necessary as well in order to mitigate the recreational harm and, following the withdrawal of the SSLP, its delivery is uncertain.
105. SAMMS contributions would be paid to the Council either at the rate adopted at that time or, failing that, based on the current tariff adopted by MSDC. The reason for this is that MSDC has an interim SAMM strategy in place, with costed projects, and the intention that contributions would be channelled to the Conservators of AF who have agreed on a range of heathland management projects. These could be used to offset impacts from the appeal on either recreational use or N deposits, or both. For the reasons I set out above, these contributions are needed, directly related to the development and, given the joint working by MSDC and NE, are of an appropriate scale.
106. Clause 5.1 provides that should I decide that it would not be appropriate to impose any of the contributions, taking account of CIL Regulation 123(3), then those obligations shall not be enforceable. For the above reasons, I find that the commuted payment towards the SANG at Walshes Manor Farm would not satisfy the tests and should not be enforced. In clause 2.19, the owners undertake to pay the Council and County Council their legal and administrative costs for the deed. While general monitoring requirements would not meet the tests, insofar as this is specifically for this need, it is an appropriate charge.

Overall conclusions

107. For the reasons given above, and having regard to all other matters raised, I find that the proposals would accord with the development plan as a whole and with policy in the NPPF. I therefore conclude that the appeal should be allowed.

David Nicholson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Scott Lyness of Counsel	instructed by Wealden District Council
He called	
Professor Duncan Laxton	Air Quality Consultants Ltd.
Nicola Brown	David Huskisson Associates
Chris Bending	Wealden District Council
Chris John	Ecus
Lawrence Stringer	GTA Civils Ltd. Consulting engineers

FOR THE APPELLANT:

James Maurici QC	instructed by
He called	
Dr Claire Holman	Brook Cottage Consultants Ltd.
Adrian Meurer	Hankinson Duckett Associates
Andy Stevens	Planning and Development Consultancy
Brain Duckett	Hankinson Duckett Associates
Roland Bolton	Strategic Planning Research Unit
Nigel Weeks	Stirling Maynard

INTERESTED PERSONS:

David Larkin	District Councillor
John Cullen	Local resident
Louise Saville	Local resident
Miranda Baston	Local resident
June Reilly	Local resident

DOCUMENTS

- 1 Smyth Appeal – February 2015
- 2 Letter from Cullens – March 2015
- 3 Method of Travel to Work – Census 2011
- 4 Emails on Highways – Feb/Mar 2015
- 5 Letter of Consultation – August 2014
- 6 Letter of Additional Consultation – March 2015
- 7 Extracts from the High Court Judgement in *SITA* [2011] EWHC 2716 (Admin) - October 2013
- 8 Report to New Forest District Council – March 2014
- 9 The impacts of acid and nitrogen deposition on Lowland Heath – 2005
- 10 Access to Crowborough Gyll and Lime Kiln woodland complex – March 2015
- 11 Edenbrook SANG (part of Edenbrook Country Park) – March 2015
- 12 Ashdown Forest Protection Zone – Update October 2014
- 13 Saville Statement – March 2015
- 14 Cullen Statement – March 2015
- 15a Larkin Statement – March 2015
- 15b Statement of Common Ground by Crowborough Councillors to the Strategic Sites Local Plan – 2014
- 16 Extracts from Landscape & Visual Impact Assessments
- 17 Note relating to WDC's CS supporting Doc 5 by Roger New of ESCC – Feb 2011
- 18 Residents Comments on Planning Application in response to EIA – March/April 2015

- 19 Suggested Itinerary for Inspector's Site Visit – April 2015
- 20 Appellants response to Note relating to Inquiry Doc 17 – April 2015
- 21a Natural England Response to Stacey Robins – March 2015
- 21b Statement of WDC to Site at Benchmark Barn – 2014
- 22 Report to Planning Committee North re Land East of Lower High Street, Wadhurst – November 2014
- 23 Emails re Status of SSLP Report – April 2015
- 24 Email from ASP to WDC re Land at Steel Cross – October 2012
- 25 CIL Background Paper 2: SANG & SAMMS – March 2015
- 26 SSLP DPD Background Paper – Crowborough – January 2012
- 27 Meurer's Note on Management to counter Nitrogen Deposition in Ashdown Forest – March 2015
- 28 WDC Affordable Housing Delivery LP – February 2015
- 29a Sayer v South Hams DC Appeal Decision – April 2013
- 29b Appeal Decision – Ashby-de-la-Zouch – October 2014
- 30 Updated PPG – Housing Section
- 31 Crowborough Housing Summary – Supplied by ASP – April 2015
- 32 Berwick – Outline Planning Application – September 2014
- 33 Crowborough – Bracken Close – Planning Application – September 2012
- 34 Bloor Homes High Court Judgment – March 2014
- 35 WDC Response to CIL Regulation 123 – Pooling of Contributions – Undated
- 36 Unilateral Undertaking Plan 1 – April 2015
- 37 Note Accompanying Document 036 – April 2015
- 38 Steel Cross SANG Outline Management Costings – Undated
- 39 Statement From ASP re Development Commencement – Undated
- 40 Draft Agreement between Interested Parties to WDC & ESCC – Undated
- 41 Suggested Conditions – 16 April 15
- 42 *Sweetman and others v An Bord Pleanála* (Galway County Council and another intervening) [2014] PTSR
- 43 Managing Natura 2000 Sites – The Provisions of Article 6 of the Habitats Directive
- 44 Unilateral Undertaking under s106 dated 3 June 2015
- 45 Further correspondence and appendices re the SSLP

CORE DOCUMENTS

1. Application documents

- 1.1 The Planning Application Form and accompanying letter
- 1.2 Planning Statement
- 1.3 Design and Access Statement
- 1.4 AONB Assessment and appendices
- 1.5 SANG and Open Space Assessment and appendices
- 1.6 Sustainability checklist
- 1.7 Framework Travel Plan and appendices
- 1.8 WSP UK Ltd, Steel Cross, Crowborough: Air Quality Assessment Report, 18/11/13
- 1.9 The Environmental Statement contents page and pp 1 – 199
- 1.10 Figs and App^{ces} relevant to Transport, Landscape and Visual Assessment and Ecology parts of the ES: Figures 7.1 – 7.8; Appendix 7.1 – the TA - and App^{ces} 1 to 13; Figs 8.1-8.12 and App^{ces} 8.1-8.5; Figs 9.1-9.8 and App^{ces} 9.1-9.10)
- 1.11 Additional Statement (responses to consultees) with appendices.

2. Plans

- 2.1 572.04/05B Location Plan
- 2.2 572.04/06C Illustrative Masterplan
- 2.3 572.04/03K Development Parameters Plan
- 2.4 4690/01/12A Proposed simple junction layout plan
- 2.5 4690/01/02 Accesses off Eridge Road and Palesgate Lane (car parks)

3. Appeal documents

- 3.1 Appellant's covering letter and appeal form
- 3.2 Appellant's Statement of case and appendices

- 3.3 Appellant Proof of Evidence of Andy Stevens (Planning)
- 3.4 Appellant Proof of Evidence of Adrian Meurer (Ecology)
- 3.5 Appellant Proof of Evidence of Brian Duckett (Landscape)
- 3.6 Appellant Proof of Evidence of Claire Holman (Air Quality)
- 3.7 Appellant Proof of Evidence of Nigel Weeks (Transport)
- 3.8 Appellant Proof of Evidence of Roland Bolton (Housing Need)
- 3.9 SOCG – Access
- 3.10 SOCG – Landscape
- 3.11 SOCG – Habitat Regulations
- 3.12 SOCG – Air Quality
- 3.13 SOCG – Planning
- 3.14 Draft Heads of Terms/Unilateral Undertaking
- 3.15 WSP UK Ltd, Steel Cross, Crowborough: Air Quality Assessment Report 28/01/15
- 3.16 Environmental Statement Addendum 05/02/15
- 3.17 WDC Statement of Case
- 3.18 WDC Proof of Evidence of Chris Bending (Planning)
- 3.19 WDC Proof of Evidence of Lawrence Stringer (Transport)
- 3.20 WDC Proof of Evidence of Prof. Duncan Laxen (Air Quality)
- 3.21 WDC Proof of Evidence of Nicola Brown (Landscape)
- 4. Planning application decision documents and consultation responses**
- 4.1. Planning Committee North Report 13/02/14
- 4.2. Planning Committee North Update Report 13/02//14
- 4.3. Planning Committee North Minutes
- 4.4. Decision Notice
- 4.5. Consultee Responses: Natural England 16/01/14 and 10/02/14
- 4.6. Consultee Response: ESCC Highway Authority 16,23/01/14, 05,12/02/14
- 4.7. Consultee Response: High Weald AONB Unit
- 4.8. Consultee Response: CPRE
- 4.9. Consultee Response: WDC Housing 16/12/13 and 14/01/14
- 4.10 Consultee Response: WDC Planning Policy
- 4.11 Consultee Response: Mott Macdonald on behalf of WDC - Review of Air Quality Assessment Report (January 2014)
- 4.12 SANG Management Strategy (HDA 2014)
- 5. Policy**
- 5.1 National Planning Policy Framework (2012)
- 5.2 Extracts from the National Planning Practice Guidance (2014):
Housing and economic development needs assessments - paragraphs 001-007 (ref: The approach to assessing need), paragraphs 008-013 (ref: Scope of assessments), paragraphs 014-029 (ref: Methodology: assessing housing need), paragraphs 035-039 (ref: Core outputs and monitoring).
Housing and economic land availability assessment - paragraphs 017-021 & 023 (ref: Methodology – Stage 2: Site/broad location), paragraphs 029-031, 033 & 035 (ref: Methodology – Stage 5: Final evidence base).
- 5.3 Wealden District Council Core Strategy Local Plan (2013)
- 5.4 Inspector's letter to WDC regarding the Core Strategy 05/03/12
- 5.5 Inspector's report to the Core Strategy 30/10/12
- 5.6 Wealden District Council Local Plan (1998) Policies GD1, GD2, DC17, HG1, EN1, EN6, Chapter 6 paragraphs 1.4, 1.6, 2.12, 2.21, 2.45, 3.4-3.8, 6.1-6.14, 6.32-6.33, Aim 9 (page 9), Inset Map Crowborough
- 5.7 SHLAA March 2010 Crowborough sites
- 5.8 SHLAA Addendum October 2010 Crowborough sites
- 5.9 Interim SHLAA Statement January 2012 Crowborough sites
- 5.10 Guidelines for the creation of Suitable Alternative Natural Green Space (SANG) (Natural England 2008)
- 5.11 Wealden District (Incorporating Part of the South Downs National Park) Local Development Framework: Assessment of the Core Strategy under the Habitat Regulations (UEA August 2011)

- 5.12 Pre-submission Modifications to the SSLP December 2013 (Paragraph 11.11, Policy SCR2, SCR6, SCR10, Appendix 6 –Guidelines for the quality of SANG)
- 5.13 Proposed Submission SSLP June 2013 Habitat Regulations Assessment including Appendix 5 SANG Guidelines
- 5.14 SSLP Submission Document March 2014
- 5.15 SSLP Habitat Regulations Assessment March 2014
- 5.16 SSLP Inspector’s Report (forthcoming)
- 5.17 The Conservation of Habitats and Species Regulations 2010/490 Regulations 3, 61, 62
- 5.18 The Council of the European Communities Habitats Directive (1992) 92/43/EEC and Annex 1
- 5.19 The High Weald AONB Management Plan (2014 – 2019)
- 5.20 Highways Agency, Design Manual for Roads and Bridges, Volume 11 Environmental Assessment, Section 3 Environmental Assessment Techniques, Part 1, HA207/07, Air Quality
- 5.21 Mott Macdonald 2013, Ashdown Forest SAC: Method for Air Quality Monitoring and Assessment of Nitrogen Deposition, Report for Wealden District Council
- 5.22 East Sussex County Council (on behalf of Wealden District Council Local Development Framework) Landscape Character Assessment and Development Option Evaluation Study (2009)
Volume 1: sections 1.0 - 2.0, section 3.0 (parts 3.1 - 3.4), section 7.0 (part 7.1).
Volume 2: Capacity tables (Pages 1 to 14), Crowborough Plans (Figures 1 – 3), Heathfield Plans (Figures 4 and 5).
Volume 3: Appendices 1 to 3.
- 5.23 ODPM Circular 06/2005: Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System
- 5.24 Institute of Ecology and Environmental Management (IEEM). (2006). Guidelines for Ecological Impact Assessment in the United Kingdom.
- 5.25 Habitat Regulations Guidance Note 1: The Appropriate Assessment (Regulation 48) The Conservation (Natural Habitats &c) Regulations, 1994
- 5.26 Habitat Regulations Guidance Note 3: The Determination of Likely Significant Effect under the Conservation (Natural Habitats &c) Regulations 1994
- 5.27 Wealden District Council 5 Year Supply Housing Land Supply as at 31/12/14
- 5.28 Wealden District Council LDF Sub-Committee Report 23rd July 2012
- 5.29 Sustainability Appraisal Report to the SSLP March 2014
- 5.30 Core Strategy Submission Document August 2011
- 5.31 East Sussex County Landscape Assessment 2010: - Introduction
 - The Local Landscape Character Areas Map
 - High Weald Landscape Character Area 2: Ashdown Forest
 - Urban Area 37: Crowborough
 - High Weald Landscape Character Area 4: The Central High Weald.
- 5.32 Mid Sussex DC SANG Guidelines 2012
- 5.33 Wealden Housing Needs Survey 2009
- 5.34 WDC Proposed Submission Core Strategy HRA Traffic Study (February 2011)
- 5.35 Non Statutory Wealden Local Plan paragraphs 3.5-3.12, 7.9-7.11, 14.5, 14.7, Policies GD1, GD2, CR10, Table 7.1 (page 65-66), Figure 14.4 (page 148)
- 5.36 Proposed Submission SSLP June 2013
- 5.37 Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (Regulation 22)
- 5.38 Planning and Compulsory Purchase Act 2004 Section 38(6)
- 5.39 Sustainability Appraisal to the Submission CSLP August 2011
- 5.40 Ecological Assessment of the Strategic Sites DPD (2012) Chapter 12 (SDA10) and Appendix to Chapter 12
- 5.41 The Air Quality Directive 2008/50/EC
- 5.42 The Air Quality Standards Regulations 2010
- 5.43 Wealden DC Local Development Scheme (January 2015)
- 5.44 Wealden District Council Local Development Framework “The Economy and the Provision of Jobs” August 2011 Sections 3 and 5

6. Other

- 6.1 Application WD/2013/0635/MEA (Land to rear of Police Station, Heathfield) Planning Committee North Report (26/09/13), Natural England (22/05/13) and AONB Unit Consultation Responses (1&2)
- 6.2 Application WD/2013/0635/MEA: Heathfield Decision Notice
- 6.3 Application WD/2013/0635/MEA: Submitted Heathfield Area Strategy Response Statement to WDC Inspector's Report (Proactive search)
- 6.4 Planning Committee Report and minutes for WD/2007/3677/MAJ (tennis club proposals at Steel Cross Farm)
- 6.5 Mid Sussex DC Interim SAMMS Mitigation Strategy September 2013 and Mid Sussex SANG Strategy and Tariff October 2014
- 6.6 Application WD/2014/1565/MEA (Land at Walsh Manor Farm, Crowborough) Screening Opinion, Environmental Statement Air Quality Chapter 8 and Extracts from Ecology Chapter (110-114)
- 6.7 Application WD/2014/1565/MEA Planning Committee report, Planning Committee minutes and ESCC Highways Consultation Responses
- 6.8 Ashdown Forest Visitor Survey Data Analysis (Natural England 2010)
- 6.9 Urban Edge Environmental Consulting (UEEC) (2014) Habitats Regulations Assessment for the Mid Sussex District Plan October 2014
- 6.10 Appeal decisions referred to:
 - 6.10.1 APP/03830/A/12/2184589 (15 Woodlands Close, Crawley Down)
 - 6.10.2 APP/C1435/A/12/2183344/NWF (land to the South of Rattle Road, Stone Cross)
 - 6.10.3 APP/C1435/A/11/2186147 (Oaklands, Ersham Road, Hailsham)
 - 6.10.4 APP/V3120/A/2163401 (Broadwater, Manor Farm, Wantage)
 - 6.10.5 APP/D3830/A/14/2217310 (Land off Woodlands Close, Crawley Down)
 - 6.10.6 APP/D3830/A/10/2132146 (Land North of Bylanes Close, Cuckfield)
 - 6.10.7 APP/B1740/A/11/2152093 (Lymington Car Ferry Terminal, Shore Road, Lymington) and APP/B9506/A/11/2152094 (Intertidal zone at Boiler Marsh, Boldre, Lymington)
 - 6.10.8 APP/D3830/A/12/2173625 (Standgrove Field, land south of Lodgelands, Ardingly)
 - 6.10.9 APP/Y3615/A/13/2200458 (Poyle Road, Tongham)
 - 6.10.10 APP/C1435/A/13/2203389 (April Cottage, Buxted)
 - 6.10.11 APP/G1440/A/10/2141518 (Goods Yard, Western Road, Crowborough)
 - 6.10.12 APP/C1435/A/11/2150518 (Land at The Gables, Beaconsfield Road, Chelwood Gate)
 - 6.10.13 APP/C1435/A/10/2140104 (Land at Fairmay and Rock-a-Nore, Fairwarp, East Sussex)
 - 6.10.14 APP/C1435/A/12/2181995 (Land at Charnwood, Middle Drive, Maresfield)
 - 6.10.15 APP/C1435/A/13/2200454 (Land North of Greenleaf Gardens, Polegate)
 - 6.10.16 APP/C1435/A/14/2214798 (Proteus, Coldharbour Road, Upper Dicker, Hailsham)
 - 6.10.17 APP/C1435/A/13/2203062 (Land within the curtilage of Ivymead, Castle Road, Pevensey)
 - 6.10.18 APP/C1435/A/14/2218890 (Standard Hill Yard, Standard Hill, Ninfield, Battle)
- 6.11 Relevant Court decisions:
 - 6.11.1 Ashdown Forest Economic Development LLP v SSCLG [2014] EWHC 406 (Admin)
 - 6.11.2 R. (Hart DC) v SSCLG [2008] 2 P. & C.R. 16
 - 6.11.3 Dianne Smyth v The SSCLG [2013] EWHC 3844 (Admin)
 - 6.11.4 R. (Mevagissey Parish Council) v Cornwall Council [2013] EWHC 3684 (Admin)
 - 6.11.5 Landelijke Vereniging tot Behoud van de Waddenzee and Another v Staatssecretaris Van Landbouw, Natuurbeheer en Visserij (coöperatieve producentenorganisatie van de nederlandse kokkelvisserij UA, intervening) (Case C-127/02) Before the Court of Justices of the European Communities [2005] 2 C.M.L.R. 31
 - 6.11.6 Wainhomes Holdings Ltd v SSCLG
 - 6.11.7 Cotswold District Council v SS
 - 6.11.8 Hunston Properties Ltd v SSCLG & St Albans City and District Council 2013 HC
 - 6.11.9 Hunston Properties Ltd v SSCLG & St Albans City and District Council CA
 - 6.11.10 Colman v SSCLG & others [2013] EWHC 1138 (Admin)
 - 6.12 Correspondence between the Appellant and the Council

Schedule of conditions

- 1) Notwithstanding the description of development, permission is granted subject to the subsequent approval by the Local Planning Authority (LPA) of the detailed particulars of the means of access, layout, scale and appearance of the buildings to which this permission relates and the landscaping of the site before any development is commenced, such matters being reserved from the permission.
- 2) Details of the means of access, appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the LPA before any development begins and the development shall be carried out as approved.
- 3) (a) Application for approval of the matters reserved for subsequent approval must be made to the LPA no later than the expiration of three years beginning with the date of the grant of this outline permission; and
(b) the development to which this permission relates must be begun no later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 4) No development shall commence until there has been submitted to and approved in writing by the LPA full details of the proposed SANG and Outdoor Open Space, including plans, specifications, layout, landscaping and planting, earth works, excavations, signage and proposals for long term management. No dwelling shall be occupied until the LPA has confirmed in writing that the proposed SANG and Outdoor Open Space are complete.
- 5) Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the LPA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how it shall be maintained and managed after completion. The scheme should be designed to attenuate the 1 in 100 year storm (with a 30% climate change allowance in accordance with the NPPF).
- 6) No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the LPA. A written record of any archaeological works undertaken shall be submitted to the LPA within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the LPA.
- 7) No work shall be carried out on site for the development hereby approved, until full written details for a Code of Construction Practice has been submitted and approved in writing by the LPA. The Code of Construction Practice should detail good practice measures for site working to mitigate potential impacts from construction including working hours, protection of retained features and surface water bodies on or adjacent to the site, control of run-off, application of design controls for construction equipment and construction vehicles, vehicle routing, wheel washing facilities, sheeting of lorries during transportation of construction materials, provision of water

- sprays during delivery and dumping of sand and gravel, mixing and batching on wet rather than dry aggregate materials, minimum drop heights to be used for continuous and batch drop activities and waste disposal. The approved Code of Construction Practice shall be implemented throughout the period of work on site.
- 8) No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has been submitted to and approved in writing by the LPA. The scheme shall be implemented in accordance with the approved details and retained thereafter.
- 9) No works shall take place for the development hereby approved until a detailed landscaping and ecological enhancements scheme, which shall include a programme for the implementation of the works and long term management, shall be submitted to and approved in writing to the LPA. This detailed scheme shall include:
- (i) appropriate ecological enhancements, (including wetland habitats incorporated into the SUDS scheme and attenuation pond areas);
 - (ii) compensatory habitat creation (including replacement ponds) and landscaping planting;
 - (iii) measures specifically to address retention and enhancement of the site's ecological connectivity through ecological corridors and networks;
 - (iv) works to all areas of retained habitat and an agreed future management and maintenance strategy for all habitats on the site, including enhancement areas;
 - (v) details of all management and enhancement works to the existing water-bodies and design and management details for the new water-bodies/reed-beds to be created which shall include: a) considerations of water quality impacts of surface water runoff on existing ponds/waterbodies, including designs for pollution control and interception facilities; b) how ponds will be designed to maximise wildlife value; c) clearance of shading and trees and scrub, other vegetation clearance, creation of habitat piles;
 - (vi) a scheme for human access restrictions to the retained and created habitats.
- Thereafter, the scheme shall be completed in accordance with the approved plans and programme and the management and maintenance arrangements shall be carried out in accordance with the approved details over the period specified.
- 10) No development shall commence until a scheme has been submitted to and approved in writing by the LPA which details measures to ensure that the development hereby approved will achieve the optional requirement for tighter water efficiency in Requirement G2 and Regulation 36 to the Building Regulations 2010 as amended set out in the Approved Document 2015 edition. The approved scheme shall be implemented in strict accordance with the approved details prior to the occupation of the development.
- 11) No development shall commence until at least 21 days have elapsed from the date at which Natural England receives a copy of this decision.
- 12) This planning decision relates solely to the following plans dated 5 February 2015: Red Line Plan (572.04 / 05B); Illustrative Masterplan (572.04/06C); Development Parameters Plan (572.04/03K); Access Plan 4690/01/12A.